2-15-80
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Federal Register

Friday
February 15, 1980

Highlights

Briefings on How To Use the Federal Register—For details on briefings in Washington, D.C. and Memphis, Tenn., see announcement in the Reader Aids Section at the end of this issue.

10394 **Registration of Women for Selective Service** DOD/Sec'y announces special meeting on 2-15-80

10388 **Energy, Rural Health, and Rural Energy** ACTION announces availability of demonstration grants; apply by 4-15-80

10312 **Rural Housing Loans and Grants** USDA/ FmHA amends rules to increase maximum amount of allowable assistance; effective 2-15-80

10456 **Child Abuse and Neglect Program** HEW/HDSO announces availability of grant funds for demonstration projects; apply by 5-5-80

10740 **Community Development Block Grants** HUD/ CPD modifies requirements governing Urban Development Action Grants; effective 3-10-80; comments by 4-15-80 (Part IX of this issue)

10474 **Juvenile Delinquency** Justice/LEAA solicits concept papers for grant awards for Unsolicited Research Program; apply by 3-30-80

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Highlights

10474 **Youth Advocacy Program** Justice/LEAA solicits applications for grants; apply by 4-15-80

10702 **National Priority and Discretionary Programs** Justice/OJARS, LEAA and BJS provide information on grant programs for fiscal year 1980 (Part VI of this issue)

10732 **Grain Handling Facilities** Labor/OSHA requests comments and information regarding occupational safety and health hazards; comments by 5-5-80, meetings 4-15 through 4-17, 4-22 through 4-24, and 4-29 through 5-1-80 (Part VIII of this issue)

10622 **Adoptions** HEW/Sec'y publishes for comment Model State Adoption Act and Model State Adoption Procedures to facilitate adoptions by families of all economic levels; comments by 5-16-80 (Part V of this issue)

10552 **Commercial Fishing** Commerce/NOAA issues proposed rules, availability of draft environmental impact statement, administrative appointment and a hearing and expedited procedures regarding taking of marine mammals; hearing 3-17-80 (Part II of this issue)

10606 **Radio Control Radio Service** FCC proposes to rewrite rules in plain language; comments by 7-30-80, reply comments by 8-29-80 (Part IV of this issue)

10746 **Natural Gas for Outdoor Lighting** DOE/ERA proposes to amend rules regarding sale and indirect use; comments by 4-15-80, hearing 3-12-80, requests to speak by 3-3-80 (Part X of this issue)

10450, 10382 **Medicare and Medicaid Programs** HEW/HCFA issues proposed schedule of limits on costs, and proposed rules on cost reporting requirements for home health agencies; comments by 4-15-80 (2 documents)

10503 **Sunshine Act Meetings**

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10552 **Part II, Commerce/NOAA**
10564 **Part III, Labor/ESA**
10606 **Part IV, FCC**
10622 **Part V, HEW/Sec'y**
10702 **Part VI, Justice/ OJARS, LEAA, and BJS**
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10732 **Part VIII, Labor/OSHA**
10740 **Part IX, HUD/CPD**
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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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 315

Canal Zone Merit System; Extension of Noncompetitive Appointment Eligibility

AGENCY: Office of Personnel Management.

ACTION: Final regulation.

SUMMARY: Under the authority of Executive Order 10794, Establishing the Canal Zone Merit System and Prescribing Regulations Relating to Conditions of Employment in the Canal Zone, this regulation extends noncompetitive appointment eligibility for certain employees of the Canal Zone Merit System who, upon termination of that system effective December 30, 1979, receive excepted appointments under the Panama Canal Employment System (PCES) or to positions in Panama specifically excluded from the PCES. The extension will preserve eligibility earned by the employees through service covered by the Executive Order.

EFFECTIVE DATE: December 30, 1979.

FOR FURTHER INFORMATION CONTACT: William Bohling, Staffing Services Group, Inservice Placement Branch, Office of Personnel Management, 202–632–4533.

SUPPLEMENTARY INFORMATION: The regulation: (1) extends eligibility by the amount of PCES or excepted service for employees who would otherwise have eligibility only for 3 years from the termination of the Canal Zone Merit System; and (2) permits PCES or excepted service which intervenes between an employee's original Canal Zone System appointment and his or her noncompetitive appointment without a break in service of 30 days to be credited in determining the employee's tenure. The Director of OPM finds that in order to ensure orderly transition from the Canal Zone Merit System to the Panama Canal Employment System good cause exists for eliminating the 30-day delay of effectiveness for final rules required by 5 U.S.C. 553(d). OPM has determined that this is a significant regulation for the purposes of E.O. 12044.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 315.601 is revised to read as follows:

§ 315.601 Appointment of former employees of Canal Zone Merit System.

(a) *Agency authority.* An agency may appoint noncompetitively, for other than temporary or term employment, a person separated from a career or career-conditional appointment under the Canal Zone Merit System, which was in effect through December 29, 1979.

(b) *Service requirement.* An agency may appoint a former employee under this section only when that employee served continuously under a nontemporary appointment in the Canal Zone Merit System for at least 1 year immediately before his or her separation.

(c) *Time limit.* There is no time limitation on the appointment under this section of a preference eligible or a person who completed the service requirement for career tenure under the Canal Zone Merit System. An agency may appoint under this section a nonpreference eligible who did not complete the service requirement for career tenure under the Canal Zone Merit System only within 3 years following the date of the employee's separation from that system, unless the employee's eligibility is extended by service in a position in Panama covered by or specifically excluded from the Panama Canal Employment System established December 30, 1979.

(d) *Tenure on appointment.*

(1) On appointment under paragraph (a) of this section, a former career employee of the Canal Zone Merit System becomes a career employee.

(2) A former Canal Zone Merit System employee whose service from the date of appointment in the Canal Zone Merit System through the date of noncompetitive appointment, inclusive, does not include any break in service of more than 30 days and totals at least 3 years becomes a career employee.

(3) All other former Canal Zone Merit System employees become career-conditional employees.

(e) *Acquisition of competitive status.* A person appointed under paragraph (a) of this section automatically acquires a competitive status:

(1) On appointment, if he or she has satisfactorily completed a 1-year probationary period under the Canal Zone Merit System.

(2) On satisfactory completion of probation in accordance with § 315.801(a)(3) if he or she had not completed a 1-year probationary period under the Canal Zone Merit System.

(5 U.S.C. 3301; EO 10794)

[FR Doc. 80–4966 Filed 2–14–80; 8:45 am]
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OFFICE OF THE SPECIAL COUNSEL, MERIT SYSTEMS PROTECTION BOARD

5 CFR Parts 1250–1269

Prohibited Personnel Practices and Activities; Procedures for the Receipt and Investigation of Allegations

Correction

In FR Doc. 80–1097, appearing on page 2837, second column, the third and fourth lines of the "Supplementary Information:" paragraph should have read: "reads "5 U.S.C. 522a" is corrected to "5 U.S.C. 552a." The authority".

BILLING CODE 1505–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 723

Cigar-Filler (Type 41) and Maryland Tobaccos Regulations, 1980–81 Marketing Year

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: This revision is being made to update various references to marketing years and to change the titles of several positions within the Agricultural Stabilization and

Conservation Service to conform with similar previously made changes in administrative components of the Agricultural Stabilization and Conservation Service.

EFFECTIVE DATE: February 14, 1980.

ADDRESSES: Production Adjustment Division, ASCS, USDA, 3630 South Building, PO Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Thomas R. Burgess (ASCS) (202) 447-7935.

SUPPLEMENTARY INFORMATION: This revision updates various references to marketing years and changes the name of the "Director, Program Operations Division" to the "Director, Production Adjustment Division," and changes the name of the "Deputy Administrator, Programs, Agricultural Stabilization and Conservation Service" to the "Deputy Administrator, State and County Operations," Agricultural Stabilization and Conservation Service.

Since this rule makes no substantive changes in the regulations, it is hereby found and determined that compliance with the provisions of Executive Order 12044 and the notice of proposed rulemaking, public participation procedure and 30-day effective date requirements in 5 U.S.C. 553 are impracticable and contrary to the public interest. Therefore, this revision shall be effective immediately. Accordingly, 7 CFR 723.51-66 and the title of the subpart are revised to read as follows:

PART 723—CIGAR-FILLER (TYPE 41) AND MARYLAND TOBACCOS. REGULATIONS, 1980-81 MARKETING YEAR

Subpart—Cigar Filler (Type 41) and Maryland Tobacco Allotment Regulations, 1980-81 Marketing Year

General

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Tobacco History Acreage, Acreage Allotments, and Normal Yields for Old Farms

723.55 Determination of tobacco history acreage for old farms.
723.56 Determination of preliminary acreage allotments for old farms.
723.57 Old farm tobacco acreage allotment.
723.58 Correction of errors and adjusting inequities in acreage allotments for old farms.
723.59 Reallocation and release and reapportionment of allotments determined for farms acquired by an agency having the right of eminent domain.
723.60 Farms divided or combined.
723.61 Determination of normal yields for farms.

Acreage Allotments and Normal Yields for New Farms

723.62 Determination of acreage allotments for new farms.
723.63 Determination of normal yields for new forms.

Miscellaneous

723.64 Approval of determinations made under §§ 723.51 through 723.63 and notices of farm acreage allotment.
723.65 Application for review.
723.66 Lease and transfer of tobacco acreage allotments.

Authority: Secs. 301, 313, 316, 317, 363, 375, 377, 378, 52 Stat. 38, as amended; secs. 601, 602, 79 Stat. 1206, 1028; 7 U.S.C. 1301, 1313, 1314b, 1314c, 1363, 1375, 1378, 1801 note, 1938.

Subpart—Cigar Filler (Type 41) and Maryland Tobacco Allotment Regulations, 1980-81 Marketing Year

General

§ 723.51 Basis and purpose.

The regulations contained in §§ 723.51 through 723.66 are issued pursuant to the Agricultural Adjustment Act of 1938, as amended, and govern the establishment of farm acreage allotments and normal yields for Cigar-filler (type 41) and Maryland tobacco for the 1980-81 marketing year. The material previously appearing in these sections under Subpart—Cigar-Filler (Type 41) and Maryland Tobacco Allotment Regulations, 1977-78 marketing year remain in full force and effect for the crop to which it was applicable.

§ 723.52 Definitions.

As used in this subpart and in all instructions, forms, and documents in connection therewith, the words and phrases defined in this section shall have the meanings herein assigned to them unless the context or subject matter otherwise requires. References contained herein to other parts of this chapter or title shall be construed as references to such parts and amendments now in effect or later issued.

(a) The provisions of Parts 718 and 719 of this chapter, including definitions, are hereby incorporated in the regulations of this part unless the context or subject matter or the provisions of the regulations of this part otherwise require.

(b) "Base period" means the five calendar years immediately proceeding the year for which farm acreage allotments are currently being established.

(c) "Current year" means the calendar year for which acreage allotments are being established, or tobacco history acreage and normal yields are being determined.

(d) "New farm" means a farm for which a tobacco allotment is established in the current year and for which there is no tobacco history acreage in the base period.

(e) "Old farm" means a farm for which there was tobacco history acreage in one of more years of the base period.

(f) "Tobacco" means each one or both, as indicated by the context, of the kinds of tobacco listed in this paragraph, as classified in Service and Regulatory Announcement No. 118 (Part 30 of this title) of the former Bureau of Agricultural Economics of the United States Department of Agriculture.

(1) Maryland tobacco, type 32.

(2) Cigar-filler tobacco, type 41.

§ 723.53 Extent of determinations, computations and rule for rounding fractions.

Farm acreage allotments shall be rounded to hundredths of acres in accordance with the provisions of Part 793 of this chapter.

§ 723.54 Instructions and forms.

The Director, Production Adjustment Division, shall cause to be prepared and issued such forms as are necessary, and shall cause to be prepared such instructions with respect to internal management as are necessary, for carrying out the regulations in this part. The forms and instructions shall be approved by and the instructions shall be issued by the Deputy Administrator, State and County Operations Agricultural Stabilization and Conservation Service.

Tobacco History Acreage, Acreage Allotments, and Normal Yields for Old Farms

§ 723.55 Determination of tobacco history acreage for old farms.

(a) The county committee shall determine form the best available data the tobacco history acreage on each old tobacco farm for each of the five years 1975-79. Data for making such determinations shall be taken from county office records, producers' records, producers' reports, estimates of other persons having knowledge of the tobacco production on the farm, and any other source available.

(b) For the year 1977, the 1977 tobacco history acreage shall be the same as the 1977 allotment if as much as 75 percent of the 1977 allotment was planted (or considered planted under conservation

programs or conservation practices (Part 719 of this chapter)). If less than 75 percent of the 1977 allotment was planted or considered planted, the 1977 history acreage shall be the acreage planted or considered planted. The tobacco history acreage for 1977 shall be zero for a farm for which no 1977 tobacco acreage allotment was determined.

(c) For years for which no allotments were established for either of such kinds of tobacco, the tobacco history acreage shall consist of (1) the acreage planted to tobacco on the farm, plus (2) the acreage considered planted to tobacco on the farm. The acreage considered planted to tobacco on the farm shall consist of (i) the allotment acreage pooled under Part 719 of this chapter and (ii) tobacco acreage diverted under conservation programs or practices (if a farm was under a cropland adjustment program agreement during any year of the base period for which no tobacco acreage allotment was established, the tobacco history acreage for such year shall be the larger of: (*a*) The planted acreage, or (*b*) the nonallotment base acreage under Part 751 of this chapter designated under agreement not to exceed any tobacco acreage as determined or computed for the farm for the year immediately preceding the year of the cropland adjustment program agreement).

(d) In determining the tobacco history acreage for each year of the base period, the county committee shall make due allowances for drought, flood, hail, and other abnormal weather conditions and plant bed and other diseases.

§ 723.56 Determination of preliminary acreage allotments for all farms.

(a) The preliminary allotments for an old farm shall be the larger of the following:

(1) The average tobacco history acreage on the farm during the base period (1975–79), or

(2) The average tobacco history acreage on the farm in the three preceding years (1977–79).

(b) Notwithstanding the foregoing provisons of this section, no 1980 farm tobacco preliminary allotment (or 1980 farm tobacco acreage allotment) shall be determined for any land which the county committee determines has become devoted to commercial or residential development or other nonagricultural purposes, and was not and could not have been acquired under the right of eminent domain by the person or agency that did acquire it, and is retired from agricultural production. *Provided,* That this paragraph shall not preclude the determination of a preliminary acreage allotment (or allotment) for (1) an old farm returned to agricultural production if the allotment for the retired land was not allocated to other land in the farm of which the retired land was a part, or (2) a farm for which an acreage allotment may be determined under the provisions of § 723.59: *and provided further,* That the provisions of this paragraph shall not preclude the allocation of the allotment for the retired land to other land contained in the farm of which the retired land was a part pursuant to Part 719 of this chapter.

§ 723.57 Old farm tobacco acreage allotment.

The preliminary allotments calculated for all old farms pursuant to § 723.56, and including those under § 723.59(a), shall be adjusted uniformly so that the total of such allotments plus the acreage available pursuant to §§ 723.58 and 723.62 shall not exceed the national acreage allotment: *Provided,* That for Cigar-filler (type 41) tobacco if the acreage allotment determined for any farm (except farms operated, controlled, or directed by a person who also operates, controls, or directs another farm on which tobacco is produced) is less than that acreage which, with the normal yield for the farm, would produce, 2,400 pounds of tobacco, then such acreage allotment shall be increased to the smaller of (a) 120 percent thereof, or (b) that acreage which, with the normal yield for the farm, would produce 2,400 pounds of tobacco.

§ 723.58 Correction of errors and adjusting inequities in acreage allotments for old farms.

(a) Notwithstanding the limitations contained in any other section of this subpart, the farm acreage allotment for each kind of tobacco established for an old farm may be increased to correct an error or adjust an inequity if the county committee determines, with the approval of a representative of the State committee, that the increase is necessary to establish an allotment for such farm which is fair and equitable in relation to the allotment for other old farms in the county in which the farm is located. An acreage not to exceed one percent of the national acreage allotment for each kind of tobacco minus that part of the national reserve set aside for establishing new farm allotments shall be made available for adjusting inequities and for correcting errors. The amount of the national reserve acreage available for correcting errors and for adjusting inequities will be announced at the same time the national quota is proclaimed. The reserve acreage for old farms will be allocated to each State based on the relation of the preliminary acreage allotment in that State to the national preliminary allotment.

(b) Acreage increases to adjust inequities in acreage allotments shall be made on the basis of the past farm acreage and past farm acreage allotments of tobacco, making due allowances for drought, flood, hail, other abnormal weather conditions, plant bed and other diseases; land, labor, and equipment available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco. The total of all adjustments in old farm allotments under this paragraph shall not exceed the acreage allocated for such purpose.

(c) The allotment for a farm under a cropland conversion program agreement or land under a cropland adjustment agreement shall be given the same consideration under this section as the allotment for any other old farm.

(d) Acreage approved for a farm under this section becomes a part of the farm acreage allotment.

§ 723.59 Reallocation and release and reapportionment of allotments determined for farms acquired by an agency having the right of eminent domain.

(a) The determination of allotments for farms acquired by an agency having the right of eminent domain, the transfer of such allotment to a pool and reallocation from the pool shall be administered as provided in Part 719 of this chapter. The normal yield for each farm to which a reallocation is made as provided in this paragaph shall be determined as provided in § 723.61. For a farm for which allotment acreage was placed in a pool, the allotment remaining in the pool shall be the 1980 preliminary allotment.

(b) The displaced owner of a farm may, not later than May 1 of the current year, release in writing to the county committee for the year 1980 all or part of the acreage for the farm in a pool under Part 719 of this chapter for reapportionment for 1980 by the county committee to other farms in the county having allotments for the same kind of tobacco. The county committee may reapportion, not later than June 1 of the current year, the released acreage or any part thereof to other farms in the county on the basis of the past farm acreage and past farm acreage allotments of the same kind of tobacco, land, labor, equipment available for the production of such kind of tobacco, crop rotation practices, and soil and other

physical factors affecting the production of such kind of tobacco. The allotment acreage released shall, for tobacco acreage history and future allotment purposes, be considered to have remained in the pool as though it had not been released therefrom. The acreage reapportioned to a farm under this paragraph shall be reduced, where applicable, so as not to exceed the acreage by which the 1980 final tobacco acreage on the farm, determined pursuant to Part 718 of this chapter, exceeds the 1980 allotment prior to being increased by reapportionment.

§ 723.60 Farms divided or combined.

Allotments for farms reconstituted for 1980 shall be determined in accordance with Part 719 of this chapter.

§ 723.61 Determination of normal yields for old farms.

The normal yield for any old farm shall be that yield which the county committee determines is normal for the farm taking into consideration (a) the yields obtained on the farm during the period, not less than the base period, for which data are available; (b) the soil and other physical factors affecting the production of tobacco on the farm; and (c) the yields obtained on other farms in the locality which are similar with respect to such factors.

Acreage Allotments and Normal Yields for New Farms

§ 723.62 Determination of acreage allotments for new farms.

The acreage allotment, other than an allotment made under § 723.59(a), for a new farm shall be that acreage which the county committee, with approval of the State committee determines is fair and reasonable for the farm, taking into consideration the past tobacco experience of the farm operator, the land, labor, and equipment available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco: *Provided,* That, the acreage allotment so determined shall not exceed 50 percent of the average of the acreage allotments established for two or more but not more than five old farms which are similar with respect to land, labor, and equipment available for the production of tobacco, crop rotation practices, and the soil and other physical factors affecting the production of tobacco: *And provided further,* That, if the acreage planted to tobacco on a new tobacco farm is less than 75 percent of the tobacco acreage allotment otherwise established for the farm pursuant to this section, such allotment shall be automatically reduced to the sum of the tobacco planted acreage and the prevented planted tobacco acreage as determined under Part 718 of this chapter for the farm.

(a) *Written application.* The farm operator must file an application for a new farm allotment at the office of the county committee where the farm is administratively located on or before February 15 of the year for which the new farm allotment is requested.

(b) *Eligibility requirements for operator.* A new farm allotment may be established if each of the following conditions is met:

(1) *Owner and operator of the farm.* The operator shall be the sole owner of the farm. For the purpose of applying this subparagraph (1) a person who owns only part of a farm cannot be considered the onwer of the farm except that both husband and wife shall be considered the owner and operator of a farm which they jointly own.

(2) *Interest in another farm.* The farm operator shall not own or operate any other farm in the United States for which a tobacco allotment or quota is established for the current year.

(3) *Availability of equipment and facilities.* The operator must own, or have readily available, adequate equipment and any other facilities of production necessary to the production of tobacco on the farm.

(4) *Income requirement.* The operator must expect to obtain during the current year more than 50 percent of his income from the production of agricultural commodities or products.

(i) *Computing operator's income.* The following shall be considered in computing operator's income:

(a) Income from farming. Income from farming shall include the estimated return from home gardens, livestock and livestock products, poultry, or other agricultural products produced for home consumption or other use on the farm(s). The estimated return from the production of the requested new farm allotment shall not be included.

(b) Income from nonfarming. Nonfarming income shall include but shall not be limited to salaries, commissions, pensions, social security payments, and unemployment compensations.

(c) Spouse's income. The spouse's farm and nonfarm income shall be used in the computation.

(ii) *Operator a partnership.* If the operator is a partnership, each partner must expect to obtain more than 50 percent of his current year income from farming.

(iii) *Operator a corporation.* If the operator is a corporation, it must have no major corporate purpose other than ownership or operation of the farm(s). Farming must provide its officers and general manager with more than 50 percent of their expected income. Salaries and dividends from the corporation shall be considered as income from farming.

(iv) *Special provision for low-income farmers.* The county committee may waive the income provisions in this section provided they determine that the farm operator's income, from both farm and nonfarm sources, is so low that it will not provide a reasonable standard of living for the operator and his family, and a State committee representative approves such action. In waiving the income provisions the county committee must exercise good judgment to see that their determination is reasonable in the light of all pertinent factors, and that this special provision is made applicable only to those who qualify. In making their determination, the county committee shall consider such factors as size and type of farming operations, estimated net worth, estimated gross family income, estimated family off-farm income, number of dependents, and other factors affecting the individual's ability to provide a reasonable standard of living for himself and his family.

(5) *Experience.* Operator must have had experience in producing, harvesting, and marketing the kind of tobacco requested. Such experience must have been gained: by being a sharecropper, tenant, or farm operator (bona fide tobacco production experience gained by a person as a member of a partnership shall be accepted as experience gained in meeting this requirement) during at least two of the five years immediately preceding the year for which the new farm allotment is requested. If the operator was in the armed services during the five-year period, the period shall be extended one year for each year of military service during the five years. The experience must have been gained on a farm having a tobacco allotment for such years for the kind of tobacco requested in the application.

(c) *Eligibility requirements for the farm.* A new farm allotment may be established if each of the following conditions is met:

(1) *Current allotment or quota.* The farm must not have on the date of approval of a new farm acreage allotment an allotment or quota for any kind of tobacco.

(2) *Available land, type of soil, and topography.* The available land, type of soil, and topography of the land on the farm must be suitable for tobacco production. Also continuous production

of tobacco must not result in an undue erosion hazard.

(3) *Downward adjustment.* The acreage allotment established as provided in this section for each kind of tobacco shall be subject to such downward adjustment as is necessary to bring such allotments in line with the total acreage available for allotment to all new farms.

(4) *False information.* Any new farm acreage allotment which was determined by the county committee on the basis of incomplete or inaccurate information knowingly furnished by the applicant shall be canceled by the county committee as of the date the allotment was established. When incomplete or inaccurate information was unknowingly furnished by the applicant, the allotment shall be canceled effective for the current crop year except where the provisions of § 723.64(d) apply.

§ 723.63 Determination of normal yields for new farms.

The normal yield for a new farm shall be that yield per acre which the county committee determines is normal for the farm as compared with yields for other farms in the locality on which the soil and other physical factors affecting the production of tobacco are similar.

Miscellaneous

§ 723.64 Approval of determinations made under §§ 723.51 through 723.63 and notices of farm acreage allotment.

(a) All farm acreage allotments and yields shall be determined by the county committee of the county in which the farm is located and shall be reviewed by a representative of the State committee. The State committee may revise or require revision of any determination made under §§ 723.51 through 723.63. All acreage allotments and yields shall be approved by a representative of the State committee, and no official notice of acreage allotment shall be mailed to a farm operator until such allotment has been so approved, except that revised acreage allotment notices without such prior approval may be mailed in cases resulting from reconstitutions that do not involve the use of additional acreage.

(b) An official notice of the farm acreage allotment and marketing quota shall be mailed to the operator of each farm shown by the records of the county committee to be entitled to an allotment. The notice to the operator of the farm shall constitute notice to all persons who as operator, landlord, tenant, or sharecropper are interested in the farm for which the allotment is established. Insofar as practical, all allotment notices shall be mailed in time to be received prior to the date of any tobacco marketing quota referendum. A copy of such notice containing thereon the date of mailing, shall be maintained for not less than 30 days in a conspicuous place in the county office and shall thereafter be kept available for public inspection in the office of the county committee. A copy of such notice certified as true and correct shall be furnished without charge to any person interested in the farm for which the allotment is established.

(c) If the records of the county committee indicate that the allotment established for any farm may be changed because of (1) removal of the farm from agricultural production, (2) division of the farm, or (3) combination of the farm, the mailing of the notice of such allotment may be delayed: *Provided,* That the notice of allotment for any farm shall be mailed no later than May 1 of the current year.

(d) If the county committee determines with the approval of the State executive director, that (1) the official written notice of the farm acreage allotment issued for any farm erroneously stated the acreage allotment to be larger than the correct allotment, and (2) the error was not so gross as to place the operator on notice thereof, and that the operator, relying upon such notice and acting in good faith (i) materially changed his position to enable him to produce the allotment crop (for example obligated expenditures of funds for land preparation, additional equipment and labor) or (ii) has planted an acreage of tobacco in excess of the correct farm acreage allotment the acreage allotment shown on the erroneous notice shall be deemed to be the tobacco acreage allotment for the farm for all purposes in connection with the tobacco marketing quota program for the current year.

§ 723.65 Application for review.

Any producer who is dissatisfied with the farm acreage allotment and marketing quota established for his farm may, within 15 days after mailing of the official notice of the farm acreage allotment and marketing quota, file application in writing with the county ASCS office to have such allotment reviewed by a review committee. The procedure governing the review of farm acreage allotments and marketing quotas is contained in Part 711 of this chapter.

§ 723.66 Lease and transfer of tobacco acreage allotments.

(a) *Farms eligible.* Subject to the limitations provided in this section, the owner and operator (acting together if different persons) of any farm for which an old farm tobacco acreage allotment is established for the current year may lease and transfer all or any part of the farm acreage allotment established for such farm to any other owner or operator of a farm in the same county with a current year's allotment (old or new farm) for the same kind of tobacco for use on such farm. The lease and transfer of an acreage allotment shall be recognized and considered valid by the county committee subject to the conditions set forth in this section.

(b) *Maximum period.* Transfer of allotments by lease shall not exceed five years.

(c) *Filing and approval of transfer agreement—*(1) *Filing transfer agreement.* The lease and transfer of any allotment or any part thereof from the farm for which the allotment was established to another tobacco farm shall not become effective until a copy of the transfer agreement, determined by the county committee to be in compliance with the provisions of this section, is filed with the county committee not later than June 1, except that a lease shall be effective if the county committee, with the approval of a State committee representative, finds that the producer was prevented from timely filing the transfer agreement due to reasons beyond his control. The county committee may redelegate authority to approve leasing agreements to the county executive director. The filing of a properly executed Form ASCS-375, Record of Transfer of Allotment or Quota, will be considered to meet the requirements of this paragraph (c)(1).

(2) *Record of transfer on ASCS-375.* No lease and transfer of any allotment under this section shall become effective until a record of the transfer has been executed on Form ASCS-375 and filed with the county committee by the parties to the transfer. If the owner and operator of the farm from which transfer by lease is to be made are different persons, both owner and operator shall execute the record of transfer; however, only the owner or operator of the receiving farm is required to sign the transfer. A county committee member or employee must witness the signature of either the owner or operator of the transferring farm and the owner or operator of the receiving farm. If such signatures cannot be witnessed in the county office where the farm is administratively located, they may be witnessed in any county office convenient to the owner's or operator's residence. The requirement that

signatures be witnessed for producers who are ill, infirm, reside in distant areas, or are in similar hardship situations or may be unduly inconvenienced may be waived provided the county office mails Form ASCS–375 for the required signature.

(d) *Normal yields.* The county committee shall determine a normal yield per acre, in accordance with the provisions of § 723.61 in the case of old farms, and, in the case of new farms, § 723.63 for each farm from which, and for each farm to which, a tobacco acreage allotment or any part thereof is leased. If the normal yield determined by the county committee for the farm to which the allotment acreage is transferred does not exceed the normal yield determined by the county committee for the farm from which the allotment acreage is transferred by more than 10 percent, the lease and transfer shall be approved acre for acre. If the normal yield determined by the county committee for the farm to which the allotment acreage is transferred exceeds the normal yield for the farm from which the allotment is transferred by more than 10 percent, the county committee shall make a downward adjustment in the amount of the allotment acreage transferred by multiplying the normal yield established for the farm from which the allotment acreage is transferred by the acreage being transferred and dividing the result by the normal yield established for the farm to which the allotment acreage is transferred. In the case of transfers of allotments for two or more years, the productivity adjustment and amount of allotment so transferred shall be redetermined by the county committee each year the transfer remains in effect.

(e) *Allotment acreage considered fully planted.* The amount of allotment acreage which is leased from a farm (prior to any reduction made under this section) shall be considered for the purpose of determining future allotments (and tobacco history acreage) to have been planted to tobacco on such farm. The amount of allotment acreage which is leased and transferred to a farm shall not be taken into account in establishing allotments for subsequent years for such farms.

(f) *Limit on acreage transferred.* The total acreage allotted to any farm after the transfer by lease of tobacco acreage allotment to the farm (the sum of its own allotment and acreage leased and transferred to it after any adjustment in normal yield) shall not exceed 50 percent of the acreage of cropland in the farm.

(g) *New farm allotment.* A new farm allotment shall not be leased or transferred.

(h) *Farms under long-term land-use programs.* A transfer of an allotment to or from a farm covered by a Cropland Adjustment Program agreement shall not be approved if the transferring or receiving farm has the allotment base designated under such program agreement.

(i) *Transfer from the pool.* Allotments in a pool pursuant to Part 719 of this chapter may be eligible for lease and transfer during the three-year life of the pooled allotment. An agreement to lease and transfer shall not serve to extend the life of such pooled allotment.

(j) *Subleasing and limitation on lease and transfer to and from a farm*—(1) *No subleasing.* No transfer shall be made from a farm receiving allotment under a transfer agreement for the term of the transfer agreement.

(2) *Limitation on lease and transfer to and from a farm for the same crop year.* If a lease and transfer agreement is in effect for any farm, no transfer of allotment shall be made (i) from such farm receiving allotment by transfer or, (ii) to such farm which had allotment transferred from it.

(k) *Revised notices.* A form ASCS–375 showing the allotment acreage after lease and transfer shall be issued by the county committee to each of the operators of all farms from which or to which a tobacco allotment acreage is leased under this section.

(l) *Tobacco acreage allotment.* Except with respect to the erroneous allotment notice provisions in § 723.64 and the provisions for review in § 723.65, the term "tobacco acreage allotment" as used herein shall mean the allotment without regard to the application of the provisions of this section.

(m) *Zero allotment farm.* If the allotment for a farm for the current year is reduced to zero, no tobacco allotment acreage for such kind of tobacco may be leased to such farm for the current year.

(n) *Approval after review period.* No lease shall be approved by the county committee for any farm involved in a lease and transfer of allotment acreage until the time of filing an application for review, as shown on the original allotment notice for the farm, has expired. If an application for review is filed for a farm involved in a lease and transfer agreement, such agreement shall not be approved by the county committee until the allotment for such farm is finally determined pursuant to Part 711 of this chapter.

(o) *Acreage allotment after lease and transfer.* The acreage allotment finally determined (after lease and transfer) for a farm under the provisions of this section shall be the allotment for such farm for the current year only for the purpose of determining (1) excess acreage, (2) the amount of penalty to be collected on marketings of excess tobacco including absorption of carryover penalty tobacco, (3) eligibility for price support, and (4) the farm marketing quota and the percentage reduction for a violation in the allotment for the farm.

(p) *Cancellation, dissolution, or revision of transfer*—(1) *Cancellation.* Any transfer of allotment under this section which was approved by the county committee in error or on the basis of incorrect information furnished by the parties to the agreement shall be cancelled by the county committee. Such cancellation shall be effective as of the date of approval for purposes of determining eligibility for price support and marketing were not notified of the cancellation before the tobacco was planted. The provisions of this paragraph (p)(1) shall not preclude application of the erroneous notice provisions under § 723.64 where such provisions are applicable.

(2) *Dissolution or revision.* A transfer agreement may be dissolved or minor revisions made where a request by all parties to the agreement is made in writing to the county committees. Such written notification shall be filed prior to planting the tobacco. A late filed request to dissolve or revise the transfer may be effective for the current year if the county committee with approval of a State committee representative determines that the producer was prevented from timely filing for reasons beyond his control.

(q) *Reconstituted farm.* The allotment for a farm being divided or combined in the current year shall be the allotment after lease and transfer has been made. Notwithstanding the above, in the case of a division, the county committee shall allocate the acreage that was transferred by lease to the tracts involved in the division as the parent farm owners and operators designate in writing. In the absence of such designation, the county committee shall apportion the leased acreage.

(r) *Consent of lienholder.* No transfer of allotment other than by annual lease shall be made from a farm subject to a mortgage or other lien unless the transfer is agreed to in writing by the lienholder.

Note.—This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulation." A determination has been made that this action should not be classified "significant" under

those criteria. These regulations contain the necessary operating provisions for the establishment of 1980 farm acreage allotments, which are needed to implement the marketing quota program for Maryland (Type 32) and cigar-filler (Type 41) tobaccos, which was approved by the Secretary on January 31, 1980, and was publicly announced the following day.

A Final Impact Statement was prepared and is available from Robert L. Tarczy, Price Support and Loan Division, Room 3741 South Building, P.O. Box 2415, Washington, D.C. 20013.

Signed at Washington, D.C., on February 5, 1980.

Ray Fitzgerald,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 80-4575 Filed 2-14-80; 8:45 am]

BILLING CODE 3410-05-M

7 CFR Part 795

Payment Limitation

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document amends the regulations governing payment limitations to include an omission of provisions relating to more than one class of stock.

EFFECTIVE DATE: February 15, 1980.

FOR FURTHER INFORMATION CONTACT: Sue Rourk, Production Adjustment Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013, (202) 447-4541.

SUPPLEMENTARY INFORMATION: In the Federal Register (43 FR 9784) of March 10, 1978, regulations governing payment limitation were revised and republished. However, provisions relating to more than one class of stock were inadvertently omitted. This amendment corrects paragraph (c) of § 795.8 by including the omitted material. Since the change provided in this amendment is a correction of an inadvertent error in a previous rule, and payment limitation cases are currently being submitted for review, it is essential that this amendment be effective as soon as possible. Therefore, it is hereby determined that compliance with the notice of proposed rulemaking, public participation procedure, and 30-day effective date provisions of 5 U.S.C. 553 and the requirements of Executive Order 12044 are impractical and contrary to the public interest.

Final Rule

Accordingly, 7 CFR Part 795 is amended by revising paragraph (c) of § 795.8 to read as follows:

§ 795.8 Corporations and stockholders.

* * * * *

(c) The percentage share of the value of the stock owned by an individual or other legal entity shall be determined as of March 1 of the crop year, except that where a stockholder voluntarily acquires stock after March 1 and before the harvest of the crop, the amount of any stock so acquired shall be included in determining the percentage share of the value of the stock owned by the stockholder. Where there is only one class of stock, a stockholder's percentage share of the value of the outstanding stock be equal to the percentage of the outstanding stock owned by the stockholder. If the corporation has more than one class of stock the percentage share of the value of the stock owned by a stockholder shall be determined by the Deputy Administrator on the basis of market quotations, and if market quotations are lacking or too scarce to be recognized the percentage share of the value of the stock shall be determined by the Deputy Administrator on the basis of all relevant factors affecting the fair market value, including the rights and privileges of the various stock issues.

* * * * *

Note.—This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. Accordingly, no Final Impact Statement has been prepared.

(Title 1 of the Agricultural Act of 1970, as amended by the Agriculture and Consumer Protection Act of 1973, Public Law 93-86, 87 Stat. 221 (7 U.S.C. 1307) and under Title 1 of the Rice Production Act of 1975, Public Law 94-214, 90 Stat. 181 (7 U.S.C. 428 c Note), and Public Law 95-156, 91 Stat. 1264 (7 U.S.C. 1307 Note, 7 U.S.C. 1307, 7 U.S.C. 1441))

Signed in Washington, D.C. on February 7, 1980.

Ray Fitzgerald,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 80-4575 Filed 2-14-80; 8:45 am]

BILLING CODE 3410-05-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 239; Lemon Regulation 238, Amendment 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period February 17-23, 1980, and increases the quantity of such lemons that may be so shipped during the period February 10-16. Such action is needed to provide for orderly marketing of fresh lemons for the period specified due to the marketing situation confronting the lemon industry.

DATES: The regulation becomes effective February 17, 1980, and the amendment is effective for the period February 10-16, 1980.

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

SUPPLEMENTARY INFORMATION: *Findings.* This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee, and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The committee met on February 12, 1980, to consider supply and market conditions and other factors affecting the need for regulation, and recommended quantities of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons continues good.

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

meeting, and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comment. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from Malvin E. McGaha, 202–447–5975.

§ 910.539 Lemon Regulation 239.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period February 17, 1980, through February 23, 1980, is established at 210,000 cartons.

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

§ 910.538 [Amended].

2. Paragraph (a) of § 910.538 Lemon Regulation 238 (45 FR 8579) is amended to read as follows: "The quantity of lemons grown in California and Arizona which may be handled during the period February 10, 1980, through February 16, 1980, is established at 215,000 cartons."

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

Dated: February 13, 1980.

D. S. Kuryloski,

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

[FR Doc. 80-5164 Filed 2-14-80; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1904

Loan and Grant Programs (Individual); Section 504 Rural Housing Loans and Grants; Amendment

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration amends its regulations on Section 504 Rural Housing loans and grants. This action is taken to comply with changes made by the Housing and Community Development Amendments of 1979 (Pub. L. 96–153). The intended effect is to increase the maximum amount of assistance allowable as a loan or combination loan and grant.

EFFECTIVE DATE: February 15, 1980.

FOR FURTHER INFORMATION CONTACT: Nancy Monesson, Rural Housing Specialist, Single Family Housing, Home Ownership Loan Division, Room 5341, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC. Phone: 202–447–4295.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration amends § 1904.303 of Subpart G, Part 1904, Chapter XVIII, Title 7 in the Code of Federal Regulations. This revision is made to effectuate the change set forth in Section 510 of Pub. L. 96–153. Section 1904.303 is amended by increasing the maximum loan or combination loan and grant from $5,000 to $7,500. The amount of total grant assistance remains unchanged at $5,000.

It is the policy of the Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This amendment, however, is not published as a proposed rule since the change is made to conform to a new public law and therefore, publication for comment is unnecessary. This determination was made by A. Jennings Orr, Assistant Administrator for Single Family Housing, therefore, as amended, § 1904.303 reads as follows:

§ 1904.303 Amount of Section 504 loans and grants.

No initial or subsequent Section 504 loan, or combination loan and grant, may be made to any individual or household which will cause the total amount of Section 504 assistance to exceed $7,500. No initial or subsequent Section 504 grant or partial grant may be made to any individual or household which will cause the total Section 504 grant assistance to exceed $5,000. Transferees assuming a Section 504 loan are limited to subsequent loans in an amount not to exceed the difference between the unpaid principal balance of the debt assumed and $7,500. The information will be compiled and retained indefinitely for all borrowers who have received Section 504 assistance.

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

This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Statement has been prepared and is available in the Office of the Chief, Directives Management Branch, Farmers Home Administration, Room 6346, South Agriculture Building, Washington, D.C. 20250.

(42 U.S.C. 1480; 7 CFR 2.23; 7 CFR 2.70)

Dated: January 29, 1980.

Gordon Cavanaugh,

Administrator, Farmers Home Administration.

[FR Doc. 80-4952 Filed 2-14-80; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Addition of "Worldways Airlines Limited" to Listing

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This is an amendment of the regulations of the Immigration and Naturalization Service to add "Worldways Airlines Limited" to the list of transportation lines which have entered into agreements with the Commissioner of Immigration and Naturalization for immigration preinspection of their passengers and crews at places outside the United States. The amendment is necessary because signatories to these agreements are published in the Service's regulations, and on January 16, 1980, Worldways Airlines Limited and the Acting Commissioner of Immigration and Naturalization concluded an agreement for preinspection of the passengers and crews of that airline at Dorval Airport, Montreal, Quebec, Canada.

EFFECTIVE DATE: January 16, 1980.

FOR FURTHER INFORMATION CONTACT: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536. Telephone: (202) 633–3048.

SUPPLEMENTARY INFORMATION: This amendment to 8 CFR 238.4 is published pursuant to section 552 of Title 5 of the United States Code (80 Stat. 383), as amended by Pub. L. 93–502 (88 Stat.

1561), and the authority contained in section 103 of the Immigration and Nationality Act (8 U.S.C. 1103), 28 CFR 0.105(b), and 8 CFR 2.1. Compliance with the provisions of section 553 of Title 5 of the United States Code as to notice of proposed rule making and delayed effective date is unnecessary in this instance because the amendment contained in this order adds a transportation line to the list and is editorial in nature.

This following amendment is hereby prescribed to Chapter I of Title 8 of the Code of Federal Regulations:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

§ 238.4 [Amended]

In § 238.4, *Preinspection outside the United States,* the listing of transportation lines under "At Montreal" is amended by adding thereto, in alphabetical sequence, "Worldway Airlines Limited".

(Secs. 103 and 238(b), 8 U.S.C. 1103 and 1228(b))

Effective date: This amendment became effective on January 16, 1980.

Dated: February 9, 1980.

David Crosland,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 80-4908 Filed 2-14-80; 8:45 am]

BILLING CODE 4410-10-M

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8 CFR Parts 334, 336, and 341

Petition for Naturalization, Proceedings Before Naturalization Court, Certificate of Citizenship; General Editorial Amendments

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This document makes five amendments to four sections of the regulations of the Immigration and Naturalization Service. Four of the amendments are made to include reference to the Service fee schedule within the text of the regulation, in lieu of stating the specific fee. These amendments are made for editorial convenience so the regulation itself will not have to be amended whenever the fee schedule is changed. The fifth amendment raises the age limitation for derivative citizenship eligibility from 16 to 18 years and is necessary to reflect the recent amendment of the statute governing the age at which the children of naturalized citizen parent(s) may derive United States citizenship.

EFFECTIVE DATE: February 15, 1980.

FOR FURTHER INFORMATION CONTACT: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 Eye Street, N.W., Washington, DC 20536. Telephone: (202) 633-3048.

SUPPLEMENTARY INFORMATION: On October 25, 1979, the Service published new and increased fees for the filing of several applications under Title III of the Act. See 44 FR 61319. These new and increased fees became effective on November 26, 1979.

The new fees were established for the filing of an Application for Amendment of a Petition or Application for Naturalization on Form N-410 (see 8 CFR 334.16(a)), and for filing a request for a waiver of the 30-day period required to intervene between the date of filing of a petition for naturalization and the date of the final hearing on the petition (see section 336(c) of the Act and 8 CFR 336.16). These two sections of the regulations will be amended by including in each a reference to the Service fee schedule, 8 CFR 103.7(b)(1).

Increased fees were established for filing Applications for Certificates of Citizenship on Form N-600 or N-400 as provided in 8 CFR 341.1 (a) and (b). These sections currently indicate a specific fee amount. This will be changed and only reference to the Service fee schedule at 8 CFR 103.7(b)(1) will be included.

These four amendments are being made in this way, for editorial convenience, so the regulation will not have to be amended each time the fee schedule may change.

Pub. L. 95-417, enacted October 5, 1978, raised the age at which a child may derive United States citizenship through the naturalization of his/her parent or parents from 16 to 18 years of age. (See 92 Stat. 918). Accordingly, 8 CFR 341.1(b) will be amended to reflect this statutory amendment.

In the light of the foregoing, the following amendments are hereby prescribed to Chapter I of Title 8 of the Code of Federal Regulations.

PART 344—PETITION FOR NATURALIZATION

In Part 334, § 334.16(a) is amended by adding a new second sentence between the existing first and second sentences. As amended § 334.16(a) reads as follows:

§ 334.16 Amendment of petition or application for naturalization.

(a) *During pendency of petition or application.* An application to amend a petition or application for naturalization, while such application or petition is pending, shall be made by the petitioner or applicant on Form N-410, with copies thereof equal to the number of copies of the petition or application for naturalization, and presented to the court at the hearing on the petition or application for naturalization. The application shall be accompanied by the fee specified in § 103.7(b)(1) of this chapter, unless it was initiated by, and for the convenience of, the government. When the court orders the petition or application amended, the original order shall be filed with the original petition or application and the copies attached to the respective copies of the petition or application.

* * * * *

PART 336—PROCEEDINGS BEFORE NATURALIZATION COURT

In Part 336, § 336.16 is amended by revising the first sentence to read as follows:

§ 336.16 Final hearing; waiver of 30-day period.

A request to the district director to waive the 30-day period following the filing of the petition referred to in section 336(c) of the Immigration and Nationality Act shall be made by the petitioner on Form N-336, accompanied by the fee specified in § 103.7(b)(1) of this chapter. * * *

PART 341—CERTIFICATES OF CITIZENSHIP

In Part 341, §§ 341.1 (a) and (b) are amended. In § 341.1(a), the first sentence is amended. In § 341.1(b), minor amendments are made to the first and second sentences. As amended, §§ 341.1 (a) and (b) read as follows:

§ 341.1 Application.

(a) *Form N-600.* An application for a certificate of citizenship by or in behalf of a person who claims to have acquired United States citizenship under section 309(c) or to have acquired or derived United States citizenship as specified in section 341 of the Act shall be submitted on Form N-600 in accordance with the instructions thereon, accompanied by the fee specified in § 103.7(b)(1) of this chapter. The application shall be supported by documentary and other evidence essential to establish the claimed citizenship, such as birth, marriage, death, and divorce certificates.

(b) *Form N-400.* An applicant for naturalization who believes that, upon naturalization, his children under 18 years of age will derive United States citizenship under section 320 or under section 321 of the Act, may make

application for a certificate or citizenship on behalf of any such children in advance of naturalization. The application shall be made on Form N–400, Application to File Petition for Naturalization, at the same time that the parent files his application for naturalization, by completing therein the item relating to a certificate of citizenship and submitting therewith the fee specified in § 103.7(b)(1) of this chapter for each certificate of citizenship applied for, and supporting documentary and other evidence, such as birth, marriage, death, and divorce certificates, essential to establish that citizenship will be derived as claimed.

(Sec. 103, 8 U.S.C. 1103)

These amendments are published pursuant to 5 U.S.C. 552 as amended by Pub. L. 93–502 (88 Stat. 1561), and the authority contained in section 103 of the Immigration and Nationality Act (8 U.S.C. 1103), 28 CFR 0.105(b), and 8 CFR 2.1. Compliance with the provisions of 5 U.S.C. 553 as to notice of proposed rule making and delayed effective date is unnecessary in this instance because the amendments made in this order are editorial and conforming in nature.

Effective date: The amendments made in this order become effective on February 15, 1980.

Dated: February 9, 1980.

David Crosland,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 80–4907 Filed 2–14–80; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

Specifically Approved States to Receive Stallions Imported From CEM-Affected Countries

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document gives notice of States specifically approved to receive stallions imported into the United States from countries affected with contagious equine metritis (CEM).

This action is necessary as a permit will only be issued if the stallion is consigned to a State which the Deputy Administrator of Veterinary Services, Animal and Plant Health Inspection Service, has approved to receive such horses on the basis that the State has laws or regulations in effect to require the additional inspection, treatment and testing of such horses to further insure their freedom from CEM. The effect of this action is to give notice of such specifically approved States.

EFFECTIVE DATE: February 8, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. D. E. Herrick, USDA, APHIS, VS, Room 815, Federal Building, Hyattsville, MD 20782, 301–436–8170.

SUPPLEMENTARY INFORMATION: On Friday, January 4, 1980, there was published in the Federal Register regulations in 9 CFR Part 92, as amended, containing restrictions on the importation of male horses (stallions over 731 days of age) into the United States from countries affected with contagious equine metritis (CEM) when specific requirements to prevent their introducing CEM into the United States are met, and the amimals imported are moved into specified States for further inspection, treatment and testing by the State of destination. The amendment established minimum standards which a State must meet in order to be approved to receive stallions imported from CEM-affected countries. These standards contain treatment, testing and handling procedures believed necessary to insure that the stallions being imported into the United States are free of the contagion of CEM.

This document lists the State of Kentucky as specifically approved for purposes of the regulations, on the basis of a determination of its eligibility for such approval under § 92.4(a)(6) of the regulations.

§ 92.4 [Amended]

Accordingly, § 92.4(a)(5)(ii) of Title 9, Code of Federal Regulations is amended by listing "The State of Kentucky." at the end thereof as a State approved to receive stallions pursuant to § 92.4(i)(2)(iv) of the regulations.

(Secs. 2, 32 Stat. 792 as amended; secs. 4 and 11, 76 Stat. 130, 132 (21 U.S.C. 111, 134c, 134f); 37 FR 28464, 28477; 38 FR 19141).

This amendment establishes Kentucky as a State which has been approved to receive stallions from CEM-affected countries for handling in accordance with the provisions of 9 CFR 92.4(a)(6). This amendment must be made effective immediately in order to facilitate the movement of stallions in foreign commerce during the forthcoming breeding season and accomplish its purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the Federal Register.

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by Dr. M. J. Tillery, Director, National Program Planning Staffs, VS, APHIS, that the emergency nature of this final rule warrants publication without opportunity for prior public comment or preparation of an impact analysis statement at this time.

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

Done at Washington, D.C., this 8th day of February 1980.

J. K. Atwell,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 80–4823 Filed 2–14–80; 8:45 am]

BILLING CODE 3410–34–M

9 CFR Parts 145 and 147

National Poultry Improvement Plan (Chickens and Certain Other Poultry); Incorporation of New Technology and Practices

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends certain portions of the provisions governing the National Poultry Improvement Plan and Auxiliary Provisions. It reduces the size of the sample of breeding chickens to be blood tested for *Mycoplasma gallisepticum* and *Mycoplasma synoviae* under the official control program for the diseases caused by these two organisms. A new program is added which recognizes a State which has met certain prerequisites in their efforts to control and eliminate *M. gallisepticum* in turkey breeding flocks. Also drugs which would mask the test reaction or hinder bacteriological recovery of Mycoplasma organisms will no longer be permitted to be fed to a flock of breeding fowl three weeks prior to a test upon which an official Mycoplasma classification is based. Alternative procedures may now

be used to sanitize hatching eggs produced by certain primary breeding flocks. The General Conference Committee shall have one additional member who shall be a participant in the National Poultry Improvement Plan shall be elected by all voting State delegates at the Biennial National Plan Conference.

EFFECTIVE DATE: February 15, 1980.

FOR FURTHER INFORMATION CONTACT: Raymond D. Schar, Senior Coordinator, National Poultry Improvement Plan, Bldg. 265, BARC-East, Beltsville, Maryland 20705. (301) 344-2227.

SUPPLEMENTARY INFORMATION: The National Poultry Improvement Plan is a cooperative State-Federal program through which new technology can be effectively applied to the improvement of poultry breeding stock and hatchery products through the control of hatchery-disseminated diseases. The provisions of this voluntary program are changed from time to time to conform with the development of the industry and to utilize new information as it becomes available. These changes are based on recommendations initiated at the biennial National Plan Conference by the official delegates representing participating flockowners, breeders, and hatcherymen from all cooperating States. Since this is a voluntary program, these provisions apply only to those who wish to participate in the program.

On December 1, 1978, there was published in the Federal Register (43 FR 56245) a notice of proposed amendments of the National Poultry Improvement Plan and Auxiliary Provisions. These amendments were recommended by the voting State delegates at the 1978 National Plan Conference. Copies of the proposals were sent to cooperating State Agencies, to most major U.S. hatcherymen and breeders, to trade journals and newspapers, and to other interested persons, stating that the Department of Agriculture had these proposals under consideration and asking for comments.

Two comments were received asking for clarification on the proposal which would prohibit the feeding of certain drugs prior to an official blood test for a Mycoplasma. They were more concerned about the uniform application by participating States than from the prohibition of the feeding of such drugs. The Department will provide the Official State Agencies with a list of drugs proven to mask a serological test for Mycoplasma. These lists will be updated from time to time as new information and drugs become available. This action should ameliorate the effect of these provisions and no further concern is anticipated.

One proposal was vigorously protested through 14 letters and numerous phone calls. This proposal would require each shipment of poultry breeding stock from primary breeding flocks to be identified by a properly executed and distributed NPIP Form 15. Since practically all major primary breeders objected to this proposal, and since the information available on this certificate would be of most value to cooperating State Agencies, the Department did not accept this proposal at this time. The General Conference Committee of the National Poultry Improvements Plan concurred with the Department's decision at a meeting in Washington, DC.

Another proposed amendment which was rejected by the Department would have required all shipments of baby poultry and hatching eggs sent through the U.S. Mails to originate from a breeding flock deemed to be negative for *Salmonella pullorum* and *Salmonella gallinarum*, and to be marked as such. This proposal was intended only to apply to shipments originating in the 47 States participating in the National Poultry Improvement Plan. However, there does not appear to be any authority for such a regulation, which would impose requirements on all persons who make such shipments whether or not they voluntarily participate in the plan. Therefore, this proposed amendment was rejected.

Accordingly, Title 9, Code of Federal Regulations, Chapter I, Subchapter F, Parts 145 and 147, are hereby amended in the following respects:

PART 145—NATIONAL POULTRY IMPROVEMENT PLAN (CHICKENS AND CERTAIN OTHER POULTRY)

1. Section 145.10 is amended by adding a new paragraph (i) to read as follows:

§ 145.10 Terminology and classification; flocks, products, and States.

* * * * *

(i) *U.S. Mycoplasma Gallisepticum Clean State, Turkeys.* (See § 145.44(c).)

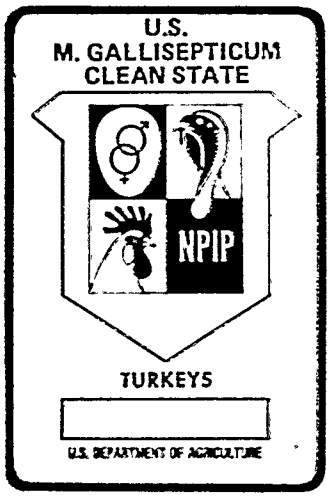

Figure 10

2. Section 145.14 is amended by adding a new subparagraph (b)(4) to read as follows:

§ 145.14 Blood testing.

* * * * *

(b) * * *

(4) Any drug, for which there is scientific evidence of masking the test reaction or hindering the bacteriological recovery of mycoplasma organisms, shall not be fed or administered to poultry within three weeks prior to a test or bacteriological examination upon which a Mycoplasma classification is based.

3. Section 145.23 is amended by revising paragraphs (c)(1)(ii), (c)(1)(ii)(*a*), and (e)(1)(ii) to read as follows:

§ 145.23 Terminology and classification; flocks and products

* * * * *

(c) * * *

(1) * * *

(ii) It is a multiplier breeding flock which originated as U.S. M. Gallisepticum Clean chicks from primary breeding flocks and a sample comprised of 50 percent of the birds in the flock, with a maximum of 200 birds and a minimum of 30 birds per flock, has been tested for M. gallisepticum as provided in § 145.14(b) when more than four months of age: *Provided*, That to retain this classification, the flock shall be subjected to one of the following procedures:

(*a*) At intervals of not more than 90 days, a random sample of at least two

percent of the birds in the flock, with a maximum of 100 birds and a minimum of 30 birds per pen, whichever is greater, shall be tested; or

* * * * *

(e) * * *

(1) * * *

(ii) It is a multiplier breeding flock which originated as U.S. M. Synoviae Clean chicks from primary breeding flocks and a sample of one percent of the birds in the flock, with a maximum of 100 birds and a minimum of 30 birds, has been tested for M. synoviae as provided in § 145.14(b) when more than four months of age: *Provided,* That to retain this classification, a random sample of at least one percent of the birds, with a maximum of 60 birds and a minimum of 30 birds, shall be tested at intervals of not more than 90 days: *And provided further,* That a sample of less than one percent may be tested at any one time, provided that a minimum of 30 birds per flock, with a minimum of 15 birds per pen, whichever is greater, is tested each time and a total of at least one percent of the birds, or a maximum of 60 birds, is tested within each 90-day period.

* * * * *

4. Section 145.33 is amended by revising paragraphs (c)(1)(ii), (c)(1)(ii)(*a*), and (e)(1)(ii) to read as follows:

§ 145.33 Terminology and classification; flocks and products.

* * * * *

(c) * * *

(1) * * *

(ii) It is a multiplier breeding flock which originated as U.S. M. Gallisepticum Clean chicks from primary breeding flocks and a sample comprised of 50 percent of the birds in the flock, with a maximum of 200 birds and a minimum of 30 birds per flock, has been tested for M. gallisepticum as provided in § 145.14(b) when more than four months of age: *Provided,* That to retain this classification, the flock shall be subjected to one of the following procedures:

(*a*) At intervals of not more than 90 days, a random sample of at least two percent of the birds in the flock, with a maximum of 100 birds and a minimum of 30 birds per pen, whichever is greater, shall be tested; or

* * * * *

(e) * * *

(1) * * *

(ii) It is a multiplier breeding flock which originated as U.S. M. Synoviae Clean chicks from primary breeding flocks and a sample of one percent of the birds in the flock, with a maximum of 100 birds and a minimum of 30 birds, has been tested for M. synoviae as provided in § 145.14(b) when more than four months of age: *Provided,* That to retain this classification, a random sample of at least one percent of the birds, with a maximum of 60 birds and a minimum of 30 birds, shall be tested at intervals of not more than 90 days: *And provided further,* That a sample of less than one percent may be tested at any one time, provided that a minimum of 30 birds per flock, with a minimum of 15 birds per pen, whichever is greater, is tested each time and a total of at least one percent of the birds, or a maximum of 60 birds, is tested within each 90-day period.

* * * * *

5. Section 145.44 is amended by adding a new paragraph (c) to read as follows:

§ 145.44 Terminology and classification; States.

* * * * *

(c) *U.S. M. Gallisepticum Clean State, Turkeys.* (1) A State will be declared a U.S. M. Gallisepticum Clean State, Turkeys when it has been determined by the Service that:

(i) No M. gallisepticum is known to exist nor to have existed in turkey breeding flocks in production within the State during the preceding 12 months;

(ii) All turkey breeding flocks in production are classified as U.S. M. Gallisepticum Clean or have met equivalent requirements for M. gallisepticum control under official supervision;

(iii) All turkey hatcheries within the State handle products which are classified as U.S. M. Gallisepticum Clean or have met equivalent requirements for M. gallisepticum control under official supervision;

(iv) All shipments of turkey products other than those classified as U.S. M. Gallisepticum Clean, or equivalent, into the State are prohibited;

(v) All persons performing poultry disease diagnostic services within the State are required to report to the Official State Agency within 48 hours the source of all turkey specimens that have been identified as being infected with M. gallisepticum;

(vi) All reports of M. gallisepticum infection in turkeys are promptly followed by an investigation by the Official State Agency to determine the origin of the infection;

(vii) All turkey flocks found to be infected with M. gallisepticum are quarantined until marketed under supervision of the Official State Agency.

(2) Discontinuation of any of the conditions described in paragraph (c)(1) of this section, or if repeated outbreaks of M. gallisepticum occur in turkey breeding flocks described in paragraph (c)(1)(ii) of this section, or if an infection spreads from the originating premises, the Service shall have grounds to revoke its determination that the State is entitled to this classification. Such action shall not be taken until a thorough investigation has been made by the Service and the Official State Agency has been given an opportunity for a hearing.

6. Section 145.52 is amended by adding a new paragraph (b) to read as follows:

§ 145.52 Participation.

* * * * *

(b) Hatching eggs produced by primary breeding flocks shall be fumigated according to the procedures described in §147.25(a) of this chapter: *Provided,* That alternative sanitizing procedures may be used with the approval of the Official State Agency in each specific instance and with the general concurrence by the Service in the policy adopted by the Official State Agency.

PART 147—AUXILIARY PROVISIONS ON NATIONAL POULTRY IMPROVEMENT PLAN

7. Section 147.43 is amended by revising paragraphs (a), (b), and (c) to read as follows:

§ 147.43 General Conference Committee.

(a) The General Conference Committee shall consist of the Assistant Secretary of Agriculture for Marketing and Transportation Services, or his/her designee, one member-at-large who is a participant in the National Poultry Improvement Plan and who shall be designated as vice chairperson, and one member to be elected, as provided in paragraph (b) of this section, from each of the following regions:

* * * * *

(b) The regional committee members and their alternates will be elected by the official delegates of the respective regions and the member-at-large will be elected by all official delegates. There shall be at least two nominees for each position, and the voting shall be by secret ballot.

(c) Three regional members shall be elected at each Plan Conference. All members shall serve for a period of four years, subject to the continuation of the Committee by the Secretary of Agriculture, and may not succeed themselves. When there is a vacancy for the member-at-large position, the General Conference Committee shall make an interim appointment and the

appointee shall serve until the next Plan Conference at which time an election will be held.

§ 147.45 [Amended]

8. Section 147.45 is amended by deleting the third sentence.

(Sec. 101(b), Pub.L. 425, 78th Cong., 58 stat. 734, as amended 7 U.S.C. 429).

It does not appear that further public participation in this rule-making proceeding would make additional relevant information available to the Department.

These rules are cost effective and when implemented, will reduce the cost of blood testing to the participant and should effectuate the control and eradication of certain diseases in an accelerated manner. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, good cause is found for making the amendment effective less than 30 days after publication in the Federal Register.

This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "Significant" under those criteria. A Final Impact Statement has been prepared and is available from Program Services Staff, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8695.

Done at Washington, D.C. this 8th day of February 1980.

J. K. Atwell,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 80-4818 Filed 2-14-80; 8:45 am]

BILLING CODE 3410-34-M

Food Safety and Quality Service

9 CFR Parts 318, 319, 381

Use of Enzyme Treated Substances as Binders and Extenders in Certain Meat and Poultry Products

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: This document expands the approved list of binders and extenders for use in certain meat and poultry products. The Federal meat and poultry inspection regulations are amended to permit the use of enzyme treated calcium reduced dried skim milk and enzyme treated sodium caseinate as binders or extenders in meat food products and poultry products. Both of these enzyme treated dairy products would be combined with calcium lactate in an amount sufficient to restore a calcium/protein ratio which is comparable to that found in skim milk. These ingredients are similar to presently approved binders and extenders in terms of nutritional characteristics and are subject to the same limitations applied to dried skim milk, calcium reduced dried skim milk, and sodium caseinate.

EFFECTIVE DATE: February 15, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Hibbert, Acting Director, Meat and Poultry Standards and Labeling Division, Compliance Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–6042.

SUPPLEMENTARY INFORMATION: The Food Safety and Quality Service (FSQS) proposed regulations on July 31, 1979 (44 FR 44874–44876), to permit the use of enzyme (rennet) treated calcium reduced dried skim milk and enzyme (rennet) treated sodium caseinate, both of which are to be mixed with calcium lactate, as a binder or extender in comminuted meat food products and poultry products. The calcium lactate is to be added at a sufficient rate to create a calcium/protein ratio which would be comparable to that which is found in skim milk. Comments to the proposal were solicited for a period of 60 days.

The original request to FSQS to propose the use of these substances as binders or extenders stated that there are distinct technological advantages associated with the use of these ingredients. The request also stated that the soft gel formation that is created improves texture, inhibits emulsion breakdown, retains moisture more uniformly, and increases product stability.

This final rule implements the July 31 proposal by expanding the list of approved binders and extenders for use in certain meat and poultry products by authorizing the use of enzyme (rennet) treated calcium reduced dried skim milk and enzyme (rennet) treated sodium caseinate with calcium lactate. The rule also permits calcium reduced dried skim milk and sodium caseinate to be treated only with the enzyme rennet.

As noted in the proposal, the preparation procedure of the binders consists of treating the calcium reduced dried skim milk or the sodium caseinate solution with rennet, the enzyme commonly used in the production of cheese. This enzyme alters the casein molecule so that it is capable of forming a gel when mixed with enough calcium to create the normal calcium to casein ratio of skim milk. This is accomplished by the addition of calcium lactate at the time of the addition of the dried enzyme treated dairy ingredient to the meat or poultry mixture. During the cooking of the meat or poultry products, a casein gel is formed by the dairy ingredient and calcium lactate. This gel acts as a binder-extender in the cooked product.

Both calcium lactate and rennet are substances generally recognized as safe (GRAS) (21 CFR 182.1207, 182.1685) by the Federal Food and Drug Administration when used in accordance with good manufacturing practices. The use of the products as indicated herein is consistent with the GRAS status of calcium lactate and rennet. The enzyme (rennet) treatment of calcium reduced dried skim milk and sodium caseinate does not alter the nutritional characteristics of these products which are now being widely used and are accepted as safe.

The mixture of enzyme (rennet) treated products and calcium lactate is very similar to dried skim milk nutritionally in terms of protein and calcium content, and performs the same functions in products in which it is to be used.

The amount of calcium lactate that is combined with calcium reduced dried skim milk is required at a rate of 10 percent of the binder. This is the proportion necessary to restore the ratio of calcium to casein found in milk. The amount of calcium lactate that is combined with sodium caseinate is required at a rate of 25 percent of the binder. This is the proportion necessary to restore the ratio of calcium to casein found in milk. This ratio is required at a rate of 25 percent because sodium caseinate contains a higher percentage of casein than calcium reduced dried skim milk and, therefore, more calcium is necessary to restore the natural balance of the product.

Restrictions on the Use of These Substances in the Preparation of Products

This rule does not extend the uses of binders-extenders in products. The uses of these binders and extenders are subject to the same limitations presently applied to dried skim milk, calcium reduced dried skim milk, and sodium caseinate.

The amount of enzyme treated calcium reduced dried skim milk and enzyme treated sodium caseinate used to bind and extend products, other than sausages, is limited to an amount sufficient for the purpose as presently provided in §§ 318.7 and 381.147 of the regulations (9 CFR 318.7 and 381.147).

In conformity with this amendment of

the regulations, the Administrator is also amending the standards for sausage products to permit only the use of enzyme (rennet) treated calcium reduced dried skim milk. Enzyme treated sodium caseinate is not included for use in these specific sausage products since, unlike enzyme treated calcium reduced dried skim milk, its presence in such products cannot currently be quantified and measured. The amount of enzyme (rennet) treated calcium reduced dried skim milk permitted for use in standard sausage is limited to 3½ percent of the total finished product as presently permitted for binders and extenders for use in these products in § 319.140 of the Federal meat inspection regulations (9 CFR 319.140).

Public Comment

Four comments were received in response to the proposed rule. Two of the commenters endorsed the proposal without reservation. A third commenter was not critical of the proposal itself but asked for technical information relative to the source of rennet in these formulations. The commenter was supplied with this information. One commenter opposed the proposal on the basis that the use of binders or extenders "cheapened" the finished product. This single objection would be similarly applicable to all binder-extender products. However, the Administrator believes that binders and extenders serve a valuable function in a number of processed products. The only option considered after a review of comments on the proposal was to prepare a final rule providing for use of the subject binder-extenders.

After carefully considering all comments received on the proposed amendments, the Administrator has determined that the proposed amendments will be adopted without change. Accordingly, the Federal meat inspection regulations are amended as follows:

PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS; REINSPECTION AND PREPARATION OF PRODUCTS

§ 318.7 [Amended]

1. In § 318.7(c)(4) (9 CFR 318.7(c)(4)), the portion of the chart dealing with the "Class of substance" identified as "Binders" is amended by adding the following substances to the appropriate columns in alphabetical order:

Class of substance	Substance	Purpose	Product	Amount
*	*	*	*	* *
Binders	Enzyme (rennet) treated calcium reduced dried skim milk and calcium lactate.	To bind and extend product	Sausages, as provided for in Part 319 of this subchapter.	3½ percent total finished product. (Calcium lactate required at rate of 10 percent of binder.)
			Imitation sausages; non-specific loaves; soups; stews.	Sufficient for purpose. (Calcium lactate required at rate of 10 percent of binder.)
	Enzyme (rennet) treated sodium caseinate and calcium lactate.	do	Imitation sausages; nonspecific loaves; soups; stews.	Sufficient for purpose. (Calcium lactate required at rate of 25 percent of binder.)
*	*	*	*	* *

PART 319—DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION

§ 319.140 [Amended]

2. The second sentence of § 319.140 (9 CFR 319.140) is amended by deleting "calcium reduced skim milk or dried milk" and by adding the following in lieu thereof: "calcium reduced dried skim milk, enzyme (rennet) treated calcium reduced dried skim milk and calcium lactate or dried milk."

§ 319.180 [Amended]

3. Section 319.180(e) (9 CFR 319.180(e)) is amended by inserting the following after the words "calcium reduced dried skim milk": "enzyme (rennet) treated calcium reduced dried skim milk and calcium lactate,".

§ 319.181 [Amended]

4. The second sentence of § 319.181 (9 CFR 319.181) is amended by deleting "calcium reduced skim milk, or dried milk" and by adding the following in lieu thereof: "calcium reduced dried skim milk, enzyme (rennet) treated calcium reduced dried skim milk and calcium lactate, or dried milk."

§ 319.281 [Amended]

5. Section 319.281(a)(2) (9 CFR 319.281(a)(2)) is amended by inserting the following after the words "calcium reduced dried skim milk,": "enzyme (rennet) treated calcium reduced dried skim milk and calcium lactate,".

(Sec. 7, 21, 34 Stat. 1262, as amended (21 U.S.C. 607, 621); 42 FR 35625, 35626, 35631)

Furthermore, the Federal poultry products inspection regulations are amended as follows:

PART 381—POULTRY INSPECTION REGULATIONS

§ 381.147 [Amended]

In § 381.147(f)(3) of the poultry products inspection regulations (9 CFR 381.147(f)(3)), the portion of the chart dealing with the "Class of substance" identified as "Binders and extenders" is amended by adding the following substances to the appropriate columns in alphabetical order:

Class of substance	Substance	Purpose	Product	Amount
*	*	*	*	* *
Binders and extenders	Enzyme (rennet) treated calcium reduced dried skim milk and calcium lactate.	To bind and extend product	Various	Sufficient for purpose. (Calcium lactate required at rate of 10 percent of binder.)
	Enzyme (rennet) treated sodium caseinate and calcium lactate.	do	do	Sufficient for purpose. (Calcium lactate required at rate of 25 percent of binder.)
*	*	*	*	* *

(Secs. 8, 14, 71 Stat. 444 (21 U.S.C. 457, 463); 42 FR 35625, 35626, 35631)

This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Statement has been prepared and is available from Mr. Robert G. Hibbert, Acting Director, Meat and Poultry Standards and Labeling Division, Compliance Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250.

Done at Washington, DC, on February 11, 1980.

Donald L. Houston,

Administrator, Food Safety and Quality Service.

[FR Doc. 80-4984 Filed 2-14-80; 8:45 am]

BILLING CODE 3410-DM-M

9 CFR Part 381

Young Chicken Slaughter Inspection Rate Maximums; Mandatory Poultry Products Inspection

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Review and response to comments.

SUMMARY: In response to an emergency situation, an immediately effective final rule establishing national uniform maximum inspection rates for inspecting young chickens under the traditional inspection procedure was published in the Federal Register on April 13, 1979 (44 FR 22047–22049). A change in the effective date for mandatory application of the final rule until July 3, 1979, was subsequently published in the Federal Register on May 4, 1979 (44 FR 26059–26060). Although the Federal poultry products inspection regulations were amended by the emergency final rule to include these maximum inspection rates without waiting for public comment, comments concerning the amendment were requested at the time of its publication. These comments were due on or before July 12, 1979. This notice is to advise the public on the nature of the comments received and present the Department's response to these comments.

FOR FURTHER INFORMATION CONTACT:

Mr. Clyde S. Smithson (202) 447–2987.

Background

Pursuant to the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*), the Secretary of Agriculture is required to conduct a post-mortem examination of the carcass of each bird (chicken, turkey, duck, goose, or guinea) processed at each official establishment processing such poultry for commerce or otherwise subject to the inspection under the Act. The post-mortem inspection essentially consists of examination by an inspector or inspectors of the exterior, the interior of the body cavity, and the exposed viscera of each bird slaughtered. These inspections are carried out along a moving inspection line in accordance with a standardized procedure which is designed to assure that only wholesome and otherwise not adulterated carcasses and parts are passed for consumption as human food.

The amount of time needed to perform the required inspection procedure will vary according to the production line configuration and the number of inspector stations. For the most prevalent combination of these variables, maximum inspection rates for young chickens [1] had been obtained from studies conducted in poultry slaughtering establishments. These rates had been listed in informal guidelines and had been made available by the Department to the inspection personnel, the industry, and the public. However, due to the different interpretations of these guidelines, different inspection rates developed in various areas of the country. The Department received complaints from processors in various geographical areas that inspection rates used in their areas for young chickens were slower than rates used in other parts of the country for similar configurations.

Options Considered

In an effort to apply inspection procedures and practices uniformly across the country and preclude inconsistencies in interpretations and implementations of rates, a study group was convened by the Administrator in early September 1978.

Eight options using the traditional inspection procedure were considered and evaluated by the study group:

Option 1: *Maintenance of the Status Quo*—A major reason for the rejection of this option was that it would maintain different treatment of establishments between regions, and within areas and circuits. (This option later was precluded because of the court order discussed below).

Option 2: *Enforcement of the 1974 Poultry Slaughter Inspection Time Standards*—A major reason for the rejection of this option was that implementation would require a 12 percent increase in all young chicken processing plant operating hours to maintain output at current levels.

Option 3: *Implementation of the 1977 Draft Bulletin on Staffing Standards*—A major reason for the rejection of this option was that it would require a significant increase in inspection personnel and would require a 2 percent increase in all processing plant operating hours to maintain output at current levels.

Option 4: *Establishment of an Interim Maximum Inspection Rate Equal to the 1974 Standards Plus 25 Percent*—A major reason for the rejection of this option was that a permanent solution is required and inspector incentives would be needed for the additional workload.

Option 5: *Establishment of 1978 Standards*—A major reason for the rejection of this option was that it would require a 1.8 percent increase in all processing plant operating hours to maintain output at current levels.

Option 6: *Implementation of the 1978 Standards Plus an Arbitrary Increase in Inspection Rates to Compensate for Increased Output*—A major reason for the rejection of this option was that it would be a solution requiring increased productivity per inspector without any additional incentive to the inspectors.

Option 7: *Adoption of 1978 Standards Plus Increases in Inspection Rates Through Use of Added Relief Time*—A major reason for the rejection of this option was that inspection staffing constraints would result in discriminatory treatment of small plants due to the lack of relief inspectors at those plants.

Option 8: *Establishment of Inspection Rates Based on Those Enforced in the Southwest Region Plus 5 Percent*—This option was recommended by the Administrator's study group which concluded that the inspection rates currently in effect in the Southwest Region properly ensure adequacy of inspection. These rates were increased by 5 percent to reflect the elimination of tibia palpation, which had been found to be no longer necessary. Additionally, this option had the potential for increasing young chicken processing plant efficiency by reducing total plant operating hours by nearly 2 percent to maintain the current output level.

Based on the recommendations of the study group,[2] the Administrator prepared a proposed rulemaking document to establish national uniform maximum inspection rates 5 percent faster than the rates in existence at that time in the Southwest Region. However,

[1] See § 381.170(a) of the poultry products inspection regulations (9 CFR 381.170(a)) which specifies which classes of chickens constitute young chickens.

[2] This study, the Report of Inspection Rate Study Group, is available without charge from Mr. Clyde S. Smithson, Acting Director, Industrial Engineering and Data Management Division, Meat and Poultry Inspection Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250 (202) 447–2967.

before the proposed rulemaking document was ready to be published in the Federal Register, The Arkansas Poultry Federation and the State of Arkansas brought suit in the United States District Court for the Eastern District of Arkansas (*Arkansas Poultry Federation v. Bergland,* Civ. Act. No. LR-C-78-395) concerning inconsistencies in inspection rates for young chickens. After a hearing, the Court, on April 3, 1979, issued an injunction directing that the Department forthwith use uniform maximum inspection rates for young chickens and apply and enforce the rates uniformly in all federally inspected poultry slaughtering plants in the United States.

In order to comply with the Court's order and to assure that the consumer was adequately protected, the uniform maximum inspection rates for young chickens under the traditional inspection procedures were issued as a final rule effective immediately. Comments to the rule were also solicited at that time.[3,4]

Review of Comments Received

As a result of the request for comments in the April 13 notice, seven comments were received regarding the setting of maximum inspection rates for young chicken slaughter. Of these, six were generally favorable to the rule change and one was not. These comments addressed the following topics which will be discussesd in turn: (1) the level of the maximum inspection rate; (2) the legality of procedure employed by the Department; (3) the impact of the regulation upon the health of poultry inspectors; and (4) the impact of the regulation upon the health of the poultry consuming public.

1. The Level of the Maximum Inspection Rate

The comments received on formal establishment of young chicken slaughter inspection rate maximums unanimously supported the need for such uniform rates as mandated by the Federal District Court for the Eastern District of Arkansas. Generally, however, industry comments characterized the rates set in the April 13 rule as too low, particularly in view of the fact that USDA's own reports indicated that many plants were already operating at higher rates. These commenters also indicated that, as new technology is developed, the present maximum inspection rates will become even more obsolete.

USDA recognizes the relationship between improved technology and faster line speeds and also recognizes the price benefit which consumers would realize from an increased poultry supply. USDA will make every effort to identify new and improved inspection techniques which are designed to increase industry productivity. At the present time, however, the information available to the Department indicates that the maximums in the present regulations are the correct rates to assure that the quality of inspection is not lowered on inspection lines using traditional inspection procedures. In this connection, comments on behalf of poultry inspectors expressing the opinion that the rate was too high were also made and are discussed in item 3 below.

2. Appropriateness of Rulemaking Procedure

Comments submitted by the American Federation of Government Employees (AFGE) on behalf of poultry inspectors maintained that the final rule was approved in violation of the requirements of 5 U.S.C. 553 which requires that agencies generally promulgate rules only after engaging in the appropriate notice and comment procedures. For the reasons specified in the final rulemaking document (44 FR 22047-22049) and as explained above, the Department believes that a sufficient emergency existed for the immediate promulgation and implementation of this regulation, thereby qualifying the Department for the exemptions contained in 5 U.S.C. 553 (b) and (d)(3), which permit agencies to promulgate an immediately effective rule upon findings of "good cause." Furthermore, contrary to the commenter's assertions, the terms of the final regulation were not arbitrary and capricious and did not constitute a health hazard to either the inspectors or the public. In this regard, it should also be noted that this commenter commenced suit on July 3, 1979, in the United States District Court for the District of Columbia to invalidate the regulations on the basis of such alleged illegalities. On July 27, 1979, the Court upheld the Department's actions as proper in all respects and granted Summary Judgment in favor of the Department (*AFGE* v. *Bergland,* Civ. Act No. 79-1724, appeal pending).

3. Health of Inspection Personnel

On behalf of poultry inspectors, AFGE suggested that the new maximum inspection rates were too high and might affect the health of poultry inspectors. The Department recognizes the need to assure that its employees are not unduly burdened as the result of work requirements placed upon them through its regulatory practices. Continuing studies will be conducted to ensure that inspection techniques can be performed in an effective and timely manner so as to assure adequate consumer protection and preclude the imposition of undue physical and mental demands on poultry line inspectors. In this instance, however, the Department finds these requirements are reasonable and do not place excessive burdens upon inspection personnel. In fact, in many plants, the inspection rates are lower in real terms than those previously in effect, and, thus, represent a decrease in the work requirements for those inspectors.

4. Public Health

On behalf of poultry inspectors, AFGE also suggested that the poultry consuming public may be injured by the promulgation of these inspection rates. Their comment suggested that the "high" maximum inspection rates could cause inspectors to suffer "line hypnosis," thereby causing them to momentarily lose concentration and pass as fit for human consumption unwholesome poultry carcasses. Based upon the Report of Inspection Rate Study Group, and other available experience, the Department finds the inspection rate maximums adequate to permit an inspector to perform his duty without jeopardizing the public health. As indicated above, the Department's continuing studies of inspection rates will consider any such possible problem in the future.

In addition, AFGE suggested that elimination of the requirement of tibia palpation of young chickens is not in the interest of the poultry consuming public. Based upon the available scientific expertise, the Department believes that this change in procedure is appropriate and presents no health risk. Tibia palpation has been performed for many years as part of a single inspection procedure applicable to many different types of poultry, and it may be necessary to detect osteopetrosis, which

[3] The mandatory application of the effective date of the final rule was later delayed until July 3, 1979, because a number of plants were required to reduce line speeds as a result of the new maximum inspection rate rule. As a result, millions of chickens, already in the growing stage, would not have been able to be slaughtered without such a delay. Immediate mandatory implementation would have resulted in the shortages of poultry availability and increases in poultry prices at the time of year when consumer demand for chickens was the greatest.

[4] In conjunction with the promulgation of this rule, another complementary final rulemaking document was published on the same day (44 FR 22049-22051). This established the Modified Traditional Inspection Procedure based on another recommendation of the study group. A review and response to the comments on this rulemaking will be published in a separate document in the Federal Register.

is one form of leukosis. The other types of leukosis can be detected visually. Because of their short life span, young chickens do not develop osteopetrosis. Therefore, there is no need to require tibia palpation of young chickens. It should also be noted that poultry affected with leukosis, while aesthetically unpleasing, do not cause any sickness or present any health hazard to a consumer.

Therefore, the Department does not believe that any changes in this regulation are necessary or desirable at this time. Accordingly, it will continue to enforce § 381.67 of the poultry products inspection regulations (9 CFR 381.67) as most recently amended on April 13, 1979 (44 FR 22047–22049).

This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations," and has been classified "significant." An approved Final Impact Statement is available from Mr. Clyde S. Smithson, Acting Director, Industrial Engineering and Data Management Division, Technical Services, Meat and Poultry Inspection Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–2987.

Done at Washington, DC, on February 12, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-5049 Filed 2-14-80; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF ENERGY

10 CFR Ch. II

Interpretations and Rulings; Notice of Indexes

AGENCY: Department of Energy.

ACTION: Notice of Indexes for Interpretations and Rulings.

SUMMARY: Attached are indexes to all interpretations and rulings issued by the General Counsel (or his delegate) of the Department of Energy or predecessor agencies through December 31, 1979.

FOR FURTHER INFORMATION CONTACT: Diane Stubbs, Office of the General Counsel, Department of Energy, 1000 Independence Avenue SW., Room 5E052, Washington, D.C. 20585, (202) 252–2931.

SUPPLEMENTARY INFORMATION: Interpretations issued pursuant to 10 CFR Part 205, Subpart F are published from time to time in the Federal Register in accordance with editorial and classification criteria set forth in 42 FR 7923, February 8, 1977, as modified in 42 FR 46270, September 15, 1977. Interpretations have been published as indicated in the following table.

1974–1 through 1974–29: 42 FR 25648, May 18, 1977.
1975–1 through 1975–74: 42 FR 23722, May 10, 1977.
1976–1 through 1976–23: 42 FR 7923, February 8, 1977.
1976–24: 42 FR 10963, February 25, 1977.
1976–25: 42 FR 23722, May 10, 1977.
1977–1 through 1977–5: 42 FR 10963, February 25, 1977.
1977–6: 42 FR 17100, March 31, 1977.
1977–7 through 1977–16: 42 FR 31143, June 29, 1977.
1977–17 through 1977–21: 42 FR 39959, August 8, 1977.
1977–22 through 1977–27: 42 FR 41095, August 13, 1977.
1977–28 through 1977–33: 42 FR 46270, September 15, 1977.
1977–34 through 1977–38: 42 FR 54268, October 5, 1977.
1977–39 through 1977–44: 42 FR 61271, December 2, 1977.[1]
1977–45 through 1977–53: 42 FR 1479, January 10, 1978.
1978–1: 43 FR 5797, February 10, 1978.
1978–2 through 1978–5: 43 FR 12848, March 28, 1978.
1978–6 through 1978–10: 43 FR 15617, April 14, 1978.
1978–11 through 1978–21: 43 FR 19817, May 9, 1978.
1978–22 through 1978–28: 43 FR 25079, June 9, 1978.
1978–29 through 1978–42: 43 FR 29528, July 10, 1978.[2]
1978–43 through 1978–47: 43 FR 34433, August 4, 1978.
1978–48 through 1978–56: 43 FR 40200, September 11, 1978.
1978–57 through 1978–59: 43 FR 46517, October 10, 1978.[3]
1978–60: 43 FR 51755, November 7, 1978.
1978–61: 43 FR 57583, December 8, 1978.
1978–62 and 1978–63: 44 FR 3021, January 15, 1979.
1979–01 and 1979–02: 44 FR 12160, March 6, 1979.[4]
1979–03 and 1979–04: 44 FR 16891, March 20, 1979.
1979–05: 44 FR 24045, April 24, 1979.
1979–6 and 1979–7: 44 FR 29431, May 21, 1979.
1979–8, 1979–9 and 1979–11: 44 FR 39375, July 6, 1979.
1979–10 and 1979–12 through 1979–14: 44 FR 44472, July 30, 1979.
1979–15 and 1979–16: 44 FR 50588, August 29, 1979.
1979–17 through 1979–22: 44 FR 60264, October 19, 1979.
1979–23 through 1979–25: 44 FR 72096, December 13, 1979.
1979–26: 45 FR 5863, January 24, 1980.

[1] (Correction Notice) 1977–42: 43 FR 64104, December 22, 1977.
[2] (Correction Notice) 1978–35: 43 FR 57583, December 8, 1978.
[3] (Correction Notice) 1978–58: 43 FR 46517, November 7, 1978.
[4] (Correction Notice) 1979–02: 44 FR 39375, July 6, 1979.

The appendices to today's notice provide an updated comprehensive index system covering all of the published interpretations and rulings issued by FEO/FEA/DOE through December 31, 1979. Previously published indexes have appeared at 43 FR 1613, January 11, 1978, 43 FR 17337, April 24, 1978, 43 FR 49775, October 25, 1978, and 44 FR 29896, May 23, 1979. A total of 326 interpretations and rulings are covered by the indexes published today.

Appendix A provides an alphabetical listing of the firms or persons to whom or on whose behalf interpretations have been issued, while Appendix B lists rulings in chronological order of issuance by number and title. Appendix C contains an index of interpretations and rulings according to informal subject entries, such as "Base Period Supplier," "Class of Purchaser," "Stripper Well Lease Exemption," etc. Interpretations and rulings are indexed in Appendix D according to the regulation sections which they interpret. Appendix E provides an index of rulings construed by interpretations, and Appendix F contains a list of statutes construed by interpretations and rulings.

Interpretations depend for their authority on the accuracy of the factual statement used as a basis for the interpretation (10 CFR 205.84(a)(2)), and may be rescinded or modified at any time (§ 205.85(d)). Only the persons to whom interpretations are addressed and other persons upon whom interpretations are served are entitled to rely on them (§ 205.85(c)). An interpretation is modified by a subsequent amendment to the regulation(s) or ruling(s) interpreted to the extent that the interpretation is inconsistent with the amended regulation(s) or ruling(s) (§ 205.85(e)). In addition, interpretations are subject to reconsideration by the General Counsel (§ 205.85(f)). The interpretations indexed herein have been published only for general guidance in accordance with the reasons set forth in the FEA Notice first cited above.

Issued in Washington, D.C., February 8, 1980.

Everard A. Marseglia, Jr.,

Assistant General Counsel for Interpretations and Rulings.

Appendix A—*Alphabetical Listing of Interpretations Issued Through Dec. 31, 1979*

Issued to—	Interpretation
Agents Alliance, Inc	1975–17
Air-Conditioning and Refrigeration Institute	1978–26
Alaska, State of	1977–7
Alaska Petrochemical Co	1978–1

Appendix A—*Alphabetical Listing of Interpretations Issued Through Dec. 31, 1979*—Continued

Issued to—	Interpretation
Albina Fuel Co	1975-74
Allied Chemical Corp	1978-3
American Petrofina, Inc	1978-31
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Do	1978-14
Apco Oil Corp	1978-51
Arizona Fuels Corp	1979-18
Atlantic Richfield Co	1974-8
Do	1976-4
Do	1977-13
Do	1977-30
Do	1978-13
Do	1978-36
Do	1978-54
Do	1978-61
Atlas Aircraft Corp	1974-15
Babcock and Wilcox Co	1975-25
Ball Marketing Enterprise, et al	1977-18
Baltimore Gas & Electric Co	1975-34
Basin, Inc	1978-25
Beacon Oil Co	1977-23
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Berry Holding Co., et al	1975-43
Beukema Petroleum Co	1975-73
Blue Blaze Gas Co., Inc	1979-6
Body BeautifulCar Wash	1975-57
Boron Oil Co	1975-62
Boston Gas Co	1976-19
Boston Housing Authority	1975-54
Brocato, Charles P	1979-12
Bronson, William S	1975-67
California, State of	1977-14
Callahan Oil Co	1976-25
Calumet Industries, Inc	1975-11
Campbell Oil Co., Inc	1975-63
Can Manufacturers Institute	1975-14
Carter, Carl, Agency, Inc	1975-67
Castor, Joseph L	1975-72
Celanese Corp	1974-17
Champlin Petroleum Co	1976-22
Charter Oil Co	1974-6
Chaso, Wilson A	1979-23
Cheker Oil Co	1975-6
Cities Service Oil Co	1976-10
City of Long Beach, Calif	1977-2
Clark Oil & Refining Corp	1977-25
Collier & Collier, et al	1978-20
Colt, Mack C., Inc	1978-56
Columbia City Blue Flame	1979-6
Commonwealth Oil Refining Co., Inc	1977-45
Consolidated Paper, Inc	1975-23
Consumers Power Co	1979-26
Continental Airlines	1975-8
Continental Oil Co	1974-26
Do	1975-30
Do	1975-31
Do	1978-29
Do	1978-44
Cook & Cooley, Inc	1975-50
Do	1977-32
Crown Central Petroleum Corp	1978-39
Crystal Oil Co	1979-14
Cyr Oil Co	1975-69
Damson Oil Corp	1977-38
Danielson, E. L	1976-70
Day and Zimmerman, Inc	1975-56
DeBlois Oil Co	1975-66
Department of Army and Air Force	1976-14
Department of Defense	1974-27
Department of the Navy	1975-15
Derby Refining Co	1975-64
Deshler Blue Flame, Inc	1979-6
Devon Corp	1979-3
Diversified Chemicals & Propellants Co	1976-24
Dollar Rent-a-Car Systems	1975-65
Dyer Oil Service	1975-67
Eason Oil Co	1979-3
East Oil, Inc	1975-51
El Paso Natural Gas Co	1978-32
Elkins, Campbell H. and El Ran, Inc	1978-58
Empire Gas Corp	1976-6
England, C. R., Oil & Gas Properties	1977-33
Enterprise Products Co	1975-3
Estron Oil Corp., et al	1974-12
Ethyl Corp	1979-15
Expo Car Wash, Inc	1974-29
Exxon Corp	1974-14
Do	1977-10
Do	1977-52
Farmland Industries, Inc	1975-37
Florida Power & Light Co	1979-9
Flying Tiger Line, Inc	1974-21
Ford Motor Co	1976-21
Fresh, R.C., et al	1977-8
Gas Club, Ltd	1975-49
General American Oil Co. of Texas	1979-19
Getty Oil Co	1978-40
Golden Oil Co	1975-67
Good Hope Refineries, Inc	1978-47
Gould, John Jr	1979-1
Gravcap, Inc	1978-21
Greenbelt Consumer Services, Inc	1974-7
Greene Bros. LP Gas and Oil Co	1974-5
Grosch Blue Flame	1979-6
Guam Oil & Refining Co	1976-22
Do	1977-5
Do	1977-36
Gulf Oil Corp	1977-44
Do	1978-48
Do	1978-50
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Hamilton Brothers Oil Co	1974-3
Harrison, Charles	1975-67
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Hawaiian Independent Refinery, Inc	1978-55
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Hillsdale Blue Flame	1979-6
HNG Petrochemicals Inc	1978-16
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Husky Oil Co	1977-15
Idaho Transportation Department	1975-52
Independent Drivers Organization	1975-53
Independent Oil Compounders Assn	1977-50
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Inexco Oil Co	1976-5
Intenco, Inc., and Houston Carbon Co., Ltd	1978-28
Jackson, Darrell	1974-22
Japanese Air Lines Co. Ltd	1975-40
Jewell Oil Co., Inc	1978-23
Johnson, A. & Co	1975-24
J&W Refining Inc	1975-45
Kadane, G.E. & Sons	1975-29
Kansas-Nebraska Natural Gas Co., Inc	1978-41
K.C.H. Flying Service, Inc	1976-13
Kellermyer's Inc	1977-39
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Kramer Service Center, Inc	1975-59
Latimer, D. C	1976-16
Lido Co. of New England	1979-25
LIG California, Inc	1979-16
Liquid Waste Disposal Co	1974-11
Longview Refining Co	1975-12
Madison Blue Flame	1979-6
Manley, John D. III	1978-15
MAPCO, Inc., et al	1978-63
Markle Blue Flame	1979-6
Martin Exploration Co	1978-27
McCulloch Gas Processing Corp	1974-13
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McNair, Charles W	1977-40
Meridian Oil Corp	1977-46
Mid-State Oil Co., Inc	1975-68
Midwest Oil Co	1975-33
Mobil Oil Corp	1976-9
Do	1977-16
Do	1977-28
Do	1977-31
Do	1977-34
Do	1978-8
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Do	1978-53
Do	1979-7
Do	1979-11
Mobley Oil Co	1978-6
Monsanto Co	1975-2
Do	1979-22
Moore-McCormack Resources, Inc	1975-44
Murphy Oil Corp	1975-16
National Airlines, Inc	1977-11
National Association of Texaco Consignees, Inc	1975-19
National Convenience Stores, Inc	1974-25
Do	1976-11
National Cooperative Refinery Association	1978-52
National Institute of Infant Services	1975-39
National Life and Accident Insurance Co	1974-24
National Soft Drink Association	1979-24
Navajo Refining Co	1977-26
Nelson Oil Co	1977-41
Do	1978-24
North Manchester Blue Flame	1979-6
North Webster Blue Flame	1979-6
Northeast Petroleum Corp	1975-22
Northern Natural Gas Co., et al	1978-63
Oil Transit Corp	1977-35
Oregon Department of Transportation	1975-18
Owsley, J. M	1977-27
Pacemaster, Inc	1975-47
Pacific Lighting Exploration Co	1975-27
Paine, Joseph J. C. & Associates	1977-37
Pan American World Airways, Inc	1975-26
Pasco, Inc	1975-7
Do	1978-38
Peerless Distributing Co	1977-29
Pennzoil Co	1978-11
Pennzoil Offshore Gas Operators, Inc	1978-17
Permian Corp	1978-12
Do	1978-45
Peters, B. R. Inc	1975-38
Petrolane, Inc	1978-10
Petroleum, Inc	1975-42
Petro US, Inc	1974-20
Phillips Petroleum Co	1975-5
Do	1977-12
Placid Oil Co	1979-2
Pleasant Street Co	1975-55
Portable Sanitation Association	1974-1
Pru Lease, Inc	1974-23
Public Service Commission of Delaware	1978-4
Pyrofax Gas Corp	1977-4
Remington Blue Flame	1979-6
Rockwood Oil Terminals, Inc	1978-8
Rotary Gasoline Dealers	1975-48
Rounds, Don M. Co	1975-42
Rustex Oil, Inc	1978-5
Ryall, E. E	1978-59
Saber Petroleum Corp	1978-7
Scarpulla, Frances O., Esq	1977-17
Sea Horse Marine, Inc	1977-22
Semarck California, Inc	1978-10
Shell Oil Co	1975-4
Do	1975-21
Do	1978-15
Do	1978-2
Do	1978-42
Do	1978-50
Do	1978-60
Shields, Herman F	1975-67
Signal Oil and Gas Co	1974-4
Signore, Anna, Estate of	1975-58
Simmons Oil Corp	1975-61
Sinclair Oil Corp	1979-5
Skelly Oil Co	1976-1
Sky Harbor Air Services, Inc	1974-16
Sohio	1976-17
Sohio-BP Oil, Inc	1978-3
Solar Turbines International	1979-13
Sound Refining, Inc	1974-2
Southern Gulf Oil Distributors Association, Inc	1975-13
Southern Union Gas Co	1978-34
Spartan Petroleum Co	1978-30
Standard Oil Co. (Indiana)	1974-10
Do	1977-43
Do	1978-50
Do	1979-4
Sterling Stations, Inc	1977-19
Stevenson, Warren	1978-46
Suburban Propane Gas Corp	1977-21
Sulphur Springs L. P. Gas, Inc	1979-6
Sun Gas Co	1978-37
Sun Oil Co	1978-12
Do	1978-19
Sundance Oil Co	1977-1
Swann Oil, Inc	1974-19
System Fuels, Inc	1975-18
Tesoro Petroleum Corp	1975-32
Do	1978-10
Tesoro-Alaskan Petroleum Corp	1974-21
Texaco, Inc	1977-42
Texas City Refining, Inc	1977-6
Thurman, F. D	1975-70
Time Oil Co	1979-10
Tinnin, G. W	1978-60
Trans World Airlines	1975-40
Transcontinental Gas Pipeline Corp	1978-10

Appendix A—*Alphabetical Listing of Interpretations Issued Through Dec. 31, 1979*—Continued

Issued to—	Interpretation
Tristate Oil & Asphalt Sales, Inc	1978-22
True Oil Purchasing Co	1978-43
Twin Montana, Inc	1975-10
U.S.A. Petroleum Corp	1976-20
U.S. Oil and Refining Co	1975-41
Do	1979-8
Union Oil Co. of Calif	1977-53
United Oil Co., Inc	1974-28
United Refining Co	1976-1
United States Marine Corps	1975-20
UPG, Inc	1978-35
Vickers Petroleum Corp	1977-47
Wallace, Gordon H	1975-71
Wanda Petroleum Co	1976-2
Ward, L. O	1977-48
Do	1979-17
Webber Tanks, Inc	1977-51
Weinert Estate, H. H	1978-9
WESO Corp	1975-60
Wickland Inc	1975-35
Williams Energy Co	1974-18
Winamac Blue Flame	1979-6
Wooten, Norman, Inc	1975-9
Yellow Cab Co. of Philadelphia	1978-57

Appendix B—*Chronological Index of Rulings by Number and Title Issued Through Dec. 31, 1979*

Ruling	Title
1974-1	Prices for Base Period Purchasers.
1974-2	Redirected Sales Pricing.
1974-3	Supplier/Purchaser Relationships Under the Petroleum Allocation Regulations.
1974-4	Impact of State Tax on Gross Sales.
1974-5	Determination of Propane Prices Under the Petroleum Allocation Regulations.
1974-6	Discrimination Among Purchasers of Allocated Products.
1974-7	Truck Stop Leases.
1974-8	Allocation of Non-Bonded Aviation Fuel.
1974-9	Minimum Rent Provisions in Leases of Real Property in the Retailing of Gasoline.
1974-10	Changes in Credit Terms.
1974-11	Current Free Market Price for "New" and "Released" Crude Oil Under the Price Rule of § 212.72.
1974-12	Unrecouped Increased Product Costs Where Prices Charged Under Fixed-Price Contracts Are Less Than The Lawful Base Price.

Appendix B—*Chronological Index of Rulings by Number and Title Issued Through Dec. 31, 1979*—Continued

Ruling	Title
1974-13	Motor Gasoline Retail Sales Outlets.
1974-14	Base Rent Regulations.
1974-15	Portable Sanitation Industry.
1974-16	Allowable Use of Multiple Allocation Fractions.
1974-17	Base Price Computation.
1974-18	Discounted May 15, 1973 Price to a Class of Purchaser.
1974-19	Competitive Bids: Supplier/Purchaser Relationships.
1974-20	Additional Use of Property Used in the Retailing of Gasoline.
1974-21	Exchanges of Refined Petroleum Products for Crude Oil.
1974-22	Supplier/Purchaser Relationships Applying to the Department of the Interior.
1974-23	Car Wash Sales of Gasoline.
1974-24	Truck Stop Leases.
1974-25	Spot Sales Under Part 211.
1974-26	Application of the Refiner's Cost Formula of § 212.83(c) to Refiners Required to Sell Crude Oil Under the Allocation Program.
1974-27	Allocation of Refiner's Increased Product Costs to Sales Volume.
1974-28	Inapplicability of the "Stripper Well Lease" Exemption of 10 CFR § 210.32 to Gas Wells.
1974-29	Production Wells for Purposes of the "Stripper Well Lease" Exemption of 10 CFR § 210.32.
1974-30	Measurement of the Number of Barrels of Production from an Oil Well for the "Stripper Well Lease" Exemption of 10 CFR § 210.32.
1975-1	Transportation Costs.
1975-2	Application of the Term "Class of Purchaser" Under FEA Petroleum Price Regulations.
1975-3	Prospective Increases in Rent for Real Property Used in the Retailing of Gasoline.
1975-4	Storage Tank Rentals.
1975-5	Treatment of Confidential Information Received by FEA Pursuant to Oil and Gas Reserves Survey (Form FEA P-301-S-0).
1975-6	Pricing of Natural Gas Liquid Products Prior to January 1, 1975.
1975-7	Export Sales.
1975-8	Qualification of Certain Consignees as Wholesale Purchaser-Resellers.
1975-9	Storage Costs.
1975-10	Transportation Costs Where Transportation Is Provided by the Firm Concerned.
1975-11	Rentals of New, Higher Cost Storage Tanks.
1975-12	Calculation of "Average Daily Production" for Purposes of the Stripper Well Lease Exemption of 10 CFR 210.32 Where Production Has Been Curtailed.

Appendix B—*Chronological Index of Rulings by Number and Title Issued Through Dec. 31, 1979*—Continued

Ruling	Title
1975-13	Early Payment Percentage Discounts.
1975-14	Prices Charged to Reflect Non-Product Cost Increases Incurred by Resellers, Reseller-Retailers and Retailers.
1975-15	Definition of "Property" for Purposes of Computing Base Production Control Level Pursuant to 10 CFR 212.72.
1975-16	Carry-Forward of the Amount by Which Prices Charged are Less than the Price Increase Permitted to Reflect Increased Non-Product Costs by Resellers, Reseller-Retailers, and Retailers.
1975-17	Application of FEA's Mandatory Petroleum Price and Allocation Regulations During September 1975.
1975-18	Computation of Increased Cost of Natural Gas Shrinkage.
1976-1	Allocations With Respect to Newly Constructed or Purchased Refineries Under Crude Oil Buy/Sell Program.
1976-2	Production of "New" Crude Oil Due to Extra Day in February, 1976; Effect on Cumulative Deficiency Requirement and BPCL Adjustments.
1976-3	Interpretation of Naval Petroleum Reserves Production Act of 1976.
1976-4	Inapplicability of Mandatory Petroleum Allocation and Price Regulations to Synthetic Fuels Processed from Oil Shale, Tar Sands, and Coal.
1976-5	Retail Sales Outlet Operator's Entitlement to Motor Gasoline.
1976-6	Record Keeping Requirements.
1977-1	Clarifications to Mandatory Petroleum Price Regulations Applicable to Domestic Crude Oil.
1977-2	Further Clarifications to Mandatory Petroleum Price Regulations Applicable to Domestic Crude Oil.
1977-3	Cargo Sales.
1977-4	Timing of Landed Cost for Interaffiliate Transactions.
1977-5	Application of the Definition of "Transaction" for Purposes of Computing Weighted Average May 15, 1973, Prices.
1977-6	Applicability of the Stripper Well Property Exemption to Properties That Produce Both Crude Oil and Condensate Recovered in Non-Association Production.
1977-7	Post-September 1, 1976 Treatment of Separate Reservoirs as Stripper Well Properties.
1977-8	Termination of Crude Oil Supplier/Purchaser Relationships by a Producer.
1979-1	Application of "Transaction" Definition to Variable-Price Contracts.
1979-2	Redirection of Motor Gasoline.

Appendix C.—*Subject Index for Interpretations and Rulings Issued Through Dec. 31, 1979*

Subject	Interpretations	Rulings
Accounting Practices	1978-52	
Acquisition Rule	1975-9; 1978-18	
Affiliated Entities, def	1976-6	
Agricultural Production, def	1979-24	
Allocation Entitlement	1974-17; 1975-37; 1979-10	
Allocation Entitlement, Method of	1974-19	
Allocation Entitlement, Transfer of	1974-29; 1975-35; 1977-47; 1979-23	1974-13.
Allocation Fraction		1974-16.
Allocation Levels	1974-1; 1979: -9, -13, -15, -24	
Assignment by FEA	1976-25	
Average Daily Production, def	1974-22; 1975: -41, -43	
Aviation Fuel Allocation of		1974-8.
Base Period Supplier	1974: -6, -15; 1975: -31, -73	
Base Period Supplier, Designation of	1974-21	
Base Period Supply Obligations	1974-25; 1976-11; 1977: -19, -20	1974-25.
Base Period Use, Adjustments to	1977: -28, -32; 1978-24; 1979-20	1974-13.
Base Period Volume	1975-50	
Base Price	1975-5	1974: -2, -17, -18, -26; 1975-6; 1977-5
BPCL	1975-27; 1976-16; 1977: -12, -37; 1978-6; 1979-1, -17	1975-15; 1976-2; 1977-2.
Base Rent Rule	1974: -24, -28	1974: -7, -9, -14, -20, -24; 1975-3.
Base Rent Rule, Lease Termination	1975-58	
Benzene and Toluene, Special Rules for	1976-10	
Blending Costs, Retailer	1975-74	
Bonded Fuel, def	1975: -8, -26, -46	
Bonded Fuel Exemption	1975: -8, -26, -46	
Borrow—Pay Back Rule	1975-30	
Burning of Petroleum Products by Power Generators.	1975-25	
C, Subpart; Part 212	1979-21	
California lower tier crude oil	1978-48	
Certification	1977: -33, -52; 1978: -12, -24; 1979-19	

Appendix C.—*Subject Index for Interpretations and Rulings Issued Through Dec. 31, 1979*—Continued

Subject	Interpretations	Rulings
Class of Purchaser	1974-7; 1975: -5, -6, -22, -31, -47, -63; 1976: -1, -6, -7, -20; 1977: -10, -11; 1978-44.	1974: -1, -2, -17, -18; 1975-2.
Commission Agents or Consignees	1974-10; 1975: -13, -17, -19, -31, -33, -48; 1977: -8, -27	1975-8.
Competitive Bids	1975-56	1974-19.
Condensate, def	1978-35	
Confidential Information		1975-5.
Cost of Crude Oil, def	1976-4	
Covered Products, def	1976-24; 1977: -9, -50; 1978: -11, -28, -54	
Crude Oil Buy/Sell Program	1977-34; 1978-39; 1979-8	1974-26; 1976-1.
Crude Oil, def	1975-29; 1977: -3, -22, -31; 1979: -3, -4	
Crude Oil Resales	1978-25	
Crude Oil Runs to Stills, def	1978-31; 1979-26	
Crude Oil Ceiling Price Rules, Long-Term Contracts (Premiums).	1977: -2, -14; 1978-21	
Current Cumulative Deficiency	1974-8; 1976-16	1976-2.
Customary Discounts	1975-66	1974: -18, -23; 1975-13.
Customary Price Differential	1978-44	
D, Subpart; Part 212	1974-20; 1975-29; 1977-3; 1978-21; 1979: -17, -21	
December 1 Rule	1974: -2, -3, -4; 1975-45; 1976: -15, -20; 1977: -7, -13, -14, -15, -42; 1978: -1, -45	1974: -11, -21, -22; 1977-6.
Disallowance of Costs	1979-11	
E, Subpart; Part 212	1978: -16, -29, -61; 1979: -3, -11	
EPAA Supercession of Other Federal Laws	1974-27; 1975-15	
End-user, def		1974-19.
Energy Conservation Program, Room Air Conditioners.	1978-26	
Energy Production, def	1979: -9, -13, -15	
Entitlements Program	1975-21; 1976-22; 1977: -5, -22, -31, -45; 1978: -31, -42, -48; 1979: -4, -16, -26	1976-3.
Equal Application Rule	1975-5; 1976-17; 1978: -36, -53	
Exchange Agreements		1974-21.
Export Sales, def	1977-16	
Export Sales Deduction	1975-21; 1977: -16, -30, -36, -44; 1978: -10, -42, -54, -55	
Export Sales Exemption	1977-16, -21, -44; 1978: -10, -42	1975-7.
F, Subpart; Part 212	1976-6; 1977-3; 1978: -4, -63; 1979-23	1977-3.
Federal Preemption of State Laws	1978-4	
Field	1977-43	
Firm, def	1975: -3, -32, -52, -55, -69; 1976: -3, -8; 1977: -6, -18, -29; 1978: -62, -63; 1979: -3, -16, -22.	
First Sale, def	1976-4; 1977-38; 1978: -21, -63; 1979-14	
Five Percent Rule	1974-14; 1977: -6, -24	
G, Subpart; Part 212	1974: -24, -28; 1975-69	1974-24; 1975-3.
Guam	1975: -8, -26, -46	
Import Exemption	1975-24	
Inventories	1975-23	1977-3.
K, Subpart; Part 212	1976: -2, -5; 1977-3; 1978: -16, -29, -32, -61, -62, -63; 1979: -3, -14	1975: -6, -18.
Landed Costs		1977-4.
Lease Condensate, def	1979-4	
Motor Gasoline, def	1978-47	
Naphtha, def	1978-47	
Naphtha Allocation	1975-44	
Naval Petroleum Reserves, Crude Oil Price Exemption.		1976-3.
Natural Gas Shrinkage	1978: -27, -34, -37, -41, -61, -62; 1979: -2, -3	
Natural Gas Liquids, def	1978: -32, -35	
Natural Gas Liquid Products	1974-13; 1977-3; 1978: -3, -27	1975: -6, -18.
Natural Gasoline, def	1978-35	
Net-back Sale, def	1978-32; 1979-14	
New and Released Crude Oil	1975-2; 1977-42; 1979-19	1974-11.
New Item and New Market Rule	1974: -23, -24; 1975: -3, -9; 1976: -5, -7; 1978-3	1974-20.
"New" Motor Gasoline Retail Sales Outlet	1975-61	1976-5.
"New" Wholesale Purchaser-Reseller	1975-57; 1977-28	
Non-product Cost Increases	1975: -48, -59, -74; 1978: -8, -13, -14, -52, -63; 1979-7	1975: -1, -4, -10, -11, -14, -16.
Normal Business Practices	1974: -3, -16, -27; 1975: -49, -62; 1977: -8, -11, -19, -26, -35; 1978: -7, -21, -38, -56, -57; 1979: -5, -6, -10.	1974: -6, -10, -11, -23; 1975: -4, -11, -13.
Oil Import Regulations	1978-50	
Once-a-Month Rule	1975-64	
Over-recoupment	1975-12	
Passenger Transportation Services	1975-65	
Posted Price, def	1976-4; 1977: -26, -43; 1978: -17, -20, -30, -43	1977-1.
Price, def		1974-10.
Price Increase	1977-53	
Price/Octane Number Information and Posting.	1976-9	
Procedural Requirements	1975-40; 1976-12; 1977-28	
Processing Agreements	1974-6	
Producer, def	1974-20	
Producer of Crude Oil, Price Rule	1978-17	
Product Cost Increases	1974-5; 1978: -40, -51	1974: -5, -26, -27; 1975: 1-9, -10, -13, -16; 1977-3.
Product Cost Increases, Carryover of	1975-16	1974-12; 1975-16.
Propane Allocation	1975-14; 1976: -19, -21	
Propane Prices	1978-4	1974-5.
Property, def	1974-22; 1975: -2, -4, -27, -42; 1977: -1, -37, -42, -46; 1978: -5, -9, -15, -18, -58; 1979: -1, -17, -21.	1975-15; 1977: -1, -2, -7.
Reclamation of Waste Crude Oil	1978-18	
Record-Keeping Requirements	1979-12	1976-6.
Refined Petroleum Products, def	1975-1; 1978-42; 1979-26	
Refiner, def	1974-13; 1976-2; 1977: -6, -29; 1978: -22, -33, -63; 1979: -3, -16, -22, -26	
Refiner Gasoline Price Variation Rules	1978: -36, -53	

Appendix C.—*Subject Index for Interpretations and Rulings Issued Through Dec. 31, 1979*—Continued

Subject	Interpretations	Rulings
Refiner Price Formula:		
"A" Factor	1978-40	
"B" Factor	1978-51	
"V" Factor	1975-7	1974-27, 1975-7.
"H" Factor	1977-23	
"N" Factor	1978: -8, -13, -14, -52; 1979-7	
Refiner Price rule	1977-53; 1978: -11, -13	1974-26.
Refinery Yield	1976-23	
Refunds	1975-12	
Rent, def	1975-51	
Rent Regulations (see also Base Rent Rule)	1975-69	1974 -7, -9, -14, -20, -24; 1975-3.
Reporting Requirements, Refiner	1975-11; 1977-24	
Reseller, def	1974-12; 1976-2; 1977: -3, -8, -29; 1978: -22, -63	
Residual Fuel Oil, def	1975-29	
Retail Sales Outlets, Motor Gasoline	1979-23	1974-13
Retailer, def	1974-12; 1976-2; 1978-22	
Retaliatory Actions	1975-63	
Retroactive Price Increase	1977-14; 1978-2	
Sales by Federal, State and Local Governments.	1974-4; 1975-15	1974-22; 1976-3.
Sanitation Services, def	1974-1; 1975-39	1974-15.
Seller, def	1976-8	
September 1975; Application of Price/Allocation Regulations during.		1975-17.
Single Firm Treatment		1974-13
Small Refiner Bias	1979-22	
State Tax Increase Pass-through	1975-18	1974-4.
Storage Tank Rentals		1975: -4, -11.
Stripper Well Lease Exemption	1974: -22, -26; 1975: -4, -10, -41, -43; 1977-48; 1978: -5, -9; 1979-21	1974 -28, -29, -30; 1975-12; 1977: -1, -2, -6, -7.
Supplier, def	1976-23	
Supplier/Purchaser Relationship	1974: -17, -18, -19; 1975: -20, -54; 1976: -13, -14, -18; 1977: -20, -43; 1978: -23, -45, -46, -49, -56, -57, -59, -60; 1979: -18, -3, -25.	1974, -23, -19; 1975-8.
Supplier Substitution	1976-25	
Surplus Product, Purchase of	1974-19; 1975-20; 1977-41	
Synthetic Fuels		1976-4.
S.N.G. Feedstock Allocation	1975-34	
Temporary Discounts on May 15, 1973	1975-6	
Transaction, def	1978-19	1977-5, 1979-1
Transfer Pricing	1974-20	
Transportation Costs, def	1978-25	
Transportation Costs to Reseller/Retailer Inventory.	1977: -4, -51	1975: -1, -9, -10.
Transportation Cost, Refiner	1977-25	
United States, def	1975: -8, -26, -46	
Unitization	1974-22; 1975: -2, -4, -10, -27; 1978: -6, -9	1975-15; 1977-2.
Unleaded Gasoline	1976-3	
Waste Crude Oil, Reclamation of	1974: -11, -20; 1977-22	
Wholesale Purchaser-Consumer, def	1975: -37, -52	1974-19.
Wholesale Purchaser-Reseller, def	1974: -10, -12; 1975: -13, -17, -19, -33, -37, -38, -53, -60, -67, -68, -70, -71, -72; 1977: -17, -27, -39, -40; 1978: -46, -59; 1979-6.	1975-8.

Appendix D.—*Regulation Index for Interpretations and Rulings Issued through Dec. 31, 1979*

Regulation interpreted	Interpretations	Rulings
Part 202, Subpart A		1975-5.
205.2	1976-12;1977-28	
205.26(d)	1975-40	
205.33(a)	1976-12; 1977-28	
205.194	1975-12	
210.21	1975: -8, -26, -46; 1977-5	
210.32	1974: -22, -26; 1975: -4, -10, -41, -43	1974, -28, -29, -30; 1975-12; 1977-1.
210.33	1975: -8, -26, -46	
210.61	1975-63	1974-3.
210.62	1974: -3, -27; 1975-49; 1977: -8, -19, -26; 1978: -7, -21, -36; 1979: -6, -10	1974, -6, -10, -11; 1975: -4, -11, -13.
210.62(a)	1974-16; 1975: -62, -63; 1977-56; 1978: -56, -57; 1979-5	
210.62(c)	1976-18; 1977-11	1974-23.
210.77	1975-51	
210.91	1977-24	
210.92		1976-6.
211.1(a)	1977-8	
211.9	1974: -15, -19; 1975: -58, -62; 1976-25; 1977: -19, -49; 1978: -46, -49, -59, -60	1974 -3, -13.
211.9(a)	1974-18; 1975: -20, -54, -58, -73; 1977-8; 1978-23	
211.9(c)	1977-20	
211.10	1975: -20, -56, -73	
211.10(a)	1975-35	
211.10(b)	1974-17	1974: -16, -25.
211.10(e)	1974-29	
211.10(g)	1974-19; 1976: -14, -21; 1977-41	

Appendix D.—*Regulation Index for Interpretations and Rulings Issued through Dec. 31, 1979*—Continued

Regulation interpreted	Interpretations	Rulings
211.11	1974-17; 1975-61; 1976-19	
211.11(b)	1974-6	
211.11(d)	1975-35	
211.12	1975: -50, -57; 1976-11	
211.12(e)	1974-17; 1976-19; 1977: -28, -49; 1978-38; 1979-25	1974-19.
211.12(f)		1974-19.
211.12(h)	1976-18	
211.12(g)	1976-21	
211.13	1975-50	
211.13(c)	1976-12; 1977: -28, -32; 1978: -24, -38; 1979-20	
211.13(f)	1977-28; 1978-24	
211.14(d)		1974: -3, -16.
211.22	1975-23	
211.24		1974-3.
211.24(a)	1974-25; 1976-11	
211.25	1975-31; 1976-25; 1978-23	
211.25(a)	1977-20	
211.25(c)	1975-30	
211.29	1975-34; 1976-19	
Special Rule No. 1 to Subpart A of Part 211	1975-34; 1976-19	
211.31	1977-8	
211.51 (Definitions)	See Corresponding Subject Entry, Appendix C	See Corresponding Subject Entry, Appendix C.
211.62 (Definitions)	See Corresponding Subject Entry, Appendix C	See Corresponding Subject Entry, Appendix C.
211.63	1974: -2, -3, -4; 1975-45; 1976: -14 -20; 1977: -7, -13, -14, -15, -42; 1978: -1, -45; 1979-18.	1974: -21, -22; 1977-8.
211.64	1974: -2, -3	
211.64(a)		1974-11.
211.65	1974-6; 1977-34; 1978-39; 1979-8	1976-1.
211.67	1977: -5, -22, -31; 1978-31; 1979: -4, -26	1976-3.
211.67(a)(4)	1978-48	
211.67(d)(2)	1975-22; 1976-22; 1977: -16, -30, -36, -44; 1978: -10, -42, -54, -55	
211.67(d)(5)	1977-45	
211.71(c)	1976-23	
Special Rule No. 7 to Subpart C of Part 211	1976-22	
211.82	1976-21; 1978-49	
211.83	1975-14	
211.83(c)	1976-19	
211.85	1978-49	
211.86	1978-49	
211.96(b)	1977-49	
211.102	1975: -20, -73	
211.103	1975-65; 1979: -9, -15, -24	
211.103(a)	1974-1	
211.104	1974-6	
211.105(d)	1979-25	
211.106	1975: -58, -61, -73; 1976-11; 1977: -19, -47	1974-13; 1976-5.
211.106(b)	1974: -12, -25	
211.106(c)	1975-53	1977-19.
211.106(d)	1974-25	
211.106(e)	1975-57; 1979-23	
211.145	1976-13	1974-8.
211.145(c)	1974-21	
211.145(d)	1974-21	
211.162	1975-54	
211.166	1974-19	
211.182	1978-47	
211.183	1975-44	
211.201	1975-37	
211.202	1975-37	
211.203(c)(2)(iii)	1975-37	
212.1		1975-3.
212.2	1975-24	
212.31 (Definitions)	See Corresponding Subject Entry, Appendix C	See Corresponding Subject Entry, Appendix C.
212.52	1974-4; 1975-15	
212.53	1975-24; 1976-22	1975-7.
212.53(a)	1977: -16, -21, -36, -44; 1978: -10, -55	
212.53(c)	1977-30	
212.54	1974: -22, -26; 1977: -2, -48; 1978: -5, -9, -58; 1979-21	1977: -6, -7.
212.55	1977-2	1976-3.
212.71	1974-11	
212.72	1974: -8, -11; 1975: -2, -4, -27; 1976-16; 1977: -1, -3, -12, -33, -37, -38, -42, -46, -52; 1978: -5, -12, -15, -18, -58; 1979: -1, -17, -19, -21.	1977-7.
212.73	1974-11; 1975-42; 1977: -2, -3; 1978-20	
212.74	1974: -8, -11; 1975: -2, -4, -42; 1977: -2, -3; 1978: -2, -17, -20, -30, -43; 1979-1	1974-11.
212.74(c)	1977-14	
212.75	1978-6	1977-2
212.76		1976-2.
212.81	1977-29	
212.82	1975: -5, -47; 1976: -3, -4, -5; 1977: -6, -18	1974: -17, -18.
212.82(a)	1976-1	
212.82(b)	1975: -22, -31	

Appendix D.—*Regulation Index for Interpretations and Rulings Issued through Dec. 31, 1979*—Continued

Regulation interpreted	Interpretations	Rulings
212.83	1974-20; 1975: -3, -5, -7; 1976-10; 1977: -23, -53; 1978-16; 1979: -2 -3	1974: -12, -26, -27; 1975: -6, -7, -13.
212.83(b)	1976-4	
212.83(c)	1978-40	
212.83(c)(1)(iii)		1974-5.
212.83(c)(2)(iii)(D)	1978-51	
212.83(c)(2)(iii)(E)	1978: -8, -11, -13, -14, -52; 1979-7	
212.83(e)	1975: -12, -16	
212.83(h)	1976-17; 1978: -36, -53	
212.84	1979-11	1977-4.
212.85	1977-25	
212.88		1974-26
212.91	1974-14; 1975: -3, -59; 1977: -3, -6, -24, -29; 1978-63	
212.92	1975: -48, -74; 1976: -6, -8; 1977: -4, -51	1975: -1, -9, -10.
212.93	1974: -5, -6, -12; 1975: -6, -9, -16, -59, -74; 1976-6; 1977-4	1974: -4, -17, -18, -26.
212.93(a)	1976-7; 1977-3	
212.93(b)	1975: -48, -54, -64	1975: -1, -10, -14, -16.
212.93(e)		1975-16.
212.94	1978-39; 1979-8	1974-26.
212.101	1975-58	
212.102	1974-24; 1975: -51, -58	1974: -7, -9, -14, -20, -24; 1975-3.
212.103	1975-51	1974: -7, -9, -14, -20, -24; 1975-3.
212.111	1974: -23, -24; 1975: -3, -9; 1976: -5, -7; 1978-3	1974-20.
212.111(c)(2)	1978-18	
212.112	1976-3	
212.126	1975-11	
212.128	1979-12	1976-6.
212.129	1976-9	
212.131	1977: -33, -52	
212.131(a)(2)	1978-12	
212.161	1976-2; 1978: -61, -63; 1979-3	
212.161(b)(2)	1978-29	
212.162	1977-3; 1978: -3, -27, -32, -35, -37, -41, -61, -62, -63; 1979-14	
212.163	1978: -32, -61, -63	
212.163(a)	1976-5; 1977-3	
212.164	1978: -29, -61, -63	
212.164(a)	1976-5	
212.165	1978-16	
212.166	1978-61	
212.166(b)(3)	1978: -27, -37, -41, -62	1975-18.
212.167(b)	1978: -16, -34; 1979-2	
212.168	1978-34; 1979-3	
212.169	1978-32	
212.170	1978-16	
212.182	1978-25	
212.183	1978-25	
213.35	1978-50	
215.3	1975-25	
215.5	1975-25	
10 CFR Part 430	1978-26	

NOTE.—Regulations listed as cited in interpretations and rulings. No attempt has been made to change citations to reflect those relatively few cases in which regulations have been renumbered.

Appendix E.—*Rulings Construed by Interpretations Issued Through Dec. 31, 1979*

Rulings	Interpretations
1974-3	1975: -61, -62; 1976-25.
1974-4	1975-18.
1974-10	1974-16.
1974-11	1976-15.
1974-15	1975-39.
1974-17	1975-66.
1974-18	1975: -6, -66; 1976-20.
1974-19	1974-15; 1975: -52, -56.
1974-20	1974-24.
1974-22	1977-7.
1974-24	1974-28.
1974-29	1975: -41, -43.
1975-1	1975-74; 1977: -4, -51.
1975-2	1975: -22, -47, -63, -66; 1976: -1, -7, -20.
1975-4	1977-11; 1978-7.
1975-6	1979-2.
1975-8	1975: -33, -60, -67, -70, -71, -72; 1976-23; 1977. -17, -27, -39, -40; 1979-6.
1975-9	1975-74, 1977: -4, -51.
1975-10	1977: -4, -51.
1975-11	1977-11; 1978-7.
1975-12	1975: -41, -43; 1977-48.
1975-14	1976-8.
1975-15	1975-42; 1978: -6, -9, -15; 1979: -1, -17.
1975-18	1978-62.
1977-1	1977: -1, -26, -37, -43; 1978-15; 1979: -1, -17.
1977-2	1978: -6, -15; 1979-17.
1977-4	1979-21.
1977-5	1978-19.

Appendix F.—*Statutes Construed by Interpretations and Rulings Issued Through Dec. 31, 1979*

Statutes	Interpretations	Rulings
Economic Stabilization Act of 1970, as amended.	1975-12; 1976-24	
Energy Policy and Conservation Act of 1975, as amended.	1977: -7, -12, -22, -26, -38, -42; 1978-26	
Energy Supply and Environmental Coordination Act of 1974.		1975-5.
Emergency Petroleum Allocation Act of 1973, as amended.	1974: -6, -13, -22, -26, -27; 1975: -1, -5, -8, -12, -15, -56, -66; 1976: -4, -6, -12, -20, -21, -22, -23, -24; 1977: -3, -5, -7, -11, -28, -42; 1978: -1, -4, -51, -54.	1974: -3, -28; 1975-17; 1976-4; 1977-1.
Federal Energy Administration Act of 1974	1974-13	
Freedom of Information Act		1975-5.
Naval Petroleum Reserves Production Act of 1976.		1976-3.
Trans-Alaska Pipeline Authorization Act		1975-12; 1977-1.

[FR Doc. 80-4983 Filed 2-14-80; 8:45 am]
BILLING CODE 6450-01-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 73

Correction of Physical Protection Upgrade Rule

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission published on November 28, 1979 in the Federal Register (44 FR 68184) final amendments to 10 CFR Part 73 of its regulations. In § 73.1(a)(2)(i), the word "violent" was inadvertently omitted from the first sentence. The correct wording is set forth below.

EFFECTIVE DATE: March 25, 1980.

FOR FURTHER INFORMATION CONTACT: Joseph M. Felton, Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301-492-7211.

SUPPLEMENTARY INFORMATION: The following is an amendment to 10 CFR Part 73 correcting the final physical protection upgrade rule published in the Federal Register on November 28, 1979 (44 FR 68184). In § 73.1(a)(2)(i) the word "violent" was inadvertently omitted.

Since this amendment is corrective and relates solely to a minor procedural matter, notice of proposed rulemaking and public procedure thereon are unnecessary and good cause exists to make the amendment effective on March 25, 1980, the same date on which the final amendments to 10 CFR Part 73 become effective.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of Title 5 of the United States Code, the following amendment to Title 10, Chapter I, Code of Federal Regulations, Part 73 is published as a document subject to codification.

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

1. Sentence (i) of paragraph § 73.1(a)(2) is amended by inserting the word "violent" after the word "determined" and before the word "external" to read as follows:

§ 73.1 Purpose and scope

(a) * * *

(2) *Theft or Diversion of Formula Quantities of Strategic Special Nuclear Material.* (i) A determined, violent, external assault, attack, by stealth, or deceptive actions, by a small group with the following attributes, assistance and equipment:

* * * * *

(Sec. 161, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201); sec. 201, as amended, Pub. L. 93-438, 88 Stat. 1242 (42 U.S.C. 5831))

Dated at Bethesda, Md., this 8th day of February 1980. For the Nuclear Regulatory Commission.

W. J. Dircks,

Acting Executive Director for Operations.

[FR Doc. 80-4954 Filed 2-14-80; 8:45 am]
BILLING CODE 7590-01-M

FARM CREDIT ADMINISTRATION

12 CFR Part 618

General Provisions; Nomination and Election

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration publishes amendments to its regulations pertaining to the nomination and election of directors. The amendments intend to assure, to the extent possible, that association boards are free of undue influence by other persons, including employees, when voting in district board election polls or polls to designate nominees for the Federal Farm Credit Board.

EFFECTIVE DATE: February 15, 1980.

FOR FURTHER INFORMATION CONTACT: Sanford A. Belden, Deputy Governor, Office of Administration, Farm Credit Administration, 490 L'Enfant Plaza, SW., Washington, DC 20578 (202-755-2181).

Chapter VI of Title 12 of the Code of Federal Regulations is amended to read as follows:

PART 618—GENERAL PROVISIONS

Part 618 is amended in § 618.8150 by revising paragraph (f) to read as follows:

§ 618.8150 Federal Farm Credit Board.

* * * * *

(f) For both the nomination poll and the final designation poll, the directors of a Federal land bank association or production credit association at a lawful board meeting will vote by the adoption of resolutions as prescribed on the ballots. A majority of the number of directors provided for in the association's bylaws must be present at each meeting, and the vote of the majority of the directors present will control. The final designation resolution may not be adopted until after the ballot is received by the association. No person other than directors of the association may be present during voting. Ballots shall be signed by the director in the chair at the time of voting and shall be attested by a second director present at the time of voting.

(g) * * *

Section 618.8160 is amended by revising paragraph (f) to read as follows:

§ 618.8160 District boards of directors.

* * * * *

(f) For both the nomination poll and the election poll, the directors of a Federal land bank association or production credit association at a lawful board meeting will vote by the adoption of resolutions as prescribed on the ballots. A majority of the number of directors provided for in the association's bylaws must be present at each meeting, and the vote of the majority of the directors present will control. The election resolution may not be adopted until after the election ballot is received by the association. No person other than directors of the association may be present during voting. Ballots shall be signed by the director in the chair at the time of voting and shall be attested by a second director present at the time of voting.

(Secs. 5.9, 5.12, 5.18, 85 Stat. 619, 620, 621)

Donald E. Wilkinson,

Governor.

[FR Doc. 80-4941 Filed 2-14-80; 8:45 am]

BILLING CODE 6705-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Reg Z; FC-0170 and -0171]

Truth in Lending; Official Staff Interpretations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Official staff interpretations.

SUMMARY: The Board is publishing the following official staff interpretations of Regulation Z (Truth in Lending): FC-0170 regarding the initial disclosures required by § 226.7(a) for open-end credit plans, and FC-0171 regarding the advertising and disclosure requirements under Regulation Z for loophole accounts (money market certificate loans). The agency is taking this action in response to requests for interpretation of this regulation.

EFFECTIVE DATE: On or after March 17, 1980.

FOR FURTHER INFORMATION CONTACT: Regarding FC-0170, Maureen P. English, Section Chief (202-452-3867), and regarding FC-0171, Dolores S. Smith, Section Chief (202-452-2412), Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: (1) Identifying details have been deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public subject to certain limitations stated in 12 CFR Part 261.6.

(2) An opportunity for public comment on an official staff interpretation may be provided upon request of interested parties and in accordance with 12 CFR Part 226.1(d)(2)(ii). As provided by 12 CFR Part 226.1(d)(3) every request for public comment shall be made in writing, should clearly identify the number of the official staff interpretation in question, should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 and must be postmarked or received by the Secretary's office before the effective date of the interpretation. The request must also state the reasons why an opportunity for public comment would be appropriate.

(3) Authority: 15 U.S.C. 1640(f)

§ 226.7(a) Initial disclosures may appear on several sheets or pages, provided that sheets or pages constitute an integrated document.

February 1, 1980.

This responds to your letters requesting an official staff interpretation regarding the disclosure of the cost of voluntary credit disability insurance in open-end credit plans.

You state that, in certain cases, the disclosure of the cost of disability insurance is extremely lengthy and complex and that the cost disclosure is included on the § 226.4(a)(5) authorization in order to exclude the insurance premiums from the finance charge. You question, however, whether the cost disclosure must also appear as a § 226.7(a)(6) "other charge" with the initial disclosures required by § 226.7(a). You point out that Public Information Letter 1037 seems to indicate that disclosing the cost only on the § 226.4(a)(5) authorization would not suffice for purposes of § 226.7(a)(6) and that the cost should also appear with the initial disclosures.

Section 226.7(a) requires that all of the initial disclosures for an open-end credit plan appear "in a single written statement." This does not mean, however, that all the initial disclosures must appear on one single sheet of paper. Rather, they may appear on several sheets or pages: *Provided,* That these sheets or pages constitute an integrated document (for example, a brochure, a stapled document, or a document whose pages are numbered sequentially or which clearly evidences in some other fashion that the pages are part of the same document). Therefore, in your case, as long as the initial disclosures and the § 226.4(a)(5) authorization (on which the cost disclosure appears) constitute an integrated document, the cost disclosure satisfies the requirements of both § 226.4(a)(5) and § 226.7(a)(6). Letter 1037 is modified to the extent that it appears to indicate otherwise. Of course, where the initial disclosures are made on more than one sheet of paper, special attention should be paid to insure that the disclosures are clear, conspicuous, and in meaningful sequence as required by § 226.6(a).

This is an official staff interpretation of Regulation Z, issued pursuant to § 226.1(d)(2). It is limited to the facts and issues discussed herein. It will become effective 30 days after publication in the Federal Register unless a request for public comment, made in accordance with the Board's procedures, is received and granted. We will notify you if the effective date of the interpretation is suspended because such a request is received.

Sincerely,

Nathaniel E. Butler,

Associate Director.

§ 266.8(b) (General) Loan for portion of money market certificate ("loophole account") should be disclosed as single advance transaction; disclosures should not reflect interest lost or earned by customer on loan portion of money market certificate.

§ 226.8(b)(2) Loan for portion of money market certificate ("loophole account") should be disclosed as single advance transaction; disclosures should not reflect interest lost or earned by customer on loan portion of money market certificate.

§ 226.8(d) Loan for portion of money market certificate ("loophole account") should be disclosed as single advance transaction; disclosures should not reflect interest lost or earned by customer on loan portion of money market certificate.

§ 226.8(e) Portion of money market certificate deposited by customer is not a required deposit balance.

§ 226.10(d) Advertising requirements for loophole account may be met by an example of typical loan.

February 4, 1980.

This is in response to your letter requesting an official staff interpretation regarding the proper disclosure under Regulation Z for "loophole accounts," money market certificates that involve the loan of a portion of the minimum deposit by the institution issuing the certificate.

Money market certificates are 26-week certificates of deposit offered to customers in minimum denominations of $10,000. In order to allow more customers to take advantage of the relatively high interest rate offered on these certificates, your client proposes to offer "loophole accounts." Under this plan, a customer who has less than $10,000 to invest may receive a loan from the bank in the amount necessary to make up the $10,000 minimum.

You enclose a series of examples illustrating this plan. In one example, $6,000 is the amount provided by the customer, with $4,000 advanced by the bank to make up the minimum requirement. The customer's funds will earn an assumed current money market rate of 12%, while the $4,000 loan is subject to a maximum interest charge of 10.25%. You also point out that, under applicable state law, the rate charged by the bank on the

borrowed portion of the funds must be at least 1% above the rate being earned by the consumer on those funds. In your example, the money market certificate rate on the borrowed funds is thus reduced to 9.25%. To summarize, the customer is earning 12% on $6,000 and 9.25% on $4,000, and is paying 10.25% on the latter amount.

You ask how such transactions should be treated for purposes of making disclosures under § 226.8 of Regulation Z. You also request information regarding the effect of the advertising provisions of § 226.10 on your client's promotional material for these plans.

The staff believes that the transaction you describe should be treated as a single advance, single payment transaction for purposes of Regulation Z disclosures. Those disclosures should not reflect either the amount of interest earned by the customer on the borrowed funds or the fact that the customer is earning less interest on those funds than if the customer's own funds had been used. This latter information, however, may be useful to the customer and could be disclosed as additional information. Similarly, the funds provided by the customer (the $6,000 in the example above) should be disregarded in computing the amount financed, and should not be treated or disclosed as a required deposit balance under §§ 226.8 (d) and (e).

To illustrate, the example above would represent a single advance transaction of $4,000 in amount financed, with a total finance charge consisting of $204.44 in interest, assuming there are no other charges. In the absence of any finance charge other than interest, in this example the simple interest rate of 10.25% should be disclosed as the annual percentage rate. In addition to the annual percentage rate and finance charge, the creditor must of course make any other applicable disclosures set forth in §§ 226.8 (b) and (d), such as any security interest taken in the money market certificate to secure the loan.

With regard to the advertising provisions of § 226.10, the staff believes that the disclosure requirements of § 226.10(d)(2) will normally be triggered by the advertisements for this plan. One of the so-called triggering terms under that section is the period of repayment, and the advertising for these certificates will undoubtedly make reference to the plan's 26-week term. This reference effectively states a period of repayment, in the staff's view. Thus, all of the applicable disclosures required by § 226.10(d)(2) would be necessary. This requirement may be met by the use of an example of a typical extension of credit under this plan. To illustrate, the creditor would disclose the following information for the example discussed above: amount of loan $4,000; total of payments $4,204.44, due 26 weeks from date of loan, and annual percentage rate 10.25%.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d). It is limited to the facts and issues discussed above. It will become effective 30 days after publication in the Federal Register unless a request for public comment, made in accordance with the Board's procedures, is received and granted. We will notify you if the effective date of the interpretation is suspended.

Very truly yours,
Nathaniel E. Butler,
Associate Director.

Board of Governors of the Federal Reserve System, February 11, 1980.
Theodore E. Allison,
Secretary of the Board.

[FR Doc. 80-4977 Filed 2-14-80; 8:45 am]
BILLING CODE 6210-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 689

Migrant and Other Seasonally Employed Farmworkers Program Under the Comprehensive Employment and Training Act

AGENCY: Employment and Training Administration, Labor.

ACTION: Amendments to final rules.

SUMMARY: On Friday, May 25, 1979, the Department of Labor published Final Rules for Migrant and Other Seasonally Employed Farmworkers Program under Title III, Section 303 of the Comprehensive Employment and Training Act. Although these regulations were published as final, the Department invited interested persons to submit comments on these rules until July 24, 1979. The purpose of this document is to make changes in these regulations in response to those comments.

EFFECTIVE DATE: These changes are effective February 15, 1980, except that § 689.502(b) is effective March 17, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Lamond Godwin, Administrator, Office of National Programs, 601 D Street, NW., Room 6402, Washington, D.C. 20213. Telephone (202) 376-6093.

SUPPLEMENTARY INFORMATION: In response to the Department's invitation to submit comments on the final Section 303 Regulations by July 24, 1979, several comments were received. The Department studied these carefully and evaluated each comment on its own merit and in relation to other comments on the same or similar subjects. This evaluation procedure has resulted in a decision to revise the May 25, 1979, Final Rules for 303 programs in certain respects.

The substantive comments received primarily concerned alleged problems in complying with § 676.75-3 of the basic Comprehensive Employment and Training Administration (CETA) regulations of April 3, 1979, regarding the sample verification of eligible participants. A number of comments maintained that since most migrant farmworkers travel long distances, verification of past employment is often not possible and that participants may not have access to such documentation as birth certificates. In response to these concerns, the Department has modified the eligibility verification requirements applicable to Section 303 grantees. The regulations now require that grantees verify the eligibility of a sample of participants enrolled in programs under section 303 for more than 2 weeks. The sample shall be adequate to determine whether the eligibility determination system is reliable. Thus, while the method of eligibility verification for the Section 303 program remains the same as for other CETA programs, the sample may exclude those who typically do not remain in the program for substantial periods of time and whose eligibility may therefore be relatively difficult to verify.

In addition, the Department has made several other minor revisions for clarification purposes. Accordingly, the following changes are made in Part 689 of Title 20:

PART 689—MIGRANT AND OTHER SEASONALLY EMPLOYED FARMWORKERS PROGRAMS

§ 689.103 [Amended]

1. In § 689.103, the definition of "Appropriate amount" is revised to read:

* * * * *

Appropriate amount for purposes of committing Title II funds for farmworkers shall mean an amount proportional to the incidence of the farmworkers in the prime sponsor's target population.

* * * * *

2. Section 689.107(a)(3) is revised to read:

§ 689.107 Eligibility for participation in Section 303 programs.

(a) * * *

(3) Been identified as a member of a family which receives public assistance or whose annual family income does not exceed the higher of either the poverty level, based upon nonfarm tables, or 70 percent of the lower living standard income level.

* * * * *

§ 689.202 [Amended]

3. The following sentence is added at the end of § 689.202(b) ("Intention to apply"):

* * * * *

(b) * * * Preapplications and letters of intent must also be submitted to the

appropriate State and area clearinghouses.

4. Section 689.204–1(d)(3) is revised to read:

§ 689.204–1 Grantee agreement.

* * * * *

(d) * * *

(3) *Approach.* A description of how the applicant will provide the services proposed.

* * * * *

5. Section 689.204–2(b)(2) is revised to read:

§ 689.204–2 Annual Plan for Farmerworkers Comprehensive Employment and Training Programs.

* * * * *

(b) * * *

(2) *Results and benefits expected.* An enumeration of specific participant objectives broken out between employment and training activities, and supportive services.

* * * * *

6. The cross-reference in the last sentence of § 689.207(a)(1) is corrected so that the sentence reads:

§ 689.207 Notification of Selection.

(a)(1) Changes in the proposed program's target area and/or funding level are not appealable under § 689.503.

* * * * *

7. Section 689.207(e) is corrected so that the section reads:

(e) Any applicant whose Funding Request is rejected by the Department (as distinguished from changes in a proposed program's target area and/or funding level) may request an administrative review as provided in § 689.503.

8. Section § 689.410(f)(3)(i) is revised to read:

§ 689.410 Allowable Costs.

* * * * *

(f) * * *

(3) * * *

(i) Any person, whose family income does not exceed 70 percent of the lower living standard income level as described in § 675.4 and who is a member of a private nonprofit grantee or subgrantee policymaking body or of a public agency grantee or subgrantee farmworker advisory council shall be eligible for reimbursement of actual expenses, including actual wages lost. In no event shall reimbursement for wages lost be less than the Federal, State, or local minimum wage rate, whichever is highest. No person shall be reimbursed for attendance at more than two meetings per month nor for more than 1 day per meeting irrespective of the duration of the meeting.

* * * * *

9. Section 689.502 is revised to read:

§ 689.502 Prevention of fraud and program abuse.

The regulations at Subpart E, Part 676 shall apply to Section 303 programs except as otherwise provided.

(a) Section 676.75–2 (prime sponsor monitoring procedures) shall not apply to grantees other than prime sponsors.

(b)(1) Section 676.75–3 (Eligibility determination and verification) shall apply to Section 303 grantees except that the following requirements as to sample verification shall be applicable.

(2) There shall be a verification of participant eligibility on a quarterly basis of a random sample of participants enrolled in programs under Section 303 for more than 2 weeks. The size of the sample shall be 10 percent of such participants, or the sample size given in the Forms Preparation Handbook, whichever is greater. The sample shall be adequate to establish whether or not the system is reliable, i.e., whether it screens out persons who are ineligible for participation in Section 303 programs or whether it admits only persons who are eligible for Section 303 benefits.

(3) In addition to fulfilling the requirements set forth in § 676.75–3(b)(3)(ii), the recipient shall maintain documentation of the numbers of applications taken, the number of ineligible participants identified, the reasons for ineligibility, and all correspondence sent to past employers to verify employment along with responses to such correspondence.

Signed at Washington, D.C., February 11, 1980.

Ray Marshall,

Secretary of Labor.

[FR Doc. 4980 Filed 2-14-80; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 14

Public Hearing Before a Public Advisory Committee Advisory Committees; Establishment

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: Under the Federal Advisory Committee Act of October 6, 1972 and the public advisory committee procedures (21 CFR Part 14), the Food and Drug Administration (FDA) announces the establishment of the Vaccines and Related Biological Products Advisory Committee in the Food and Drug Administration. This document adds to the agency's list of standing advisory committees. In another notice in this issue, FDA asks for nominations for membership on this committee.

EFFECTIVE DATES: February 15, 1980; authority for the committee being established will end on December 31, 1981, unless the Secretary formally determines that renewal is in the public interest).

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA–306). Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2765.

SUPPLEMENTARY INFORMATION: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463) and § 14.40(b) (21 CFR 14.40(b)), FDA announces the establishment of the Vaccines and Related Biological Products Advisory Committee by the Secretary of the Department of Health, Education, and Welfare.

The Committee will review and evaluate available data on the safety, effectiveness, and appropriate use of vaccines and other immunological products intended for use in diagnosis, prevention, or treatment of human diseases. The Committee will advise the Commissioner of Food and Drugs of its findings regarding the safety and effectiveness of the products. The Committee will advise on clinical and laboratory studies involving such products, on promulgation of monographs establishing conditions under which these particular products are generally recognized as safe and effective and not misbranded, and on the quality and relevance of FDA's research program which provides scientific support for the regulatory program concerning these agents. The Committee will have nine members.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 14 is amended in § 14.100 by adding paragraph (b)(1)(i) to read as follows:

§ 14.100 List of standing advisory committees.

* * * * *

(b) * * *

(1) * * *

(i) *Vaccines and Related Biological Products Advisory Committee.* (*a*) Date established: December 31, 1979.

(*b*) Function: Reviews and evaluates available data on the safety and effectiveness of vaccines intended for use in the diagnosis, prevention, or treatment of human diseases.

* * * * * *

Effective date. Since this is a technical conforming amendment to Part 14, the Commissioner finds that there is good cause for the rule to be effective immediately upon publication in the Federal Register, (February 15, 1980).

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: February 7, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-4693 Filed 2-14-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 16

Hearings for Granting (or Denying) Exemptions or Variances

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration is amending the procedural regulations to add to the list of statutory provisions for regulatory hearings the provision for granting or denying exemptions or variances from device good manufacturing practice requirements. Because this is merely a technical change, notice, public comment, and delayed effective date are unnecessary.

EFFECTIVE DATE: February 15, 1980.

FOR FURTHER INFORMATION CONTACT: Tenny P. Neprud, Regulations Policy Staff (HFC-10), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3480.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (secs. 201 et seq., 52 Stat. 1040-1059, as amended, (21 U.S.C. 321 et seq.)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 16 is amended in § 16.1(b)(1) by adding the following:

§ 16.1 Scope.

* * * * *

(b) * * *

(1) * * * Section 520(f)(2)(D) of the act relating to exemptions or variances from device good manufacturing practice requirements (see § 820.1(d)).

* * * * *

Effective date: February 15, 1980.

(Secs. 201 et seq. 52 Stat. 1040-1059 as amended (21 U.S.C. 321 et seq.))

Dated: February 7, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-4571 Filed 2-14-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification Dichlorophene Tablets; Dichlorophene and Toluene Capsules

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the regulations to reflect approval of a new animal drug application (NADA) filed by Happy Jack, Inc., providing for safe and effective use of dichlorophene tablets for treating dogs for certain helminth infections. The product is related to one reviewed by the National Academy of Sciences—National Research Council (NAS/NRC), Drug Efficacy Study Group, and found to be an effective anthelmintic. This document further amends the regulations to indicate those conditions of use for which approval of products that are identical, related, or similar to the NAS/NRC-reviewed product need not include certain types of efficacy data.

EFFECTIVE DATE: February 15, 1980.

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

SUPPLEMENTARY INFORMATION: Happy Jack, Inc., Snow Hill, NC 28580, filed an NADA (7-829) providing for use of dichlorophene tablets in dogs as an aid in removing certain tapeworms. The dichlorophene tablets are related to the dichlorophene-toluene capsules that are the subject of the NAS/NRC evaluation published in the Federal Register of February 1, 1969 (34 FR 1612). In the evaluation, NAS/NRC concluded, and FDA concurred, that the dichlorophene component of the combination drug is effective as an aid in removing certain tapeworms from dogs and cats. Approval of the combination is reflected in § 520.580 (21 CFR 520.580). In this approval for Happy Jack's dichlorophene tablets, the conditions of use (dosage level, indications and limitations) in dogs are identical (except for absence of the claim for *Echinococcus sp.*) to those for the dichlorophene component of the NAS/NRC-reviewed drug. The firm submitted data from an animal study involving both products that demonstrate comparable effectiveness against tapeworms, (i.e., *T. pisiformis*) and therefore, bioequivalency. The firm also submitted data demonstrating that the product is safe.

The regulations are amended to editorially revise 21 CFR 520.580 to reflect current format, to add a new section to reflect this approval, and to specify those conditions of use for which approval of identical products need not include certain types of effectiveness data as specified by § 514.1(b)(8)(ii) or § 514.111(a) (5) (21 CFR 514.1(b)(8)(ii) or 514.111(a)(5)). In place of such data, approval of anthelmintics may require comparability or similar data.

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

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended as follows:

1. By revising § 520.580 to read as follows:

§ 520.580 Dichlorophene and toluene capsules.

(a) *Specifications.* Each soft gelatin capsule contains 50 milligrams of dichlorophene and 60 milligrams of toluene or multiples thereof.[1]

(b) *Sponsor.* (1) For single dose only, see 000010, 000081, 000298, 000856, 010290, 011519, 011536, 011614, 015563, 017135, and 023851 in § 510.600(c) of this chapter.

(2) For single and multiple dose, see 000124, 000859, and 011716 in § 510.600(c) of this chapter.

(c) *Required statement.* Consult your veterinarian for assistance in the diagnosis, treatment, and control of

[1] These conditions are NAS/NRC-reviewed and deemed effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

parasitism, and before administering to weak or debilitated animals.

(d) *Conditions of use*—(1) *Amount.* (i) Single dose of 100 milligrams of dicholorophene and 120 milligrams of toluene per pound of body weight.[1]

(ii) Divided dose of 100 milligrams of dichlorophene and 120 milligrams of toluene per 5 pounds of body weight (20 and 24 milligrams per pound) daily for 6 days.[1]

(2) *Indications for use.* It is used for the removal of ascarids (*Toxocara canis* and *Toxascaris leonina*) and hookworms (*Ancylostoma caninum* and *Uncinaria stenocephala*) and as an aid in removing tapeworms (*Taenia pisiformis, Dipylidium caninum,* and *Echinococcus granulosus*) from dogs and cats.[1]

(3) *Limitations.* Withhold solid foods and milk for at least 12 hours prior to medication and for 4 hours afterward. Repeat treatment in 2 to 4 weeks in animals subject to reinfection.[1]

2. By adding new § 520.581 to read as follows:

§ 520.581 Dichlorophene tablets.

(a) *Specifications.* Each tablet contains 1 gram of dichlorophene.

(b) *Sponsor.* See 023851 in § 510.600(c) of this chapter.

(c) *Required statement.* Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism, and before administering to weak or debilitated animals.

(d) *Conditions of use—Dogs*—(1) *Amount.* Single dose of 1 tablet (1 gram of dichlorophene) for each 10 pounds of body weight.

(2) *Indications for use.* It is used as an aid in the removal of tapeworms (*Taenia pisiformis* and *Dipylidium caninum*).

(3) *Limitations.* Withhold solid foods and milk for at least 12 hours prior to medication and for 4 hours afterward.

Effective date. This amendment is effective February 15, 1980.

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

Dated: February 7, 1980.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 80-4893 Filed 2-14-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 520

Phenylbutazone Tablets; Revocation of Certain Regulations; Oral Dosage Form New Animal Drugs Not Subject to Certification

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The agency is revoking that portion of the regulations reflecting approval of a new animal drug application (NADA) providing for use of a phenylbutazone tablet in treating horses for certain inflammatory conditions associated with the musculoskeletal system. The sponsor, Norden Laboratories, requested the withdrawal of approval.

EFFECTIVE DATE: February 25, 1980.

FOR FURTHER INFORMATION CONTACT: Leonard D. Krinsky, Bureau of Veterinary Medicine (HFV-216), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4093.

SUPPLEMENTARY INFORMATION: In a notice published elsewhere in this issue of the Federal Register, approval of NADA 102-823 is withdrawn. This document amends the regulations to delete that portion which reflects approval of this NADA.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director, Bureau of Veterinary Medicine (21 CFR 5.84), Part 520 is amended in § 520.1720a *Phenylbutazone tablets and boluses* by deleting in paragraph (b)(3) the number "011519."

Effective date: This amendment is effective February 25, 1980.

(Sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e)))

Dated: February 8, 1980.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 80-4892 Filed 2-14-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Parts 520 and 556

Deleting Claims for Use of Haloxon Drench in Sheep and Goats

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The agency amends the animal drug regulations to reflect approval of supplemental new animal drug applications (NADA's) filed by the Burroughs Wellcome Co. The supplements provide for deleting claims for use of haloxon drench in sheep and goats.

EFFECTIVE DATE: February 15, 1980.

FOR FURTHER INFORMATION CONTACT: David N. Scarr, Bureau of Veterinary Medicine (HFV-214), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3183.

SUPPLEMENTARY INFORMATION: The Burroughs Wellcome Co., 3030 Cornwallis Rd., Research Triangle Park, NC 27709, is the sponsor of NADA 48-913, approval for which is reflected in § 520.1120a. The section currently provides for use of haloxon drench as an anthelmintic in cattle, sheep, and goats.

The firm has filed supplements to NADA 48-913 that delete claims for use of the product in sheep and goats. The firm advised the agency that haloxon drench for use in sheep and goats would be discontinued and that the firm wished to support only the cattle claims for use of the product. The firm has provided final printed labeling deleting all indications for use of the product in sheep and goats and has agreed to appropriate revisions to § 520.1120a to delete provisions for use of haloxon drench in sheep and goats. Use of the product in sheep and goats will no longer be permitted.

In addition, § 556.310 is amended to delete reference to tolerances for use of this product in sheep and goats.

Under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; Dec. 23, 1977), the approval of these supplements does not expand use of the product. Thus, it poses no increased human risk from exposure to residues of the new animal drug and does not require reevaluation of the safety and effectiveness data in the parent application.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 520 and 556 are amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. Part 520 is amended in § 520.1120a by deleting and reserving paragraph (f)(2), as follows:

§ 520.1120a Haloxon drench.

* * * * *

(f) * * *

(2) [Reserved]

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

§ 556.310 [Amended]

2. Part 556 is amended in § 556.310 *Haloxon* by deleting the phrase "sheep,

and goats" and by placing a period after the work "cattle."

Effective date. February 15, 1980.

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

Dated: February 6, 1980.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 80-4572 Filed 2-14-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Parts 556 and 558

Reserpine; Revocation of Certain Regulations; New Animal Drugs for Use in Animal Feeds

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The agency is revoking those regulations reflecting withdrawal of approval of a new animal drug application (NADA) sponsored by E. R. Squibb & Sons, Inc. The NADA provides for the use of Orticalm (reserpine) premix in complete turkey feed. This action has been requested by the sponsor.

EFFECTIVE DATE: February 25, 1980;

FOR FURTHER INFORMATION CONTACT: David N. Scarr, Bureau of Veterinary Medicine (HFV-214), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3183.

SUPPLEMENTARY INFORMATION: Approval of NADA 11-581 is withdrawn in a notice issued elsewhere in this issue of the Federal Register. This document revokes the regulations which reflect withdrawal of approval of this NADA.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84), Parts 556 and 558 are amended as follows:

§ 556.570 [Revoked]

1. Part 556 is amended by revoking § 556.570 *Reserpine.*

§ 558.505 [Revoked]

2. Part 558 is amended by revoking § 558.505 *Reserpine.*

Effective date. This amendment is effective February 25, 1980.

(Sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e)))

Dated: February 8, 1980.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 80-4894 Filed 2-14-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 46 and 49

[T.D. 7665]

Removal of Statutory Sections From Title 26 of the Code of Federal Regulations; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction.

SUMMARY: This document corrects two typographical errors contained in T.D. 7665, 43 FR 6088, published in the Federal Register for January 25, 1980, which removed from Title 26 of the Code of Federal Regulations those regulation sections which recite verbatim provisions of the Internal Revenue Code of 1954.

EFFECTIVE DATE: The corrections to T.D. 7665 are effective January 25, 1980.

FOR FURTHER INFORMATION CONTACT: Jonathan P. Marget of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, Attention: CC:LR:T (202-566-3651, not a toll-free call).

Correction of Regulations

Accordingly, FR Doc. 80-2361 (45 FR 6088) is amended by the following corrections on page 6091:

§ 46.0-1 [Corrected].

1. In column 1, line 26, "46.7420" is corrected to read "46.7240".

§ 49.0-1 [Corrected].

2. In column 2, line 28, "49.6264 (f)" is corrected to read "49.4264 (f)".

Dated: February 11, 1980.

George H. Jelly,

Director, Employee Plans and Exempt Organizations Division.

[FR Doc. 80-4876 Filed 2-14-80; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

Approved State Plans for Enforcement of State Standards; Approval of Supplements to Alaska State Plan

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Approval of Alaska supplements.

SUMMARY: This document gives notice of approval of five State plan changes which revise the Alaska Compliance Manual as well as of three State-initiated supplements to the Alaska plan. The compliance manual changes relate to (1) Contested Cases, (2) Denial of Entry, (3) Potential Exposure to Hazard(s), (4) Inspection of Private Employer Workplaces on Federal Government Property, (5) Imminent Danger, and Serious Violation Procedures for the Voluntary Compliance Program. The other three changes relate to (1) an Interagency agreement between the Alaska Department of Labor and the Alaska Department of Health and Social Services, (2) On-Site Consultation Agreement between the Alaska Department of Labor and the U.S. Department of Labor, Division of Occupational Safety and Health and (3) Reorganization of the Alaska Division of Occupational Safety and Health.

EFFECTIVE DATE: February 15, 1980.

FOR FURTHER INFORMATION CONTACT: Joseph C. Acton, Office of State Programs, Occupational Safety and Health Administration, Third and Constitution Avenue, NW., Washington, D.C. (202) 653-5377.

SUPPLEMENTARY INFORMATION:

Background

The Alaska Occupational Safety and Health Plan was approved under Section 18(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667(c)) (hereinafter referred to as the Act) and Part 1902 of this chapter on August 10, 1973 (38 FR 21628). Part 1953 of the Chapter provides procedures for the review and approval of State change supplements by the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary).

Description of Supplements

A. *Contested Cases.* This State-initiated plan change is a revision to the

Compliance Manual. A new Chapter XVIII, Contested Cases, is being added to the Compliance Manual which sets out information and procedures with respect to contests before the Review Board, the effects of contests on follow-up inspections, and the withdrawal of contests by employers.

B. *Denial of Entry.* This State-initiated plan change is a result of the June 2, 1977 decision of the Supreme Court of Alaska stating that the Alaska Constitution prohibits warrantless administrative inspection of business premises if an employer refuses to consent to the inspection. Procedures for compliance officers to follow if denied entry are included in Chapter V of the Compliance Manual.

C. *Potential Exposure to Hazard(s).* This State plan change revises Chapter X of the Alaska Compliance Manual to include potential exposure to hazards, in response to a letter of assurance from the State of Alaska of August 9, 1977, when the Manual was approved.

D. *Inspection of Private Employer Workplaces on Federal Government Property.* This change is in response to a Federal program change. Chapter IV of the Compliance Manual is revised to include procedures for conducting inspections of a private employer's workplace on Federal Government property.

E. *Imminent Danger and Serious Violation Procedures under the 23(g) Funded Portion of the Voluntary Compliance Program.* This supplement is in response to a Federal program change, and establishes procedures for handling imminent danger situations and serious violations.

F. *Interagency Agreement between the Alaska Department of Labor and the Alaska Department of Health and Social Services.* The purpose of this agreement is to coordinate activities related to inspection and regulation of sanitation at food handling facilities operated in conjunction with industrial operations, manufacturing establishments, labor camps or other places of employment otherwise regulated by occupational safety and health standards of the Department of Labor. The Alaska Department of Labor, Division of Occupational Safety and Health compliance officers will ascertain whether food service permit requirements are being met at establishments providing a food service facility for the employees. The Department of Health and Social Services will include places of employment within its food establishment inspection program. Inspection results will be transmitted to the Department of Labor.

G. *On-Site Consultation Agreement.* This supplement concerns the Voluntary Compliance Section of the Alaska plan. This section has been revised as a result of the Alaska On-Site Consultation Agreement which is included as Appendix P of the Alaska Plan. The State of Alaska will continue to provide on-site public agency consultative services under its 18(b) plan.

H. *Administrative Organization and Job Classification.* This supplement pertains to the number of authorized positions and revisions to Appendix H, "Administration of the Division of Occupational Safety and Health: Job Classification". This change is a result of the 7(c)(1) On-Site Consultation Agreement.

Location of plan supplements for inspection and copying: A copy of the plan and its supplements may be inspected and copied during normal business hours at the following locations:

Technical Data Center, Occupational Safety and Health Administration, Room N-2349, 3rd and Constitution Avenue, NW., Washington, D.C. 20210.

Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6048, 909 First Avenue, Seattle, Washington 98174.

Alaska Department of Labor, Juneau, Alaska 99801.

Public Participation

Under § 1953.2(c) of this chapter, 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 the Alaska plan supplements described above are consistent with commitments contained in the approved plan, which were previously made available for public comment and are consistent with State plan regulations at 29 CFR Part 1902, Subpart B. Accordingly, it is found that further public comment is unnecessary.

Decision

After careful consideration, the Alaska plan supplements described above are hereby approved under Part 1953 of this chapter. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally.

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

Signed at Washington, D.C., this 7th day of February 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80-4961 Filed 2-14-80; 8:45 am]

BILLING CODE 4510-26-M

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29 CFR Part 1952

Approved State Plans for Enforcement of Standards; Certification of Completion of Developmental Steps for Maryland State Plan and Change in Level of Federal Enforcement

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: Maryland on or before August 31, 1976, submitted documentation attesting to the completion of all structural development aspects of its approved State plan. After extensive review and opportunity for State correction, all development plan supplements have now been approved. This notice certifies this completion and the beginning of the 18(e) evaluation phase of State plan development. This certification attests only to the fact that Maryland now has in place those structural components necessary for an effective program. It does not render judgment, either positively or negatively, on the adequacy of the State's actual performance. In addition, although State plan commitments on staffing and resources have been met, these initial commitments may not be interpreted as meeting the ultimate requirements of the Occupational Safety and Health Act of 1970 for "sufficient staff" as redefined by the U.S. Court of Appeals decision in *AFL-CIO* v. *Marshall*, 570 F.2d 1030 (1978).

EFFECTIVE DATE: February 15, 1980.

FOR FURTHER INFORMATION CONTACT: Peter Schultze, Office of State Programs, Occupational Safety and Health Administration, Room N-3613 3rd Street and Constitution Ave., NW., Washington, D.C. 20210 (202) 523-8085.

SUPPLEMENTARY INFORMATION:

Background

Section 18 of the Occupational Safety and Health Act of 1970 (the "Act," 29 U.S.C. 667) provides that States which desire to assume responsibility for the development and enforcement of occupational safety and health standards shall submit for Federal approval a State plan for such development and enforcement. Part 1902 of Title 29, Code of Federal Regulations, sets forth procedures under which the Assistant Secretary of Labor for

Occupational Safety and Health ("Assistant Secretary") shall approve such plans. Under the Act and regulations, plan approval is essentially a two-step procedure. A State must first submit its plan for an initial determination under Section 18(b) of the Act. If the Assistant Secretary, after reviewing the State's submission, determines that the plan satisfies or will satisfy the criteria set forth in Section 18(c) of the Act, a decision of "initial approval" is issued and the State may begin enforcement of its safety and health standards in accordance with the plan and with concurrent enforcement by the Occupational Safety and Health Administration (OSHA). A State plan may receive initial approval even though at the time of submission all essential components of the plan are not in place. As provided at 29 CFR 1902.2(b), the Assistant Secretary may initially approve the submission as a "developmental plan," and a schedule within which the State must complete specified "developmental steps" is issued as part of the initial approval decision.

When the Assistant Secretary finds that the State has completed all developmental steps specified in the initial approval decision, a notice of such completion is published in the Federal Register, *see* 29 CFR 1902.34 and 35. Certification of completion of developmental steps initiates a thorough evaluation of the State plan by the Assistant Secretary to determine, on the basis of actual operations, whether the plan adequately protects the safety and health of the States' workers. Certification does not render judgment as to the adequacy of State performance.

Final approval of the plan under section 18(e) of the Act and 29 CFR Part 1902 may not be granted until at least three years after initial approval and until at least one year after completion of developmental steps. Thereafter, when the Assistant Secretary determines on the basis of actual performance under the plan that the Act's criteria are being applied, a decision of final approval may be granted.

On July 5, 1973, a notice was published in the Federal Register (38 FR 17834) of initial approval of the developmental Maryland plan and the adoption of Subpart O of Part 1952 containing the decision, a description of the plan, and the developmental schedule. During the period ending August 31, 1976 (three years from the date of the State's first 23(g) grant award), Harvey A. Epstein, Commissioner of the Maryland Division of Labor and Industry, submitted documentation attesting to the completion of each State developmental commitment for review and approval as provided in 29 CFR Part 1953. Following Departmental review, opportunity for public comment, and subsequent modification of the State's submissions, as deemed appropriate, the Assistant Secretary has approved the completion of all individual Maryland developmental steps.

Completion of Developmental Steps

All developmental steps specified in the July 5, 1973, notice of initial approval have been completed as follows:

(a) Maryland occupational safety and health standards identical to the Federal standards have been promulgated, subsequently amended to reflect changes in and additions to the Federal standards and approved by the Regional Administrator for Occupational Safety and Health (hereinafter referred to as the Regional Administrator) on September 6, 1974 (39 FR 35740, October 3, 1974). The adoption of standards was approved as a completed developmental step on June 6, 1975 (40 FR 25207, June 13, 1975).

(b) The State poster notifying public and private employers and employees of their protections and obligations under the Maryland plan was submitted on March 13, 1975, and approved by the Assistant Secretary on June 6, 1975 (40 FR 25207, June 13, 1975).

(c) An occupational health plan was developed and implemented by the State by December 31, 1975, and approved by the Assistant Secretary as a developmental step on October 7, 1976 (41 FR 45563, October 15, 1976).

(d) A fully operational Management Information System was developed by May 1, 1975, and approved by the Assistant Secretary on October 7, 1976 (41 FR 45563, October 15, 1976).

(e) The State of Maryland completed training of its compliance personnel by December 31, 1975. Documentation of completion of this developmental step was submitted on October 2, 1975, October 29, 1975, and December 18, 1975, and was approved by the Assistant Secretary on February 17, 1977 (42 FR 10987, February 25, 1977).

(f) The Maryland inspection and enforcement program was implemented by September 1973, and approved by the Assistant Secretary on February 17, 1977 (42 FR 10987, February 25, 1977).

(g) The State of Maryland conducted a review of its appeal procedures to see if those procedures should be continued or modified by May 1975. This developmental step was approved by the Assistant Secretary on February 17, 1977 (42 FR 10987, February 25, 1977).

(h) A revised Compliance Operations Manual was submitted by the State on April 21, 1976. Further revisions to this Compliance Manual were submitted by letters dated December 6, 1976, July 29, 1977, December 8, 1977, and January 10, 1978. The Compliance Operations Manual was approved by the Assistant Secretary on May 15, 1979 (44 FR 28326).

(i) Standard-setting procedures were submitted by the State on August 21, 1975, and approved by the Assistant Secretary on May 15, 1979 (44 FR 28326).

(j) The State submitted assurances regarding its emergency temporary standard-setting procedures on January 6, 1976. In addition, the State submitted modified variance procedures on September 26, 1977. These supplements were approved by the Assistant Secretary on May 15, 1979 (44 FR 28326).

(k) The State of Maryland reviewed the job qualifications of State personnel and submitted updated job specifications on October 2, 1975, and October 24, 1975. These submissions were approved by the U.S. Civil Service Commission by a letter dated June 10, 1977, and approved by the Assistant Secretary on May 15, 1979 (44 FR 28326).

(l) A Maryland occupational safety and health program for public employees was submitted on October 21, 1975. In addition, a Public Sector Self-Inspection Compliance Manual was submitted on March 16, 1976, and amended on April 29, 1976. These supplements were approved by the Assistant Secretary on May 15, 1979 (44 FR 28236).

(m) An occupational health study was conducted by the Johns Hopkins University School of Hygiene and Public Health for the State on January 12, 1973, and approved as a developmental step by the Assistant Secretary on May 15, 1979 (44 FR 28325).

(n) The State of Maryland submitted revised review procedures on August 31, 1976. In addition, on July 19, 1978, the State transmitted to OSHA a proposed amendment to the Maryland OSH legislation, with an assurance that the Division of Labor and Industry would recommend enactment, which would authorize review by the Commissioner on his own motion of decisions by hearing examiners. The submissions were approved by the Assistant Secretary on May 15, 1979 (44 FR 28325).

(o) On April 29, 1975, the State of Maryland notified OSHA that the responsibility for the enforcement of agricultural standards has been transferred from the Maryland Department of Agriculture to the Maryland Division of Labor and

Industry. The developmental step set forth in 29 CFR 1952.213(k) was subsequently amended to reflect this change in the Federal Register of October 15, 1976 (41 FR 45563). The completion of this amended developmental step was approved by the Assistant Secretary on May 15, 1979 (44 FR 28325).

As required by 29 CFR 1902.34(b)(3), the personnel operations of the Maryland Department of Labor and Industry have found to be in substantial conformity with the Standard for a Merit System of Personnel Administration by the U.S. Civil Service Commission by a letter dated June 10, 1977. The State also has an affirmative action plan which has been found acceptable by the Civil Service Commission in a letter dated June 25, 1976.

This certification covers all occupational safety and health issues covered under the Federal program except for longshoring and maritime standards found in 29 CFR Parts 1915, 1916, 1917, and 1918 (longshoring, ship repairing, shipbuilding, and shipbreaking), which are excluded from coverage under the plan. This certification also covers the State's program covering State and local government employees.

Location of the plan and its supplements for inspection and copying.—Copies of the supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations:

Office of the Director of Federal Compliance and State Programs Occupational Safety and Health Administration, U.S. Department of Labor, 3rd Street and Constitution Avenue, Washington, D.C. 20210.

Technical Data Center, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-2439, 3rd and Constitution Avenue NW., Washington, D.C. 20120.

Office of the Regional Administrator, Occupational Safety and Health Administration, U.S. Department of Labor, Room 2100, Gateway Center, 3535 Market Street Philadelphia, Pennsylvania 19104.

Office of the Commissioner, Division of Labor and Industry, 203 East Baltimore Street Baltimore, Maryland 21202.

Effect of Certification

The Maryland plan is certified effective February 15, 1980, as having completed all developmental steps on or before August 31, 1976. This certification attests to structural completion, but does not render judgment on adequacy of performance. The Maryland occupational safety and health program will be monitored and evaluated for a period of not less than one year after publication of this certification to determine whether the State program in operation is a fully effective program of enforcement. The Assistant Secretary will then determine whether Federal authority should be withdrawn with respect to issue covered by the plan pursuant to Section 18(e) of the Act.

Level of Federal Enforcement

In accordance with 29 CFR 1902.35, Federal enforcement authority under sections 5(a)(2), 8, 9, 10, 13 and 17 of the Act (29 U.S.C. 654(a)(2), 657, 658, 659, 662 and 666) and Federal standards authority under Section 6 of the Act (29 U.S.C. 655) will not be relinquished during the evaluation period. However, OSHA's concurrent Federal enforcement authority will be exercised on a limited basis under an agreement entered into between OSHA and the Division of Labor and Industry on August 16, 1976. This agreement provides, among other things, that Federal enforcement activities will not be initiated with regard to Federal safety and health standards in the issues covered under 29 CFR Part 1910 and 29 Part 1926 where State standards are in effect and operational. Federal responsibilities will be retained as to the following issues, among others: maritime standards (longshoring, shipbreaking, shipbuilding, and ship repair covered under 29 CFR 1910.13 through 1910.16); employee complaints and reports of fatalities and catastrophes received by the State or by OSHA with regard to which Federal enforcement responsibilities have been retained; and discrimination complaints under Section 11(c) of the Federal Act. Pursuant to 29 CFR 1954.3(f)(1) the agreement provides for resumption of Federal enforcement activity for failure to substantially comply with the provisions of the agreement, or as a result of evaluation or other relevant factors.

In accordance with this certification, 29 CFR 1952.214 is hereby amended to reflect successful completion of the developmental period by changing the title of the section and by adding paragraph (p) as follows:

§ 1952.214 Completion of developmental steps and certification.

* * * * *

(p) In accordance with § 1902.34 of this chapter, the Maryland occupational safety and health plan was certified effective February 15, 1980, as having completed all developmental steps specified in the plan as approved on July 5, 1973, on or before August 31, 1976. This certification attests to structural completion, but does not render judgment on adequacy of performance.

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

Signed at Washington, D.C., this day of February 6, 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80-4982 Filed 2-14-80; 8:45 am]

BILLING CODE 4510-26-M

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29 CFR Part 1952

Approved State Plans for Enforcement of State Standards; Approval of Supplements to Puerto Rico State Plan

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Approval of Puerto Rico Supplements.

SUMMARY: This notice approves the completion of a State-initiated change for Puerto Rico by adding three positions to the approved staffing pattern.

EFFECTIVE DATE: February 15, 1980.

FOR FURTHER INFORMATION CONTACT: John Smith, Project Officer, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Room N3613, Washington, D.C. 20210.

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 referred to as 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 August 30, 1977, notice was published in the Federal Register (42 FR 43628), of the approval of the Puerto Rico Plan and adoption of Subpart FF of Part 1952 containing the approval decision and a description of the plan.

Description of Supplement

Staffing: This supplement adds three positions to the Commonwealth's approved staffing pattern: One General Service Assistant and one Accountant, assigned to the Administration and Management Division; and one Audiovisual Equipment Technician, assigned to the Bureau of Support. The supplement also includes an organizational chart and position descriptions for the three positions.

Location of the Plan and Its Supplements for Inspection and Copying

A copy of this supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of State Programs, Occupational Safety and Health Adminstration, Room N3613, 200 Constitution Avenue, NW., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 3445, 1515 Broadway (1 Astor Plaza), New York, New York 10036; Puerto Rico Department of Labor and Human Resources, Occupational Safety and Health Office, 414 Barbosa Avenue, Hato Rey, Puerto Rico 00917.

Public Participation

Under § 1953.2(c) of this chapter the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called 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 the Commonwealth's State-initiated change described above is consistent with commitments contained in the approved plan, which were previously made available for public comment as well as with regulations for State plans at 29 CFR Part 1902 Subpart B. Accordingly, it is found that further public comment is unnecessary.

Decision

After careful consideration, the Commonwealth's plan change described above is hereby approved under Part 1953. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally.

Signed at Washington, D.C., this 6th day of February 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80-5129 Filed 2-14-80; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 69

[DoD Directive 1304.19] [1]

Department of Defense Dependents Schools (DODDS)

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule.

SUMMARY: This rule revises the policy and operation of the DoD dependents schools; authorizes publication of two DoD manuals on administrative and logistic responsibilities and the transportation of dependent school children in overseas areas; and establishes the Dependents Education Council. The revisions reflect the present DoD Dependents School charter.

EFFECTIVE DATES: The charter [DoD Directive 1304.19] was effective October 17, 1978; one change thereto was issued April 24, 1979. This change is incorporated in the revised Part 69, below. The final reorganization of the DODDS system to six regions was effective October 1, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Lee Bartley, Executive Assistant, DoD Dependents Schools, 2461 Eisenhower Avenue, Alexandria, VA 22331. Telephone 202-325-0660.

SUPPLEMENTARY INFORMATION: In FR Doc. 68-13081, appearing in the Federal Register on October 29, 1968 (33 FR 15909), the Office of the Secretary of the Secretary of Defense published Part 69. In FR Doc. 70-5187, appearing in the Federal Register on April 29, 1970 (35 FR 6750), the Office of the Secretary of Defense published an amendment to §§ 69.4 and 69.5. The Department of Defense is again revising this part. In addition, information on the reorganization of the DODDS is submitted.

Reorganization of DODDS

The locations of the three former DoD Dependents Schools headquarters for the Atlantic region was Pensacola, Florida; European region Karlsruhe, Germany; and Pacific region Futenma, Okinawa. A reorganization expanded the system from three to five regions, and Panama was added, effective October 1, 1979, as the sixth region. The names and locations of the headquarters of the six new regions are as follows:

Atlantic (DoDDS-A), Eastcote, United Kingdom
Mediterranean (DoDDS-M), Torrejon Air Base, Spain
Germany North (DoDDS-N), Wiesbaden, Germany
Germany South (DoDDS-S), Karlsruhe, Germany
Panama (DoDDS-PA), Balboa Heights, Republic of Panama

The Office of the Secretary of Defense is hereby amending Chapter I, 32 CFR, by revising Part 69, reading as follows:

PART 69—DEPARTMENT OF DEFENSE DEPENDENTS SCHOOLS (DoDDS)

Sec.
69.1 Reissuance and purpose.
69.2 Applicability.
69.3 Mission.
69.4 Organization.
69.5 Responsibilities and functions.
69.6 Relationships.
69.7 Authority.
69.8 Administration.
69.9 Delegations of authority.

Authority.—5 U.S.C. 301, 10 U.S.C. 133 and 7204, and recurring provisions of the DoD Appropriation Act.

§ 69.1 Reissuance and purpose.

This Part:

(a) Reissues this Part to authorize publication of DoD Manuals 1342.6-M-1, "Administrative and Logistic Responsibilities for DoD Dependents Schools," and 1342.6-M-2, "Transportation of Dependent School Children in Overseas Areas;"

(b) Establishes, pursuant to the authority vested in the Secretary of Defense, the Department of Defense Dependents Schools and the Dependents Education Council (DEC); and

(c) Sets forth policies for the administration, operation, and management of the DODDS.

§ 69.2 Applicability.

The provisions of this Part apply to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands, and the Defense Agencies (hereafter referred to as "DoD Components"). The term "Military Services," as used here, refers to the Army, Navy, Air Force, and Marine Corps.

§ 69.3 Mission.

The mission of the DODDS is to:

(a) Provide a quality education from kindergarten through grade 12 for eligible minor dependents of U.S. military and civilian personnel of the Department of Defense stationed overseas.

(b) Advise and counsel the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) on matters relating to dependents schools.

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120. Attention: Code 301.

§ 69.4 Organization.

(a) The DODDS shall be established as an Office of the Secretary of Defense field activity under the policy guidance of the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) and shall consist of:

(1) A Director.

(2) A subordinate organizational structure and such subordinate offices as shall be established by the Director within resources authorized by the Secretary of Defense.

(b) The DEC shall be established as an educational policy council for consultation with the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics). The DEC shall consist of the following full-time Government personnel:

(1) A Chairperson, who will be designated by the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics).

(2) One representative from each of the Military Services.

(3) One representative from each overseas unified command.

(4) The Director, DODDS, who shall serve as the Executive Secretary of the Council.

§ 69.5 Responsibilities and functions.

(a) The Director, DODDS, shall:

(1) Organize, manage, fund, direct, and supervise the complete operation of the DoD dependents schools and issue such policies and regulations as necessary to carry out the assigned mission.

(2) Enter into agreements with the Military Departments or other U.S. Government entities, as required for the effective performance of the dependents schools program.

(3) Establish subordinate offices necessary to fulfill the assigned mission.

(4) Provide support to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) in the development and justification of school construction, modification, and/or repair projects included in annual military construction programs.

(5) Under the overall direction of the ASD(MRA&L), develop, publish, and maintain DoD Manuals 1342.6-M-1 and DoD 1342.6-M-2 to implement the provisions of this Part and other policy decisions of the Secretary of Defense.

(b) The *Dependents Education Council* shall meet periodically to:

(1) Consider questions of policy.

(2) Facilitate exchange of information between the Director, DODDS, and the Military Departments.

(3) Provide advice to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) on matters pertaining to dependents schools.

(c) The *Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics)*, or a designee, shall:

(1) Recommend to the Secretary of Defense policies for the administration of DODDS.

(2) Provide policy guidance and management direction to the Director, DODDS.

(d) The *Assistant Secretary of Defense (Comptroller)* shall provide technical advice and support to the Director, DODDS, on financial management activities.

(e) The *Secretaries of the Military Departments* shall provide such facilities, logistics, and administrative support as are required for effective operation of the dependents schools program. Reimbursements for goods and services will be made in accordance with DoD Directives 1400.16,[1] "Inter-Departments Civilian Personnel Administration Support," October 30, 1970 and 4000.19[1], "Basic Policies and Principles for Interservice, Interdepartmental and Interagency Support, March 27, 1972. However, reimbursement will not be required for expendable medical supplies issued to the dependents schools. These supplies will be furnished and funded by the supporting activity.

§ 69.6 Relationships.

(a) In the performance of his/her duties, the Director, DODDS, shall:

(1) Coordinate with concerned elements of the Office of the Secretary of Defense and other DoD Components having collateral or related functions in the field of his/her assigned responsibility.

(2) Exchange information and advice with concerned elements of the Office of the Secretary of Defense and other DoD Components.

(3) Use established facilities in the Office of the Secretary of Defense and other DoD Components to avoid duplication.

(4) Consult and coordinate with other governmental and nongovernmental agencies on matters related to the mission assigned to DODDS.

(b) All DoD Components shall coordinate with the Director on all matters relating to dependents schools.

§ 69.7 Authority.

The Director, DODDS, is specifically delegated authority to:

(a) Obtain such information, consistent with the policies and criteria of DoD Directive 5000.19[2], "Policies for the Management and Control of Information Requirements," March 12, 1976, advice, and assistance from DoD Components as he deems necessary.

(b) Communicate directly with appropriate personnel in the Military Departments or other DoD Components on matters related to the dependents schools program.

(c) Exercise the operational and administrative authorities contained in § 69.9.

§ 69.8 Administration.

(a) The Director, DODDS, shall be a civilian selected by the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics).

(b) Administrative support for Headquarters, DODDS, will be provided by the Director, Washington Headquarters Services. Support for DODDS field elements will be provided by the other DoD Components in accordance with DoD interservice support agreements.

(c) The DODDS shall be authorized such personnel, facilities, funds, and other administrative support as the Secretary of Defense deems necessary.

§ 69.9 Delegations of authority.

(a) Pursuant to the authority vested in the Secretary of Defense, and subject to his direction, authority, and control, and in accordance with DoD policies, directives, and instructions, the Director, DoDDS, or, in the absence of the Director, a designee, is hereby delegated authority, as required in the administration and operation of DoDDS, to:

(1) Recruit, select, and appoint all overseas civilian employees for the dependents schools.

(2) Pursuant to 5 U.S.C. 302, exercise the powers vested in the Secretary of Defense pertaining to the employment, direction, and general administration of dependents schools civilian personnel overseas.

(3) Designate any position in DoDDS as a "sensitive" position, in accordance with the provisions of the Act of August 26, 1950, as amended (5 U.S.C. 7532); Executive Order 10450, April 27, 1953, as amended by Executive Orders 10491, 10531, 10458, and 10550; and 32 CFR 156.

(4) Authorize and approve overtime work for DoDDS civilian employees in accordance with the provisions of the

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120. Attention: Code 301.

[2] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120. Attention: Code 301.

Federal Personnel Manual Supplement 990-1, section 550.111.

(5) Develop, establish, and maintain an active and continuing Records Management program, pursuant to the provisions of section 506(b) of the Federal Records Act of 1950 (44 U.S.C. 3102); the Freedom of Information Act Program (32 CFR 286); and the Privacy Act Program (32 CFR 286a).

(6) Authorize the publication of advertisements, notices, or proposals in public periodicals, as required for the effective administration of DoDDS (44 U.S.C. 3702).

(7) Establish and maintain, for the functions assigned, an appropriate publications system for the promulgation of regulations, instructions, and reference documents, and changes thereto, pursuant to the policies and procedures prescribed in DoD Directive 5025.1 [1], "Department of Defense Directives System," November 18, 1977.

(8) In coordination with the DASD (Adminstration), enter into support and service agreements with the Military Departments, other DoD Components, or other Government agencies, as required for the effective performance of responsibilities and functions assigned to DoDDS.

(9) Enter into and administer contracts through the DASD (Administration) or, with his/her approval, directly or through a Military Department, a DoD contract administration services component, or other Government department or agency, as appropriate, for supplies, equipment, and services required to accomplish the mission of DoDDS. To the extent that any law or Executive Order specifically limits the exercise of such authority to persons at the Secretarial level of a Military Department, such authority will be exercised by the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics).

(b) The Director, DoDDS, may redelegate these authorities, as appropriate, and in writing, except as otherwise specifically indicated above or as otherwise provided by law or regulation.

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120. Attention: Code 301.

(c) This delegation of authorities is effective immediately.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

February 12, 1980.

[FR Doc. 80-4967 Filed 2-14-80; 8:45 am]

BILLING CODE 3810-70-M

VETERANS ADMINISTRATION

38 CFR Part 36

Increase in Maximum Permissible Interest Rate on New, Guaranteed, Insured and Direct Loans for Homes, Condominiums, Mobile Home Units and Site Preparation

AGENCY: Veterans Administration.

ACTION: Final Regulations.

SUMMARY: The VA (Veterans Administration) is increasing the maximum interest rate on guaranteed, insured and direct loans for homes and condominiums. The interest rate is also increased on loans for the purchase of mobile home units, lots, and for site preparation. The maximum interest rate is increased because the former interest rate was not sufficiently competitive to induce private sector lenders to make VA guaranteed or insured loans without imposing substantial discounts. The increase in the interest rate will assure a continuing supply of funds for home mortgages; thereby allowing veterans to purchase a home with the assistance of a no downpayment VA loan.

EFFECTIVE DATE: February 11, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. George D. Moerman, Loan Guaranty Service (264), Department of Veterans Benefits, Veterans Administration, 810 Vermont Ave., NW, Washington, D.C. 20420 (202-389-3042).

SUPPLEMENTARY INFORMATION: The Administrator is required to establish a maximum interest rate for loans guaranteed, insured or made by the Veterans Administration as he finds the mortgage money market demands. Recent market indicators—including the rate of discount charged by lenders on VA and Federal Housing Administration loans, the general increase in interest rates charged by lenders on conventional loans, and the results of the bi-weekly Federal National Mortgage Association auctions—have shown that the mortgage money market has become more restrictive. The maximum rate in effect for VA guaranteed loans has not been sufficiently competitive to induce private sector lenders to make VA guaranteed or insured loans without imposing substantial discounts. To assure a continuing supply of funds for home mortgages through the VA loan guaranty program it has been determined that an increase in the maximum permissible rate is necessary. The increased return to the lender will make VA loans competitive with other available investments and assure a continuing supply of funds for guaranteed and insured mortgages.

In addition, the maximum interest rate applicable to the purchase of mobile home units and site preparation of lots owned by veterans, is also being increased for the purpose of assuring a continuing source of funds. To provide a competitive yield to investors, manufacturers and mobile home dealers are being required to pay unacceptable discounts to obtain financing for veterans under the VA programs.

A loan to purchase a mobile home lot is similar to other real estate loans and for the purpose of assuring a continuing supply of funds and consistency with other real estate programs, the rate on these loans is also being increased.

The increase in the maximum interest rate is accomplished by amending §§ 36.4212(a) (1), (2) and (3), 36.4311(a), and 36.4503(a), Title 38, Code of Federal Regulations. Compliance with the procedure for publication of proposed regulations prior to final adoption is waived because compliance would create an acute shortage of mortgage funds pending the final date which would necessarily be more than 30 days after publication in proposed form.

By direction of the Administrator.

Approved: February 7, 1980.

Rufus H. Wilson,

Deputy Administrator.

1. In § 36.4212, paragraph (a) is revised to read as follows:

§ 36.4212 Interest rates and late charges.

(a) The interest rate charged the borrower on a loan guaranteed pursuant to 38 U.S.C. 1819 may not exceed the following maxima except on loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration prior to February 11, 1980. (38 U.S.C. 1819(f))

(1) 14 percent simple interest per annum for that portion of the loan which finances the purchase of a mobile home unit.

(2) 12 percent simple interest per annum for that portion of the loan which finances the purchase of a lot and the cost of necessary site preparation, if any.

(3) 12 percent simple interest per annum on that portion of a loan which will finance the cost of the site preparation necessary to make a lot owned by the veteran acceptable as the site for the mobile home purchased with the proceeds of the loan except that a rate of not to exceed 14 percent may be charged if the portion of the loan to pay for the cost of such necessary site preparation does not exceed $2,500.

* * * * *

2. In § 36.4311, paragraph (a) is revised to read as follows:

§ 36.4311 Interest rates.

(a) Excepting loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration which specify an interest rate in excess of 12 per centum per annum, effective February 11, 1980, the interest rate on any loan guaranteed or insured wholly or in part on or after such date may not exceed 12 per centum per annum on the unpaid principal balance. (38 U.S.C. 1803(c)(1))

* * * * *

3. In § 36.4503, paragraph (a) is revised to read as follows:

§ 36.4503 Amount and amortization.

(a) The original principal amount of any loan made on or after October 1, 1978, shall not exceed an amount which bears the same ratio to $33,000 as the amount of the guaranty to which the veteran is entitled under 38 U.S.C. 1810 at the time the loan is made bears to $25,000. This limitation shall not preclude the making of advances, otherwise proper, subsequent to the making of the loan pursuant to the provisions of § 36.4511. Loans made by the Veterans Administration shall bear interest at the rate of 12 percent per annum. (38 U.S.C. 1811(d) (1) and (2)(A))

* * * * *

(38 U.S.C. 1803(c)(1), 1819(f))

[FR Doc. 80-4976 Filed 2-14-80; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 65

[FRL 1411-6]

Delayed Compliance Orders; Approval of a Delayed Compliance Order Issued by the Pennsylvania Department of Environmental Resources

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Administrator of EPA hereby approves a Delayed Compliance Order (DCO) issued by Pennsylvania Department of Environmental Resources to the Pennsylvania Power and Light Company. The Order required the company to bring air emissions from its Montour Steam Electric Station Units 1 and 2 at Derry Township, Pennsylvania into compliance with certain regulations contained in the Federally approved Pennsylvania State Implementation Plan (SIP).

The Administrator's approval of the Order concludes the formal rulemaking process initiated by an earlier Federal Register notice proposing approval of the Order. 44 FR 33911 (June 13, 1979).

DATES: This rule takes effect on February 15, 1980.

ADDRESSES: A copy of the Delayed Compliance Order and supporting material are available for public inspection and copying during normal business hours at: Air Enforcement Branch, U.S. EPA, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106.

FOR FURTHER INFORMATION CONTACT: Thomas Showman (3EN11), U.S. EPA, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106, (215) 597-9387.

SUPPLEMENTARY INFORMATION: On June 13, 1979, the Regional Administrator of EPA's Region III Office published in the Federal Register Vol. 44 No. 115 (44 FR 33911) a notice proposing EPA approval of a Delayed Compliance Order issued by Pennsylvania Department of Environmental Resources to the Pennsylvania Power and Light Company. The Notice asked for public comments by July 13, 1979 on EPA's proposed approval of the Order.

No public comments have been received by this office; therefore, the Delayed Compliance Order issued to Pennsylvania Power and Light Company is approved by the Administrator of EPA pursuant to the authority of Section 113(d)(2) of the Clean Air Act, 42 U.S.C. § 7413(d)(2). The Order Placed Pennsylvania Power and Light on a schedule to bring its boiler Units 1 and 2 at the facility into compliance as expeditiously as practicable with Section 123.11 of Title 25, a part of the Federally approved Pennsylvania State Implementation Plan. The Order also imposed interim requirements complying with Sections 113(d)(c) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. The conditions of the Order permitted Pennsylvania Power and Light to delay compliance with the SIP regulations covered by the Order until July 1, 1979. The company was unable to comply immediately with these regulations, but did comply by July 1, 1979.

EPA has determined that its approval of the Order shall be effective upon publication of this notice. One effect of EPA approval of a delayed compliance order is to insulate the source subject to the Order from Federal and citizen litigation from the date of approval to the date of final compliance. In this instance, compliance occurred before EPA approval, and therefore it is the company's compliance with the SIP, rather than the Federal approval, that will protect the company from litigation. EPA is approving this order to conclude the rulemaking initiated by the June 13, 1979 Federal Register notice of proposed approval.

Authority: 42 U.S.C. §§ 7413(d), 7601.

Dated: February 11, 1980.

Barbara Blum,

Acting Administrator.

In consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By amending § 65.431 to read as follows:

§ 65.431 EPA Approval of State Delayed Compliance Orders issued to major stationary sources.

* * * * * * *

Source	Location	SIP regulation(s) involved	Date of FR proposal	Final compliance date
Pennsylvania Power & Light Co. Montour Units 1 and 2.	Derry Township, Pa.	Section 123.11 of Title 25.	June 13, 1979	July 1, 1979.

[FR Doc. 80-4978 Filed 2-14-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR 65

[FRL-1404-2]

Delayed Compliance Order for General Motors Corp., General Motors Assembly Division, Fremont, Calif.

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Administrator of EPA hereby issues a Delayed Compliance Order (DCO) to General Motors Corporation (GMC), General Motors Assembly Plant, Fremont, California. The DCO requires GMC to bring its two paint spray booths at Fremont, California, into compliance with 40 CFR 52.254(d), part of the Federally promulgated California State Implementation Plan (SIP). GMC's compliance with the DCO will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act for violation of the SIP regulation covered by the DCO during the period the DCO is in effect.

EFFECTIVE DATE: February 15 1980.

ADDRESSES: The DCO and supporting materials are available for public inspection and copying during normal business hours at: Enforcement Division Offices, EPA, Region IX, 215 Fremont Street, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: David S. Mowday, Chief, Air and Hazardous Materials Branch, Enforcement Division, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105. Phone: (415) 556-6150.

SUPPLEMENTARY INFORMATION: On December 4, 1979, the Regional Administrator of EPA's Region IX Office published in the Federal Register, 44 FR 69686, a notice setting out the provisions of a proposed DCO for GMC. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed DCO. No public comments or requests for a public hearing were received in response to the proposal notice. However, three typographical errors and an omission of part of a sentence were subsequently detected in the text of the proposed DCO. The typographical errors were in paragraphs B and E of the DCO and the omission was in paragraph F of the DCO. The typographical errors and the omission have been corrected in this final rulemaking action on the DCO without making another notice of proposed rulemaking since the Administrator of EPA has determined that the corrections are not significant enough to warrant such an action.

Therefore, a DCO effective this date is issued to GMC by the Administrator of EPA pursuant to Section 113(d)(4) of the Clean Air Act, as amended, 42 U.S.C. 7413(d)(4) (hereinafter referred to as the "Act"). The DCO places GMC on a schedule to bring its two paint spray booths at Fremont, California, into compliance as expeditiously as practicable with 40 CFR 52.254(d), part of the Federally promulgated SIP. The DCO also imposes interim requirements which meet Section 113(d)(7) of the Act, and reporting requirements. Due to the nature of the source operation, emission monitoring requirements would be unreasonable. If the conditions of the DCO are met, it will permit GMC to delay compliance with the SIP regulation covered by the DCO until August 31, 1981. The company is unable to immediately comply with this regulation.

EPA has determined that the DCO shall be effective upon publication of this notice because of the need to immediately place GMC on a schedule for compliance with the applicable requirements of the SIP.

Authority: Sections 113 and 301 of the Clean Air Act, as amended (42 U.S.C. 7413 and 7601).

Dated: January 30, 1980.

Douglas M. Costle,

Administrator, Environmental Protection Agency.

In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding the following entry in the table in § 65.90:

§ 65.90 Federal delayed compliance orders issued under sections 113(d) (1), (3), and (4) of the act.

Source	Location	Order No.	SIP regulation involved	Date of FR proposal	Final compliance date
*	*	*	*	*	*
General Motors Corporation	Fremont, Calif.	9-79-266.	40 CFR 52.254(d)	12-4-79	8-31-81

2. The text of the DCO reads as follows:

U.S. Environmental Protection Agency, Region IX

Docket No. 9-79-266

Delayed Compliance Order

In the Matter of: General Motors Corporation General Motors Assembly Division, Fremont, California. Proceeding under Section 113(d)(4) of the Clean Air Act, as Amended.

This Order is issued this date pursuant to Section 113(d)(4) of the Clean Air Act, as amended, 42 U.S.C. 7413(d) (hereinafter referred to as the "Act") and contains a schedule for compliance, interim control requirements, and reporting requirements. Public notice, opportunity for a public hearing, and thirty (30) days notice to the State of California have been provided pursuant to Section 113(d)(1)of the Act.

Findings

On April 15, 1977, R. L. O'Connell, Director, Enforcement Division, Region IX, United States Environmental Protection Agency (hereinafter referred to as "U.S. EPA"), pursuant to authority delegated to him by the Administrator of the U.S. EPA, issued a Notice of Violation to the General Motors Corporation (hereinafter "GMC"), General Motors Assembly Division, Fremont, California (hereinafter "source") pursuant to Section 113(a)(1) of the Act, 42 U.S.C. 7413(a)(1), informing GMC that the No. 1 passenger color spray booth and the No. 2 truck color spray booth at the source were found to be in violation of 40 CFR 52.254(d), dealing with the control of organic solvent emissions. The regulation is part of the Federally promulgated implementation plan for California. Said violations have continued beyond the thirtieth day after the date of the Enforcement Division Director's notification.

On July 25, 1979, GMC met with representatives of the U.S. EPA, Region IX and proposed the use of two control systems, new means for reducing solvent emissions of organic materials from automotive paint spray booths, to meet the requirements of 40 CFR 52.254(d). The systems would be implemented on the No. 1 color booth on the passenger car line and on the No. 2 color booth on the truck line at the source. The system for the No.1 passenger color booth will consist of carbon adsorption, higher solids paint, electrostatic paint spray equipment and catalytic incineration. The system for the No. 2 truck color booth will consist of carbon adsorption, higher solids paint and electrostatic paint spray equipment. GMC requested from the U.S. EPA a delayed compliance Order for the time necessary to install and implement such innovative technology as provided by Congress in Section 113(d)(4) of the Act.

After a thorough investigation of all relevant facts, EPA has determined that:

(1) GMC is unable to immediately comply with 40 CFR 52.254(d);

(2) the control systems are new means of emission limitation for control of solvent emissions from automotive paint spray booths;

(3) the use of this innovative technology is likely to be adequately demonstrated upon expiration of this Order;

(4) this means of emissions reductions has a substantial likelihood to achieve interim reductions and to achieve greater final equivalent emission reductions than required by 40 CFR 52.254(d) at substantial economic and energy savings and with substantial non-air quality environmental benefit over conventional technology;

(5) such new means is not likely to be used without this Order;

(6) compliance with 40 CFR 52.254(d) is impractical prior to or during installation of the new means; and,

(7) that the issuance of this Order is consistent with the policy and intent of Section 113(d)(4).

Order

After a thorough investigation of all relevant facts, including public comment, it is determined that the schedule for compliance set forth in this Order is as expeditious as practicable, and that the terms of this Order comply with Section 113(d) of the Act. Therefore, it is hereby Agreed and Ordered that:

A. GMC shall bring the No. 1 color booth on the passenger car line and the No. 2 color booth on the truck line at the source into compliance with the emission limitation and standards contained in 40 CFR 52.254(d) no later than August 31, 1981.

B. GMC shall achieve compliance with 40 CFR 52.254(d) in accordance with the following schedule:

No. 1 Color Booth on the Passenger Car Line

(1) Award of contract for installation of catalytic incineration on oven—August 1, 1979
(2) Complete installation of spinning disc electrostatic station #1, side spray equipment—August 27, 1979
(3) Complete conversion of all colors to 22% dispersion lacquer—August 31, 1979
(4) Complete installation of fixed bed carbon adsorption unit and catalytic incineration on first color oven—November 26, 1979
(5) Complete construction of floor conveyor in spray booth—January 20, 1980
(6) Complete installation of spinning disc electrostatic station #1 top spray, stations #2 and #3 side and top sprays—January 27, 1980
(7) Complete Phase I testing—April 1, 1980
(8) Issue report on Phase I testing and determine if system should continue into Phase II—April 15, 1980
(9) If Phase II is to continue:
  a. Complete installation of hand electrostatic spray equipment if permitted by contract and otherwise necessary—May 15, 1980
  b. Let contract for additional carbon adsorption units—June 1, 1980
  c. Complete conversion of all colors to 27% dispersion lacquer—September 15, 1980
  d. Complete installation of additional carbon adsorption units—July 1, 1981
(10) If Phase I has not resulted in compliance and Phase II is not to continue:
  a. Initiate conversion to waterborne painting system—April 15, 1980
  b. Complete conversion to waterborne painting system—August 31, 1981
(11) Achieve final compliance with 40 CFR 52.254(d) and submit performance test results to demonstrate compliance—August 31, 1981

No. 2 Color Booth on the Truck Line

(1) Complete conversion of all enamel from 35% to 42%—September 14, 1979
(2) Complete installation of 20,000 CFM carbon adsorption unit—January 7, 1980
(3) Complete installation of spinning disc electrostatic stations #1 and #2—January 21, 1980
(4) Complete Phase I testing—April 1, 1980
(5) Issue report on Phase I testing and determine if system should continue into Phase II—April 15, 1980
(6) If Phase II is to continue:
  a. Complete installation of hand electrostatic spray equipment if permitted by contract and otherwise necessary—May 15, 1980
  b. Let contract for additional carbon adsorption units—June 1, 1980
  c. Complete installation of additional carbon adsorption units—July 1, 1981
(7) If Phase I has not resulted in compliance and Phase II is not to continue:
  a. Initiate conversion to waterborne painting system—April 15, 1980
  b. Complete conversion to waterborne painting system—August 31, 1981
(8) Achieve final compliance with 40 CFR 52.254(d) and submit performance test results to demonstrate compliance—August 31, 1981

C. No later than five (5) days after the end of each quarter, GMC shall notify U.S. EPA in writing of its compliance or noncompliance with any incremental step or final compliance date provided in this Order and reasons therefor. If any delay is anticipated in meeting any requirements of this Order, GMC shall immediately notify U.S. EPA in writing of the anticipated delay and reasons therefor. Notification to U.S. EPA of any anticipated delay does not excuse the delay. All submittals and notifications to U.S. EPA, pursuant to this Order, shall be made to Clyde B. Eller, Director, Enforcement Division, Region IX, U.S. EPA, 215 Fremont Street, San Francisco, California 94105. In addition, all submittals and notifications required in this Order shall simultaneously be transmitted to the California Air Resources Board (CARB) and the Bay Area Air Quality Management District (BAAQMD).

D. GMC shall provide the U.S. EPA, CARB, and BAAQMD at least 30 days notice prior to the conducting of any performance tests in order to afford an opportunity to evaluate test method and procedure and to have an observer present at such testing.

E. Upon completion of the installation, operation, and testing increments shown for the source, GMC will present to the U.S. EPA, the CARB and the BAAQMD all pertinent test results and data, including spray booth parameters so as to allow each agency to evaluate the performance of the new system. At the same time, GMC will prepare a report for the U.S. EPA, CARB and BAAQMD (1) evaluating test results, (2) demonstrating compliance with 40 CFR 52.254(d) or noncompliance therewith, (3) describing why compliance was or was not achieved, (4) if compliance was achieved, describing the key operational and design factors that contributed to compliance and whether any other changes could be made to improve performance, and (5) if compliance was not achieved, describing key operational and design factors explaining such noncompliance and an engineering assesment as to whether ultimate compliance could be achieved and specifying operational and design parameters which can be instituted to achieve compliance. At each of the enumerated increments in the compliance schedule, GMC will advise the U.S. EPA, CARB and BAAQMD of its progress. After the reports of April 15, 1980 required by the schedule are issued, upon request of the designated representatives of each agency, GMC agrees to consult with them as to all engineering assessments and future design or operational changes necessary to achieve compliance or improve upon it.

F. Pursuant to Section 113(d)(7) of the Act, during the period of this Order GMC shall use the best practicable systems of emission reduction so as to minimize organic solvent emissions from each booth and shall further comply with the requirements of the applicable implementation plan insofar as it is able to. The source shall immediately institute an operation and maintenance procedure which will result in the minimization of organic solvent emissions from both booths on a day-to-day basis during the interim period preceding final compliance.

G. Nothing contained in these Findings or Order shall affect GMC's responsibility to comply with State or local laws or regulations or other Federal laws or regulations.

H. GMC is hereby notified that its failure to meet the interim requirements of this DCO or to achieve final compliance by August 31, 1981 at the source covered by this Order may result in a requirement to pay a noncompliance penalty in accordance with Section 120 of the Act, 42 U.S.C. 7420. In the event of such failure, GMC will be formally notified pursuant to Section 120(b)(3), 42 U.S.C. 7420(b)(3), and any regulations promulgated thereunder of its noncompliance.

I. This Order shall be terminated in accordance with Section 113(d)(6) of the Act if the Administrator or his delegate determines on the record, after notice and hearing, that an inability to comply with 40 CFR 52.254(d) no long exists.

J. Violation of any requirement of this Order shall result in one or more of the following actions:

1. Enforcement of such requirement pursuant to Section 113(a), (b) or (c) of the Act, 42 U.S.C. 7413(a), (b) or (c), including possible judicial action for an injunction and/or penalties and in appropriate cases, criminal prosecution.

2. Revocation of this Order, after notice and opportunity for public hearing, and subsequent enforcement of 40 CFR 52.254(d) in accordance with the preceding paragraph.

K. This schedule is protected by Section 113(d)(10) against Federal enforcement action and citizen suits under Section 304 until August 31, 1981, where the owner or operator of said source is in compliance with the terms of such Order.

L. Nothing herein shall be construed to be a waiver by the Administrator of any rights or remedies under the Act, including, but not limited to Section 303 of the Act, 42 U.S.C. 7503.

M. In the event that the California State Implementation Plan shall be substantially modified or amended during the period of time in which this Order is in effect so as to make the above-described control program inadequate or unnecessary to achieve compliance with such modified or amended California State Implementation Plan, GMC and the U.S. EPA shall forthwith meet to discuss possible or appropriate modification of this Order as circumstances shall then require. No decision shall be necessary until U.S. EPA approves any proposed revisions to the California State Implementation Plan. Any such discussions shall not operate so as to amend or modify the obligations and undertakings herein contained pending the issuance of any amending or modifying Order.

N. This Order shall become effective upon final promulgation in the Federal Register.

Dated: January 30, 1980.

Douglas M. Costle,

Administrator, U.S. Environmental Protection Agency.

GMC has reviewed this Order, consents to the terms and conditions of this Order, and believes it to be a reasonable means by which the sources can achieve final compliance with 40 CFR 52.254(d).

Dated: September 20, 1979.

Kenneth M. Brooks,

General Motors Corporation.

[FR Doc. 80-4958 Filed 2-14-80; 8:45 am]
BILLING CODE 6560-01-M

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40 CFR Part 65

[FRL-1403-7]

Delayed Compliance Order for General Motors Corp.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA issues a Delayed Compliance Order to General Motors Corporation (GMC). The Order requires the Company to bring air emissions from its Fisher Body Divisions in Columbus, Elyria, Hamilton, and Mansfield, Ohio; New Departure Hyatt Bearings Division at Sandusky, Ohio, and Packard Electric Division at Warren, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). GMC's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violations of the SIP regulations covered in the Order.

DATES: This rule takes effect on February 15, 1980.

FOR FURTHER INFORMATION CONTACT: Anne Swofford, Attorney, United States Environmental Protection Agency, Region V, 230 S. Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353-2082.

SUPPLEMENTARY INFORMATION: On September 26, 1979, the Regional Administrator of U.S. EPA's Region V Office published in the Federal Register (44 FR 55396), a notice setting out the provisions of a proposed Federal Delayed Compliance Order for GMC. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No request for a public hearing was received in response to the Notice. A comment was received from GMC. GMC noted that it is unable to meet certain dates in the schedules as they were published on September 26, 1979 in the proposed approval notice. These schedules have now been modified to reflect these changes.

In the schedule for Packard Electric Division, Warren, Ohio, incremental step "d" was changed from September 24, 1979 to September 27, 1979.

Several incremental steps in the schedule for Fisher Body Division, Columbus, Ohio were changed. Incremental step "e" was changed from October 15, 1979 to November 30, 1979; step "f" from January 15, 1980 to January 30, 1980 and step "g" from November 1, 1979 to December 17, 1979.

In the schedule for Fisher Body Division, Elyria, Ohio, incremental step "a" was changed from April 15, 1979 to August 15, 1979; step "b" from August 1, 1979 to September 20, 1979; step "c" from September 1, 1979 to October 30, 1979; step "d" from September 15, 1979 to November 7, 1979; step "e" from September 15, 1979 to October 22, 1979; step "f" from November 15, 1979 to January 3, 1980; and step "g" from November 15, 1979 to January 15, 1980.

In the schedule for Fisher Body Division, Hamilton, Ohio, incremental step "c" was changed from September 1, 1979 to November 15, 1979; step "d" from September 15, 1979 to December 3, 1979; step "e" from October 15, 1979 to January 15, 1980; step "f" from January 15, 1980 to March 1, 1980; and step "g" from December 1, 1979 to January 28, 1980.

In the schedule for Fisher Body Division, Mansfield, Ohio, incremental step "e" was changed from October 15, 1979 to November 15, 1979.

No changes were made in the schedule for the New Departure Hyatt Bearings Division, Sandusky, Ohio.

None of the changes involve the dates for the test evaluation or the final compliance dates.

Therefore, a Delayed Compliance Order effective this date is issued to GMC by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(1) of the Act, 42 U.S.C. 7413(d)(1). The Order places GMC on a schedule to bring its facilities into compliance as expeditiously as practicable with Regulations AP-3-07 and AP-3-11, a part of the federally approved Ohio State Implementation Plan. GMC is unable to immediately comply with these regulations. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit GMC to delay compliance with the SIP regulations covered by the Order until July 1, 1981.

Compliance with the Order by GMC will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulations covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulations covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that GMC is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place GMC on a schedule for compliance with the Ohio State Implementation Plan. (Authority: 42 U.S.C. 7413(d), 7601)

Dated: January 11, 1980.

John McGuire,

Regional Administrator.

February 12, 1980.

Barbara Blum,

Acting Administrator.

In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

By adding the following entry to the table in Section 65.400:

§ 65.400 Federal delayed compliance orders issued under sections 113(d) (1), (3), and (4) of the act.

Source	Location	Order No	Date of FR proposal	SIP regulation involved	Final compliance date
*	*	*	*	*	*
GENERAL MOTORS CORPORATION					
Fisher Body Division	Columbus, Ohio	EPA-5-80-A-3	9/26/79	AP-3-11, AP-3-07	7/1/81
Fisher Body Division	Elyria, Ohio	EPA-5-80-A-4	9/26/79	AP-3-11, AP-3-07	7/1/81
Fisher Body Division	Hamilton, Ohio	EPA-5-80-A-5	9/26/79	AP-3-11, AP-3-07	7/1/81
Fisher Body Division	Mansfield, Ohio	EPA-5-80-A-6	9/26/79	AP-3-11, AP-3-07	7/1/81
New Departure Hyatt Bearings Division	Sandusky, Ohio	EPA-5-80-A-7	9/26/79	AP-3-11, AP-3-07	7/1/81
Packard Electric Division	Warren, Ohio	EPA-5-80-A-8	9/26/79	AP-3-11, AP-3-07	7/1/81
*	*	*	*	*	*

[FR Doc. 80-4963 Filed 2-14-80; 8:45 am]

BILLING CODE 6560-01-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

41 CFR Parts 51-3 and 51-4

Workshop Certification

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Final rule.

SUMMARY: On September 28, 1979 a document was published in the Federal Register (44 FR 55911) proposing to amend Committee regulations regarding the submission and processing of initial and annual certifications by workshops and central nonprofit agencies. The changes were occasioned by the revision of the Committee's Forms 401 through 404 which are used for reporting by workshops of certain data required by the Committee under the Act. The changes are the result of a review by the Committee of the reports it requires from workshops in order to reduce the amount of information provided by workshops and the amount of records workshops must maintain.

No comments were received. The amendments are adopted without change as set forth below.

EFFECTIVE DATE: February 15, 1980.

FOR FURTHER INFORMATION CONTACT:
C. W. Fletcher (703) 557-1145.

E. R. Alley, Jr.,

Acting Executive Director.

PART 51-3—CENTRAL NONPROFIT AGENCIES

1. In § 51-3.2 revise paragraphs (j) and (k) to read as follows:

§ 51-3.2 Responsibilities.

* * * * *

(j) At the time the central nonprofit agency recommends to the Committee the addition of a commodity or service to the Procurement List, it shall submit a completed, original copy of the appropriate Initial Certification (Committee Form 401 or 402) for the workshop concerned. This requirement does not apply to a workship that is already authorized to produce a commodity or provide a service under the Act.

(k) Review and forward to the Committee by December 15 of each year a completed, original copy of the appropriate Annual Certification (Committee Form 403 or 404) for each of its participating workshops covering the fiscal year ending the preceding September 30.

2. Add a new § 51-3.6 to read as follows:

§ 51-3.6 Reports to central nonprofit agencies.

Any information, other than that contained in the Annual Certification required by paragraph 51-4.3(a)(4), which a central nonprofit agency requires its workshops to submit on an annual basis shall be requested separately from the Annual Certification. Any such request shall not indicate that the information is requested by the Committee. The central nonprofit agency shall, prior to distribution, provide to the Committee a copy of each form which it plans to use to obtain such information from its workshops and, when requested, shall make available to the Committee the results of the information so obtained.

PART 51-4—WORKSHOPS

3. In § 51-4.2 redesignate paragraphs (a)(3), (b), and (c) as paragraphs (b), (c), and (d) respectively and revise to read as follows:

§ 51-4.2 Procedures for qualification.

* * * * *

(b) The Committee shall review the documents submitted and, if they are acceptable notify the workshop by letter, with a copy to its central nonprofit agency, that the Committee has verified its nonprofit status under the Act.

(c) Submit two completed copies of the appropriate Initial Certification (Committee Form 401 or 402) to its central nonprofit agency, when the addition of a commodity or service is recommended to the Committee for provision by the workshop. This requirement does not apply if a workshop is already authorized to produce a commodity or provide a service under the Act.

(d) To maintain its qualification under the Act, each workshop authorized to produce a commodity or provide a service under the Act must continue to meet the requirements for a "workshop for the blind" or "workshop for the other severely handicapped" as defined in paragraph 51-1.2(h) or (i), respectively. Additionally, each such workshop shall complete and submit the appropriate Annual Certification (Committee Form 403 or 404) as required by paragraph 51-4.3(a)(4).

4. In § 51-4.3 revise paragraphs (a)(4), (a)(7) and (a)(8) to read as follows:

§ 51-4.3 Responsibilities.

Each workshop participating under the Act shall:

* * * * *

(4) Submit to its central nonprofit agency by November 15, two completed

copies of the appropriate Annual Certification covering the fiscal year ending the preceding September 30.

* * * * *

(7) Maintain a file on each blind and other severely handicapped individual which includes reports on the individual's capability for normal competitive employment, prepared at least annually by a person or persons qualified by training and experience to evaluate the work potential, interests, aptitudes and abilities of handicapped persons. The file on individuals who have been in the workshop for less than two years shall contain the report of the initial or preadmission evaluation and, where appropriate, the next annual reevaluation. The file on individuals who have been in the workshop for two or more years shall, as a minimum, contain reports of the two most recent annual reevaluations.

(8) Maintain an ongoing placement program with staff assigned responsibility for evaluation and placement to include liaison with appropriate community services such as the State employment service, employer groups and others; and list with one or more of these services those individuals whose most recent evaluations show them to be capable of normal competitive employment.

* * * * *

[FR Doc. 80-4964 Filed 2-14-80; 8:45 am]
BILLING CODE 6820-33-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 5776]

List of Communities Eligible for the Sale of Insurance under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, phone: (800) 638-6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of Eligible Communities.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified
Arizona	Maricopa	Gilbert, town of	040044B	Jan. 16, 1980, suspension withdrawn	Apr. 5, 1974 and Oct. 15, 1976.
Connecticut	Middlesex	Haddam, town of	090066B	do	May 31, 1974 and July 16, 1976.
Florida	Putnam	Interlachen, town of	120391A	do	Dec. 3, 1976.
Idaho	Idaho	Unincorporated areas	160213	do	
Illinois	Lake	Libertyville, village of	170377B	do	Nov. 2, 1973 and Oct. 22, 1976.
Iowa	Iowa	Marengo, city of	190157B	do	Jan. 23, 1974 and Jan. 2, 1976.
Do	Black Hawk	Hudson, city of	190022B	do	Mar. 8, 1974 and June 25, 1976.
Minnesota	Anoka	Unincorporated areas	270005A	do	Jan. 16, 1980.
Do	Lac Qui Parle	Dawson, city of	270241B	do	Apr. 12, 1974
Missouri	Jefferson	Arnold, city of	290188B	do	June 28, 1974 and Jan. 2, 1976.
Nebraska	Sarpy	Bellevue, city of	310191B	do	Dec. 7, 1973 and Feb. 27, 1976.
Do	do	La Vista, city of	310192B	do	June 21, 1974 and Dec. 19, 1975.
New York	Chemung	Ashland, town of	360147B	do	Nov. 9, 1973 and Apr. 11, 1975.
Do	Erie	Grand Island, town of	360242B	do	Aug. 2, 1974 and Oct. 3, 1975.
Do	Dutchess	Pleasant Valley, town of	360221B	do	July 26, 1974 and Nov. 21, 1975.
Pennsylvania	Lackawanna	Archbald, borough of	420524B	do	May 17, 1974 and Apr. 9, 1976.
Do	Clinton	Avis, Borough of	420318A	do	Jan. 16, 1980.
Do	Lackawanna	Blakely, borough of	420525A	do	Jan. 16, 1980.
Do	Delaware	Chester Heights, Borough of	420406B	do	Mar. 30, 1973 and Aug. 6, 1976
Do	Lackawanna	Dickson City, borough of	420528B	do	Feb. 8, 1974 and Nov. 7, 1975.
Do	Lancaster	East Donegal, township of	421768B	do	May 31, 1974 and May 21, 1976.
Do	do	Martic, township of	421146B	do	Sept. 6, 1974, and May 21, 1976.
Do	Delaware	Morton, borough of	420423B	do	Feb. 14, 1975 and Sept. 26, 1975.
Do	Northampton	Plainfield, township of	421147B	do	Sept. 13, 1974 and June 11, 1976.
Do	do	Wilson, borough of	421927B	do	Sept. 13, 1974, and June 18, 1976.
Do	Clinton	Woodward, township of	420337B	do	Oct. 26, 1973 and May 21, 1976.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified
Alabama	Elmore	Unincorporated areas	010406	Jan. 16, 1980, emergency	Dec. 15, 1978.
Arkansas	Lonoke	Allport, city of	050379	do	Oct. 23, 1978
Illinois	Sangamon	Jerome, village of	171004—New	do	
Pennsylvania	Forest	Green, township of	421644	do	Jan. 24, 1975.
Do	Allegheny	Thornburg, borough of	420077	do	Nov. 12, 1976.
New York	Steuben	Greenwood, town of	361210	Jan. 17, 1980, emergency	Jan. 3, 1975.
Do	Wayne	Red Creek, village of	361548	do	Jan. 10, 1975.
Do	do	Walworth, town of	361228B	do	Dec. 13, 1974 and Oct. 10, 1975.
South Dakota	Minnehaha	Baltic, town of	460058	do	Dec. 6, 1974.
Tennessee	Henderson and Decatur	Scotts Hill, town of	470322	do	July 2, 1976.
Mississippi	Holmes	Cruger, town of	280313	Jan. 18, 1980, emergency	Oct. 27, 1978.
New York	Wayne	Palmyra, village of	365896	do	July 29, 1977.
Pennsylvania	do	Lebanon, township of	422567	do	Jan. 3, 1975.
Kansas	Kearny	Unincorporated areas	200588A	Jan. 21, 1980, emergency	July 12, 1977.
California	Los Angeles	Beverly Hills, city of	060655	Jan. 24, 1980, emergency	
Georgia	Rabun	Mountain City, city of	130252A	Jan. 30, 1980, emergency	Jan. 17, 1975 and Oct. 22, 1976.
Pennsylvania	Monroe	Paradise, township of	421891	do	Apr. 11, 1975.
Texas	McLennan	Leroy, city of	481314A	Jan. 30, 1980, emergency, Jan. 30, 1980, regular.	May 9, 1978.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: January 30, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-4737 Filed 2-14-80; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[FCC 80-34]

Delegations of Authority to the Chief, Office of Plans and Policy

AGENCY: Federal Communications Commission.

ACTION: Adoption of order.

SUMMARY: The FCC is amending its rules of organization to delegate authority to the Office of Plans and Policy regarding the extension of time for comments and reply comments on any dockets that the Office of Plans and Policy may have under consideration. This authority is being delegated pursuant to a request from that Office.

EFFECTIVE DATE: February 15, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. Nina W. Cornell, Chief, Office of Plans and Policy, (202) 653–5940.

SUPPLEMENTARY INFORMATION:

Adopted: January 30, 1980.

Released: February 6, 1980.

Order. In the matter of Amendment of Part O of the Commission's rules with respect to delegations of Authority to the Chief, Office of Plans and Policy.

1. The Commission had reviewed the request for delegated authority submitted by the Office of Plans and Policy and has decided that the public interest would be served by amending Part 0, Subpart B (Chapter I, 47 CFR) to permit the Chief, Office of Plans and Policy to extend time for comments and reply comments on any docket Items that the Office of Plans and Policy may have under consideration insofar as authority is not delegated to any other Bureau or Office, or the item is one over which the Office of Plans and Policy has primary responsibility. This amendment will permit disposal at staff level in accordance with established policy and precedent unless a particular matter warrants referral to the Commission.

2. Authority for the adoption of this Order is contained in Section 5(d) of the Communications Act. We are not issuing a Notice of Proposed Rulemaking as this matter is related solely to internal Commission management, practices and procedures; and as the early implementation of this amendment will expedite the transaction of public business, compliance with the notice and effective date provisions of the Administrative Procedures Act, 5 U.S.C. 553 is not required.

3. Accordingly, it is ordered, that effective February 15, 1980, Part 0, Subpart B Chapter I of Title 47 of the Code of Federal Regulations of the rules is amended to add § 0.271 delegating authority to the Office of Plans and Policy and that the request by the Office of Plans and Policy be hereby granted. (See Attached Appendix below)

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; (47 U.S.C. 154, 303.))

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 0, of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. Section 0.271 is added to read as follows:

Office of Plans and Policy

§ 0.271 Authority delegated.

[a] Insofar as authority is not delegated to any other Bureau or Office, and with respect only to matters which are not in hearing status, the Chief, Office of Plans and Policy is delegated authority to deny requests or to extend the time within which comments may be filed in dockets over which the Office of Plans and Policy has primary authority.

[FR Doc. 80-4737 Filed 2-14-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 79-109; RM-3153]

Noncommercial Educational Channel Assignments Under the United States-Mexico FM Broadcast Agreement (San Antonio, Tex.); Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action taken herein assigns noncommercial educational FM Channel 215A to San Antonio, Texas, in response to a petition filed by the Classical Broadcasting Society of San Antonio. The channel could be used to bring additional noncommercial educational broadcasting service to this growing area.

EFFECTIVE DATE: March 24, 1980.

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

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Report and Order

Adopted: February 6, 1980.
Released: February 11, 1980.

In the matter of amendment of Section 73.504(a), Noncommercial Educational Channel Assignments Under the United States-Mexico FM Broadcast Agreement. (San Antonio, Texas), BC Docket No. 79-109 RM-3153.

By the Acting Chief, Policy and Rules Division:

1. The Commission has under consideration its *Notice of Proposed Rule Making*, adopted May 2, 1979, 44 FR 28027, inviting comments on a proposal filed by the Classical Broadcasting Society of San Antonio ("petitioner"), which seeks the assignment of noncommercial educational FM Channel 215A to San Antonio, Texas. Supporting comments were filed by petitioner in which it reaffirmed its intention to file for the channel, if assigned. No oppositions to the proposal were received.

2. San Antonio (pop. 785,000), seat of Bexar County (pop. 830,460),[1] is located in southern Texas, approximately 290 kilometers (180 miles) west of Houston. There are three noncommercial educational FM assignments in San Antonio: KSYM-FM operates on Channel 211A; KRTU operates on Channel 219A; and two applications are pending for use of Channel 206C.

3. The *Notice* indicated that the San Antonio proposal was consistent with applicable criteria called for by the United States-Mexico FM Broadcast Agreement.[2] However, concurrence of the Mexican Government was required and has since been obtained.

4. In supporting comments, petitioner states that it intends to utilize the proposed channel for a noncommercial educational FM station which will broadcast educational, classical and cultural music, as well as other programming devoted to the arts. It claims that preliminary studies have indicated that a noncommercial educational station with this format would be favorably received by the population which has traditionally provided financial support for such programming.

[1] Population figures were taken from the 1970 U.S. Census.

[2] The Agreement and the Commission's rules implementing it apply to the area within 320 kilometers (199 miles) of the United States-Mexico border.

5. The Commission believes that the public interest would be served by assigning Channel 215A to San Antonio, Texas. It has been shown that San Antonio is a growing area in which there is interest in providing additional noncommercial educational broadcasting service.

6. Authority for the action taken herein is contained in Sections 4(i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

7. In view of the foregoing, IT IS ORDERED, That effective March 24, 1980, Section 73.504(a) of the Commission's Rules, the Table of Assignments for Noncommercial FM Channels, IS AMENDED for the listed community to read as follows:

City:	*Channel No.*
San Antonio, Tex	206, 211A, 215A, 219A.

8. It is further ordered, That this proceeding is terminated.

9. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

Henry L. Baumann,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-4972 Filed 2-14-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 79-175; RM-3359]

Radio Broadcast Services; Television Broadcast Station in Vancouver, Wash.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action taken herein assigns UHF television Channel 49 to Vancouver, as its first commercial television channel, in response to a petition filed by KLRK Broadcasting Company. The channel can provide Vancouver with its first commercial television broadcast service.

EFFECTIVE DATE: March 24, 1980.

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

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

Report and Order—Proceeding Terminated

Adopted: February 6, 1980.
Released: February 11, 1980.

In the matter of Amendment of § 73.606(b), *Table of Assignments*, Television Broadcast Stations. (Vancouver, Washington), BC Docket No. 79-175, RM-3359.

1. The Commission has before it a *Notice of Proposed Rule Making*, adopted July 17, 1979, 44 FR 43495, in response to a petition filed by KLRK Broadcasting Corporation ("petitioner"). The petition originally requested that the reservation for Channel *14 at Vancouver, Washington, be removed to permit its use by a commercial station. However, in view of the availability of a different channel for assignment to Vancouver (Channel 49), it was decided to propose this channel instead so as to retain the noncommercial reservation on Channel *14 for future use. Comments were filed by petitioner to which Public Broadcasting Service ("PBS") responded.

2. Vancouver (pop. 41,859),[1] seat of Clark County (pop. 128,454), is located in southwest Washington, directly across the Columbia River from Portland, Oregon. Vancouver is presently assigned Channel *14 (unoccupied and unapplied for). It receives television service from four commercial Portland, Oregon, stations (KATU, Channel 2; KOIN-TV, Channel 6; KGW-TV, Channel 8; and KPTV, Channel 12). Portland is also assigned Channel 24 on which there are four applications pending.

3. Petitioner states that it has shown that although Channel *14 has been allocated to Vancouver on a reserved basis for many years, no sign of interest has been shown for its use. It claims that the proposed indefinite retention of this particular channel in Vancouver by the Commission in the *Notice* is unsupported. Petitioner claims that while the delays inherent in implementation of the proposed assignment of Channel 49 would pose no problem to educational use, since no foreseeable future interest has appeared, they would be extremely adverse to petitioner and the southwest Washington public because petitioner is prepared to apply for and construct the facility forthwith. It contends that since UHF television is not present in Portland-Vancouver now, the difficulties in pioneering it will be substantial. It claims that Channel *14, since it is numerically adjacent to Channel 13,

[1] Population figures are taken from the 1970 U.S. Census.

would be an advantage since it is at one end of the UHF band and would face less confusion and resistance, factors which are important to petitioner.

4. PBS points out that petitioner believes Channel *14 has certain advantages over Channel 49. However, in this regard, PBS notes that the Commission in its decision to assign Channel*56 to Fairfax, Virginia, and retain Channel 14 in Washington, D.C., for commercial use, rejected consideration of a suggestion that lower UHF channels are more desirable than higher ones, stating that it has never recognized a significant difference between the propagation capabilities of the lower and higher UHF channels. PBS states that, since there is another channel available for commercial use, the Commission should not disturb the present reservation on Channel *14.

5. We do not believe the public interest would be served by deleting the reservation on Channel *14, especially since another channel can be assigned to Vancouver.[2] Channel 49 is available and would provide Vancouver with a first commercial television service. We do not believe there are significant impediments to the institution of commercial UHF television service on Channel 49. The four pending applications for the Channel 24, Portland, Oregon, commercial assignment and a petition for rule making (RM-3399) to add Channel 40 to Portland, indicate a great deal of current interest in bringing commercial UHF broadcasting to the area. Finally, as PBS pointed out, the Commission does not recognize a significant difference between lower and higher UHF channels.

6. The Canadian Government has given its concurrence to the assignment of UHF television Channel 49 to Vancouver, Washington.

7. Authority for the adoption of the amendment contained herein appears in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

8. Accordingly, it is ordered, that effective March 24, 1980, the Table of Television Assignments, § 73.606(b) of the Commission's rules, is amended as follows for the community listed below:

City:	Channel No.
Vancouver, Wash.	*14, 49.

9. It is further ordered, that this proceeding is terminated.

10. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-9660.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307))

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast Bureau.

[FR Doc. 80-4975 Filed 2-14-80; 8:45 am]

BILLING CODE 6712-01-M

[2] See also *High Point, N.C.* (Docket 79-127), 44 FR 67665 (1979); *Kalamazoo, Mich.* (Docket 79-170), 44 FR 67667 (1979).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 621

Administrative Sales of Seized Fish; Interpretive Rule

AGENCY: National Oceanic and Atmospheric Administration/ Department of Commerce.

ACTION: Interpretive rule; statement of policy.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) publishes an interpretive rule which (1) describes NOAA's authority to seize fish taken or retained in violation of the Fishery Conservation and Management Act of 1976 (the Act), (2) announces NOAA policy with respect to such seizures, and (3) establishes NOAA procedures regarding the sale or other disposition of fish seized under the Act.

DATE: The policies and practices described by this Notice are effective February 15, 1980.

FOR FURTHER INFORMATION CONTACT: Stephen J. Powell, NOAA Office of General Counsel (GCEL), Room 280-L, Page 1 Building, 2001 Wisconsin Avenue, NW, Washington, D.C. 20235. Telephone: (202) 254-8350.

SUPPLEMENTARY INFORMATION:

1. *Seizure of illegal catch.* Section 311(b) of the Act, 16 U.S.C. 1861, provides in part as follows:

(b) Powers of Authorized Officers.—Any officer who is authorized * * * to enforce the provisions of this Act may—

(1) with or without a warrant or other process—

(C) seize any fishing vessel (together with its fishing gear, furniture, appurtenances, stores, and cargo) used or employed in, or with respect to which it reasonably appears that such vessel was used in, the violation of any provision of this Act;

(D) seize any fish (wherever found), taken or retained in violation of any provision of this Act; * * *

These provisions serve as the statutory basis for seizures of allegedly excess or otherwise illegal catches by enforcement agents of the National Marine Fisheries Service in carrying out their duties under the Act. They reflect the fact that, under section 307(1)(G) of the Act, 16 U.S.C. 1857(1)(G), possession, purchase, or sale of fish taken or retained in violation of the Act is prohibited.

Proper enforcement of the Act, and protection of the fishery resources, require prompt and effective action to neutralize the effect of resource-related violations of the Act. Those who violate the Act by exceeding applicable catch limitations, by fishing in a closed area or by engaging in fishing after the closure of a fishery should not be permitted to retain the fish so taken, or their value, pending adjudication of their status. It is therefore in the public interest, as well as good enforcement policy, to set aside fish reasonably believed to have been taken or retained in violation of the Act, and to fix their monetary value until a court of competent jurisdiction has finally ordered appropriate disposition.

2. *NOAA Policy With Respect to Seizures.* It is the policy of NOAA to seize and seek forfeiture of all fish which it believes to have been taken or retained in violation of the Act, whenever such seizure is administratively feasible. Where excess catch is involved, an amount of fish commensurate with the excess will be seized. Where the amount of excess is substantial, or where other types of violations are involved, the entire catch may be seized. Disposition of seized fish will be made in accordance with procedures described below.

It is emphasized that seizure of illegal catch does not foreclose the possibility of subsequent civil penalty proceedings. To the contrary, civil penalties will continue as a principal response to violations of the Act. Seizure is regarded as an initial step in the process of remedying a violation, and sets the stage for subsequent civil or criminal proceedings, as appropriate.

3. *Sale of Seized Fish.* Section 310 of the Act, "Civil Forfeitures", 16 U.S.C. § 1860, authorizes the agency to conduct administrative sales of perishable and other seized fish. In addition, Section 310 provides NOAA with authority commensurate with that traditionally available to officers of the United States Customs Service for disposition of perishable and other seized goods. Section 310(d) of the Act provides, in part, that:

(2) Any fish seized pursuant to this Act may be sold, subject to the approval and direction of the appropriate court, for not less than the fair market value thereof. The proceeds of any such sale shall be deposited

with such court pending the disposition of the matter involved.

The perishable nature of seized fish requires that its value be preserved by expeditious sale and subsequent impounding of the proceeds pending final resolution of the matter at hand. Sale of fish seized under the Act therefore serves the Congressional intent, and protects the interests of all parties to the transaction. The interest of the public is likewise served by avoiding the spoilage and waste that would otherwise occur, and by insuring that the relative positions of NOAA and alleged violators are maintained pending resolution of the matter.

Therefore, pursuant to section 310 of the Act, officers authorized to enforce the Act may sell, for not less than fair market value and under such terms and conditions as they may deem reasonable, such fish as may be seized by them in the course of their duties. The proceeds of such sales, less costs, shall be promptly submitted to an appropriate court of competent jurisdiction, with a complaint *in rem* for forfeiture of the fish.

This is an interpretive rule establishing NOAA policy and procedures. As such it is exempt from the requirements of public hearing and notice in 5 U.S.C. 553.

Signed at Washington, D.C., this 6th day of February, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

50 CFR Part 621 is therefore amended as follows:

Add new paragraph (d) to § 621.2 to read as follows:

§ 621.2 Enforcement policy.

* * * * *

(d)(1) In view of the perishable nature of fish, any person authorized to enforce the regulations contained in this Chapter may cause to be sold, and any person may purchase, for not less than its fair market value, such quantities of perishable fish as may be seized pursuant to the Act.

(2) The proceeds of any such sale, after deducting the reasonable costs of the sale, if any, shall be submitted to an appropriate court of competent jurisdiction and an *in rem* complaint for forfeiture shall be filed with respect to such proceeds.

(3) Seizure and sale of fish shall be without prejudice to any other remedy or sanction authorized by law and this Chapter.

[16 U.S.C. § 1801, *et seq.*]

[FR Doc. 80-4525 Filed 2-14-80; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Everglades National Park; Fishing and Boating Regulations

AGENCY: National Park Service.

ACTION: Final rule.

SUMMARY: The regulations set forth below are necessary to ensure the preservation and enjoyment of the unique estuarine-marine resources of Everglades National Park. These regulations have been designed to provide greater resource protection through regulated use and to provide for increased recreational use and enjoyment of park resources by resolving the competition between commercial and recreational fishermen. This will be accomplished by: (1) closure of additional areas of Florida Bay to all public entry by establishing sanctuary areas to protect all endangered and threatened species inhabiting and transiting the area, (2) restrictions on recreational shellfish harvest (blue crab traps, stone crab traps and spiny lobster), (3) establishment of bag limits for fish species, (4) assimilation of the State of Florida statutes for commercial stone crabbing, and (5) elimination of commercial fishing by December 31, 1985, within waters of the park.

EFFECTIVE DATE: March 17, 1980.

FOR FURTHER INFORMATION CONTACT: Richard H. Dawson, Resources Management Specialist, Marine Resources, Everglades National Park, Telephone: (305) 247-6211.

SUPPLEMENTARY INFORMATION:

Background

In January 1979, the National Park Service distributed for public review "An Assessment of Fishery Management Options for Everglades National Park, Florida". This assessment explored management options for assuring the preservation and enjoyment of the unique estuarine-marine resources of Everglades National Park. The assessment and the processes that led up to it were designed to determine through public and professional involvement whether an environmental impact statement was required, and more importantly, which of the options presented in the assessment or arising as the result of public input or further professional examination should be addressed as special rules in Title 36 of the Code of Federal Regulations.

Following publication of the assessment, the National Park Service held four public workshops throughout South Florida. These workshops, attended by 611 people, were designed to solicit public input. In addition to the workshops, the National Park Service received numerous written comments. The Service has thoroughly reviewed and analyzed comments on various options, suggestions for substitute options, and philosophical comments on the reasons for the establishment or the use of renewable resources within Everglades National Park. As a result of this review, a "Review of Fishery Management Alternatives at Everglades National Park, Florida" was prepared. The review considered the nature of the resource, available alternatives, their impacts, mitigating measures to minimize impacts on the environment, and additional considerations providing the basis for this rulemaking and supporting the conclusion that an environmental impact statement is not needed. The "Review of Alternatives" described the process by which environmental and economic effects, feasibility, management implications, and other factors have been evaluated. It identified options that will be implemented through these special rules and will guide future management of the park.

The net effect of the options selected is to provide greater protection of the natural resources through regulated use and to provide for increased recreational use and enjoyment of park resources. Selected options are to be accomplished by: (1) closure of additional areas of Florida Bay to all public entry by establishing sanctuary areas to protect all endangered and threatened species in the area; (2) restrictions on recreational shellfish harvest (blue crab traps, stone crab traps and spiny lobster); (3) establishment of bag limits for fish species; and (4) elimination of commercial fishing in the park on December 31, 1985.

On September 14, 1979, the National Park Service published proposed regulations in the Federal Register (44 FR 53541). The Service invited comments for a period of 60 days. In addition, public hearings were held at Miami, Homestead, Marathon and East Naples.

A total of 737 written and oral comments were received. These included nine petitions containing a total of 3,061 signatures with some duplications. Some of the persons who signed the petitions also duplicated their comments by making oral presentations at the public hearings and by submitting other written comments. Thirty-five persons wrote forty letters to congressional representatives, the Director of the National Park Service or the Secretary of the Interior.

The National Park Service acknowledged in writing the comments from 706 individuals. Many of the comments failed to address all or part of the proposed regulations as published September 14, 1979.

Special interest groups that contributed comments included:

Islamorada Fishing Club
Game Conservation International
The Wilderness Society
Field and Stream Magazine
Everglades Protection Association
Metropolitan Dade County, Florida
National Audubon Society (incl. Florida Audubon, Tropical Audubon, Florida Keys Audubon, and St. Lucie Audubon)
Florida League of Anglers, Inc.
Southwest Anglers Club
National Coalition for Marine Conservation, Inc.
Miami Sierra Club
Miami Sportfishing Club
Friends of the Everglades
South Dade Senior High School Ecology Club
Florida Defenders of the Envvironment, Inc.
Izaak Walton League of America (incl. Cypress Chapter)
Islamorada Sportsmen and Liars Association
Outdoor Life Magazine
Sea (boating magazine)
Sports Illustrated (magazine)
Islamorada Guides Association, Inc.
Federation of Fly Fishermen
Metropolitan South Florida Fishing Tournament
Ducks Unlimited, Inc.
U.S. Fish and Wildlife Service
Southeastern Fisheries Association, Inc.
City of Everglades
National Marine Fisheries Service
Organized Fishermen of Florida (incl. Panama City and Pine Island Chapters)
Coalition of Concerned Citizens for Big Cypress National Preserve
Florida Upper Keys Chamber of Commerce
Florida Department of Natural Resources
Florida Game and Fresh Water Fish Commission

Comments and Modification of the Proposed Regulations

The National Park Service has carefully considered all comments received and in some cases, adopted suggestions made. Those comments and reasons for accepting or rejecting them are discussed below.

1. *Crocodile sanctuary area closures.* Six petitions were circulated in the Upper Florida Keys expressing a strong objection to the proposed crocodile sanctuary area in northeast Florida Bay. These petitions were signed by 370 individuals. Additionally, there were 112 written comments received and three oral comments heard opposing the sanctuary designations. Most of the written comments, 529 individuals, failed to specifically address the proposed sanctuary designation in their correspondence.

Support for the sanctuary concept was forwarded, in particular, by the U.S. Fish and Wildlife Service and National Audubon Society. Also, 96 written comments were received and nine oral comments heard supporting this sanctuary designation.

The proposed sanctuary area is contained in federally designated critical habitat for the American crocodile and West Indian manatee, both endangered species. In order to eliminate the adverse effects of human intrusion and boat use on crocodile nesting areas or habitat for juvenile and adult crocodiles and manatees, the area will be closed to all public entry. The closed area includes: the unnamed back bays of Long Sound, Snag Bay, Joe Bay, Davis Creek, Mud Creek, Dynamite Pass, and Little Madiera Bay. This sanctuary designation will afford a high level of protection to all endangered and threatened species inhabiting or transiting the area while allowing boaters unrestricted use of the remainder of Florida Bay, all of which is currently federally designated critical habitat for the American crocodile.

Following the suggestions forwarded by the American Crocodile Recovery Team, the Park Service will study this area intensively, in order to document its value as a sanctuary for all endangered and threatened species, including the American crocodile. The Park Service recognizes that the sanctuary concept is untested but feels that the American crocodile will benefit from the complete protection that such management will provide. Therefore, this regulation is adopted as proposed.

2. *Restrictions on recreational shellfish harvest.* There were no petitions received opposing the restrictions on recreational shellfish harvest in park waters. A total of 90 written and 8 oral comments supporting the proposed restrictions were received. Comments received opposing these restrictions totaled eighteen written and six oral with 629 individuals who submitted written comments not addressing this proposal.

The restrictions on recreational shellfish harvest were proposed to restore the historical size and age structure, distribution and abundance of the spiny lobster population in the park. Additionally, recreational stone crab and blue crab harvest has been restricted to the use of attended gear only, due to the fact that unattended

trap lines and buoys present navigational hazards.

Therefore, in light of the potential benefits to the spiny lobster population of Florida Bay and the increased safety brought about by the removal of recreational crab trap buoys and buoy lines, this regulation is adopted as proposed.

3. *Bag limits.* The Service received one petition containing thirty signatures in support of the bag limits as proposed, except that the bag limit for redfish should be reduced to four per angler per day. Comments supporting the bag limits as proposed amounted to 189 individual written comments and twenty-five oral comments. There were a substantial number of comments received and heard (75 written and 16 oral) on reducing the redfish bag limit from ten fish to four fish per angler per day. Opposition to the bag limit proposal totaled 16 written and seven oral comments. Much of the opposition to bag limits concerned itself with the fact that gamefish stocks, especially gray snapper, were not declining and therefore, a bag limit form of fishery management was not justified. Additionally, two petitions, containing 272 signatures, were received and three oral comments heard asking for commercial hook and line fishermen to be exempt from the bag limit proposal.

The reduction of the redfish bag limit to four fish per angler per day was not implemented. This proposal would only affect 7.3% of the recreational fishermen landing red drum, thereby reducing harvest by a total of 3,240 fish.

The bag limit proposal remained a popular management option during the public hearings and comment review period. This action will result in a slight reduction in recreational harvest (2.6% to 5.7%) but will provide an additional 227,500 to 402,500 pounds of fish annually to the ecosystem. This proposal will prevent recreational fisherman from harvesting large numbers of gamefish for sale. Additionally, this proposal will effectively abolish the commercial hook and line fishery for spotted seatrout, gray snapper and redfish in park waters resulting in an annual loss of $113,000 to $197,000, and displacing sixty three fishermen currently holding permits. Since the bag limits will allow more finfish biomass to be reallocated to the ecosystem, provide a management tool for controlling recreational fishing harvest, and allow for multiple use of the finfish resources of the park, this regulation will be implemented as proposed.

One of the factors being addressed in these rules is the competition between recreational and commercial fishermen in park waters. The commercial hook and line fishermen best personify this competition since they use the same type of gear, fish in the same areas and harvest the same species, namely gamefish, preferred by the recreational fishermen. Since this form of commercial fishing directly conflicts with the recreational fishermen for the same sportfish resource, a waiver of exemption for the commercial hook and line fishman from compliance with the bag limit rules has not been adopted.

4. *Prohibition of commercial fishing by December 31, 1985.* This proposal evoked the most comment and attention. There were 215 written comments, 52 oral comments, and one petition containing 30 signatures in support of this proposal. Most of the supportive comments, 151 written and 19 oral, called for a phaseout period of less than the proposed December 31, 1985 deadline. The service received 396 written and 46 oral comments, and two petitions containing 2,373 signatures in opposition to the prohibition of commercial fishing.

These regulations will affect approximately 164 commercial fishermen currently engaged in stone crabbing and net fishing. It will result in the loss of $740,000 to $887,000 annually. Commercial hook and line fishermen losses are addressed under the bag limit discussion.

The prohibition of commercial fishing in park waters was instituted because it offered a definitive solution to the competition between commercial and recreational fishing interests in the park, and addressed comments concerning commercial fishing as an inappropriate use of natural resources in a National Park Service area.

The phase out of commercial fishing will reallocate 1.1 to 1.5 million pounds of fish and 152,000 to 220,000 pounds of mature male crabs to the ecosystem annually for consumption by predators and other fishermen both inside and outside the park. It will also eliminate the possibility of net encounters and crab trap entanglement with endangered species. This is especially important since United Nations Education, Scientific, and Cultural Organization (UNESCO) has recently designated Everglades National Park as a "World Heritage Site" in the natural area category. This elevates the importance of protecting extant wildlife populations in the park to international treaty status. For these reasons, the Park Service will adopt the regulations as proposed to prohibit commercial fishing in Everglades National Park by December 31, 1985. It is felt that this will allow an adequate amount of time for the commercial fisherman to amortize his equipment and reestablish himself in areas outside the park boundaries.

5. A significant number of the comments, both written and oral, stated that improper water management was the cause of the park's marine resources problems. Those comments suggested that quantity and quality of fresh water entering the park was inadequate at the present time. Many of the commenters were disturbed that the Park Service failed to address this problem in the proposed rules.

The water management situations is one that need not be addressed in the Code of Federal Regulations at this time. There is no basis or precedent for such regulation since the U.S. Army Corps of Engineers and the South Florida Water Management District control water distribution. However, the National Park Service is working very closely with these two agencies to correct past mistakes in design and to insure that proper quantities of freshwater are delivered on a schedule which will enhance the park's biotic resources.

Additionally, some commenters, mostly commercial fishermen, questioned the park's management of the flood control ditches on Cape Sable and the closure of Buttonwood Canal. Those commenters felt that reopening these ditches coupled with the closing of Buttonwood Canal would restore the natural hydroperiod and productivity of this area. The Corps of Engineers, in conjunction with the National Park Service, has appropriated funds to begin construction of an earthen plug at Flamingo in 1980 in an attempt to restore historical salinity levels to Whitewater Bay and Coot Bay.

National Park Service studies of the Cape Sable ditches must be completed before a decision will be made whether or not to remove the existing plugs.

6. Some commenters thought that an Environmental Impact Statement (EIS) should have been prepared and preceded the proposed rules in accordance with the National Environmental Policy Act (NEPA). They also felt that the proposals represented a significant federal action, again requiring preparation of an EIS.

In the "Review of Alternatives" the National Park Service determined that the proposed regulations contained therein were not significant as defined under Executive Order No. 12044 and 43 CFR, Part 14, and that a regulatory analysis was not necessary. In essence, it was determined that the proposed regulations did not represent a major federal action significantly affecting the quality of the human environment. No new data or evidence has been

presented or received to change this intial determination, and therefore, the preparation of an Environmental Impact Statement is not warranted.

7. Some commenters suggested that the terms "commercial fishermen" and "guide fishermen" be defined in the rules. The Park Service has adopted this suggestion and these terms can be found in the definitions, § 7.45(e) (12) and (13).

8. One commenter suggested that the mojarra be included in the bait fish definition. The Park Service has adopted this suggestion and it can be found in the rules under definitions, § 7.45 (e)(10) and (f)(8).

9. One commenter suggested that ballyhoo be included as bait fish. The Park Service has adopted this suggestion and it can be found in the rules under definitions, § 7.45 (e)(11) and (f)(8).

10. A number of commenters thought that the National Park Service was mandated to manage its fishery resources on a sustained yield basis. The management policies of the Park Service (Chap. IV, Page 8) were revised on February 8, 1978, from the sustained yield concept, to read: "Fisheries management in natural zones—shall be specifically aimed towards preservation or restoration of the full spectrum of native species, including fish; and, shall be regulated for native species so that mortality is compensated by natural reproduction."

Drafting Information

The following persons participated in the writing of these regulations: John M. Good, Superintendent, and Richard H. Dawson, Resources Management Specialist, Everglades National Park; and Michael V. Finley, National Park Service, Division of Ranger Activities and Protection, Washington, D.C.

Impact Analysis

The National Park Service has made a determination that the proposed regulations contained in this rulemaking are not significant, as that term is defined under Executive Order No. 12044 and 43 CFR, Part 14, nor do they require the preparation of a regulatory analysis pursuant to the provisions of those authorities. In addition, the Service has determined that the proposed regulations do not represent a major federal action significantly affecting the quality of the human environment which would require preparation of an Environmental Impact Statement.

Authority

Section 3 of the Act of August 25, 1916, (39 Stat. 535, as amended, 16 U.S.C. 3); 245 DM 1 (27 FR 6395) as amended; and National Park Service Order 77 (38 FR 7478), as amended.

Daniel J. Tobin, Jr.,

Associate Director, Management and Operations.

In consideration of the foregoing, § 7.45 of Title 36 of the Code of Federal Regulations is amended as follows by the addition of paragraphs (e), (f), (g) and (h).

§ 7.45 Everglades National Park.

* * * * *

(e) *Definitions.* (1) The term "cast net" means a type of circular falling net, weighted on its periphery, which is thrown and is retrieved by hand.

(2) The term "spiny lobster" (crawfish) means invertebrates of the genus *Panulirus.*

(3) The term "dipnet" means a device for obtaining bait, the netting of which is fastened in a frame.

(4) The term "mullet" means a member of the family Mugilidae.

(5) The term "minnow" means a fish used for bait from the family Cyprinodontidae, Poeciliidae, or Atherinidae.

(6) The term "ornamental tropical fish" means finfish not commonly used for food or bait, belonging to the families Syngathidae, Apogonidae, Pomacentridae, Scaridae, Blennidae, Callionymidae, Gobiidae, Ostraciidae and Diodontidae.

(7) The term "pilchard" means a member of the herring family (Clupeidae), generally used for bait.

(8) The term "pinfish" means a member of the genus *Lagodon* (family: Sparidae).

(9) The term "shrimp" means a member of the invertebrate family Penaeidae.

(10) The term "mojarra" or "goats" means a member of the family Gerreidae.

(11) The term "ballyhoo" means a member of the genus *Hemiramphus* (family: Exocoetidae).

(12) The term "commercial fisherman" means a person, firm or corporation engaged in the harvesting or fishing of an edible sea product for sale or barter.

(13) The term "guide fisherman" means a person or group of persons who provide a service to visitors of the park for the purpose of fishing or interpretation of the natural resources.

(f) *Fishing.* Except as provided in these regulations, or in § 2.13 of Title 36 of the Code of Federal Regulations, all fishing shall be done in accordance with the laws of the State of Florida, including license requirements; and such nonconflicting State laws are hereby adopted and made a part hereof by reference.

(1) A person, firm, or corporation engaged in commercial fishing, commercial harvesting, or guide fishing for an edible sea product in the waters of the park open for this purpose must possess an annual nonfee commercial fishing permit issued by the Superintendent.

(2) Seahorses, starfish, spiny lobster, ornamental tropical fish, nonfood fish as defined by the laws of the State of Florida, and mollusks other than oysters shall not be taken from park waters for any purpose.

(3) The taking of oysters from the waters of the park is prohibited, except by hand or rake for personal use.

(4) Recreational crabbing (stone and blue) may be conducted using attended gear only and no more than five (5) traps per person. Buoyed traps and other unattended gear are prohibited.

(5) Crabs (stone and blue) may be taken from park waters by commercial fishermen as provided for in Florida statutes 370.13, 370.132 and 370.135 and subject to the following restrictions:

(i) A person, firm, or corporation must possess a valid commercial fishing permit as provided for in subsections (f)(1) of this section and shall not operate more than a total of 400 traps.

(ii) All traps shall be made of wood and be buoyed as provided for in Florida statute 370.13.

(iii) Traps may be used only in those park waters hereinafter described; *provided, however,* that such traps may not be placed closer than 200 feet from any key or marked waterway:

Blackwater Sound and Buttonwood Sound; that portion of Florida Bay south of a line drawn from the southern tip of Boggy Key to the northern tip of Whaleback Key, then to the southeastern tips of Low Key, Stake Key, and Manatee Key, thence westerly to a small unnamed key north of Jimmies Channel, thence south following shoal waters to Captains Key, thence westerly following shoal waters touching a series of unnamed keys to Panhandle Key, thence to the northern tips of Spy Key, Sid Key, Cluett Key, Man-of-War Key, thence to the southern tip of Sandy Key, thence to the Intracoastal Waterway Marker No. 2 south of East Cape Sable; and the area south and west of a line connecting said marker to points one-quarter mile offshore from East Cape, Middle Cape, Northwest Cape, Shark Light, Shark Point, Highland Point, Porpoise Point, Seminole Point, Mormon Key, Pavilion Key, Rabbit Key, Indian Key Light and to the park boundary corner at approximately 25°50' N. latitude, 81°30' W. longitude.

(6) Live bait (shrimp, minnows, pilchards, pinfish, mullet, mojarras or ballyhoo) may be taken by fishermen with hook and line, dipnet (not exceeding 3 feet at its widest point), or by cast net (not exceeding 12 feet in

diameter). No live bait shall be taken by fishermen for the purpose of sale. Dipnets and cast nets may not be dragged or trawled.

(7) Gill nets shall not exceed singly or in combination 1,200 yds. in length and shall have a stretch mesh of not less than 2½ in. from knot to knot after being shrunk. Twine used shall not exceed No. 208 nylon or monofilament. Only one lead line and one cork line shall be permitted, and neither lead nor cork lines shall be more than five-sixteenths of an inch in diameter. No purse, pocket or other special device for entrapping or catching fish shall be used on a gill net except as provided for in subsection (f)(9) of this section. Gill nets may be gathered or taken in by hand only and shall not be dragged. Nets shall not be pulled up on shore. Gill nets may be tied together and used in groups of not more than three: *Provided,* that the nearest net or groups of nets shall be at least 500 yards from any other gill net. When used at night, such nets shall be marked with lighted buoys.

(8) Trammels shall have a stretch mesh of not less than 12 inches (on gill nets of not less than 3¼ inches stretch mesh). Trammel nets shall not exceed 1,200 yards in length used singly or in combination. Trammel nets shall not be dragged. The nearest set or group of sets shall be at least 200 yards from any other net. When used at night, such nets shall be marked with lighted buoys. Trammel nets shall not be used within the Florida Bay area of the park.

(9) Except as provided in this section, no nets, seines, traps, spears, explosives, or other devices for the trapping, catching, killing, or taking of fish, bait, or other edible product of the sea, except hook and line, may be placed, used or possessed by any person, firm, or corporation within the park.

(10) No person, firm, or corporation engaged in commercial fishing shall leave any net, trap, or other device used for taking products of the sea unattended for more than fourteen (14) days.

(11) The following described areas are closed to all fishing: (i) All waters of T. 58 S., R. 37 E., sections 10 through 15, inclusive, measured from Tallahassee meridian and base, in the vicinity of Royal Palm Visitor Center, except Donut Lake and Pine Island Lake.

(ii) All waters in T. 54 S., R. 36 E., sections 19, 30, and 31, and in T. 55 S., R. 36 E., sections 6, 7, 18, 19, and 30, measured from Tallahassee meridian and base, in the vicinity of Shark Valley Loop Road from Tamiami Trail south.

(12) The following described areas are closed to all commercial fishing and to the taking of products of the sea by nets or traps for any purpose:

(i) All inland bays, bights, canals, lakes, rivers, and other bodies of water lying inland from the shores of Florida Bay and, in addition, the area north of a line drawn from Christian Point to Shark Point to Mosquito Point, including Otter Key, thence to Crocodile Point to Terrapin Point and to Madeira Point.

(ii) All inland bays, lakes, canals, rivers, and other bodies of water lying inland from the nearest recognizable mainland shoreline from Flamingo to East Cape Sable and north to and including Lostman's River. For the purpose of this paragraph, the mainland shorelines shall be considered to be that area where the gulf coast rivers flow into the Gulf of Mexico.

(iii) From Lostman's River north to the park boundary corner at approximately 25°50'N. latitude, 81°30'W. longitude, the following inland waters: Gopher Key Creek from its junction with Cannon Bay southwestward through Charlie Creek to the Gulf of Mexico, all waters in the Gopher Key Creek drainage basin, and all waters from the north end of Alligator Creek to Onion Key.

(13) West Lake Pond, Coot Bay Pond, and other small ponds bordering the park road shall be closed to fishing and the harvesting of any edible product of the sea during those periods, as determined by the Superintendent, that such action is necessary to protect feeding and roosting birds. Notice of closing shall be given by the posting of appropriate signs at these locations.

(14) Possession of a gill net, trammel net, crab trap, or other commercial fishing equipment while in closed waters is prohibited; except that during an emergency or in times of inclement weather, boats with such equipment may anchor behind outside islands or in the mouths of rivers only. The equipment may not be used or taken from the boat during this time and when the emergency or inclement weather has passed, boats with such equipment aboard shall be removed from such closed waters.

(15) Nets, gear and fish, and other edible products of the sea that are legally possessed in State waters but are illegally possessed in park waters may be transported through the park only over Indian Key Pass, Sand Fly Pass, Rabbit Key Pass, Chokoloskee Pass and a passageway northwestward by the most direct route across Chokoloskee Bay to Fakahatchee Bay. Boats traveling through these passageways with such nets, gear, fish, or other edible products of the sea shall remain in transit unless disabled.

(16) Fish may not be fileted while in or on Park waters, except for four (4) filets per person for immediate consumption.

(17) Bag limits: No person shall take, have in his possession, buy, offer for sale, sell, or unnecessarily destroy, at any time more than: Ten (10) fish of one species, excluding bait fish, as stated in subsection (f)(7), and not totally more than twenty (20) fish of all species, excluding bait fish.

(g) *Boating.* (1) West Lake Pond and West Lake shall be closed to all vessels during those periods, determined by the superintendent, that these areas are being used by feeding birds. At all other times, these areas, including Little Sable Creek, shall be open only to hand-propelled vessels or Class A motorboats powered by motors not to exceed 5½ horsepower that can be launched by hand. Notice of closing will be given by the posting of appropriate signs at these areas.

(2) Except to effect a rescue, or unless otherwise officially authorized, no person shall land on keys of Florida Bay except those marked by signs denoting the area open, nor on the mainland shorelines from Terrapin Point eastward to U.S. Highway 1, including the shores of all inland bays and waters and those shorelines contiguous with Long Sound, Little Blackwater Sound, and Blackwater Sound.

(3) Motorboats are prohibited in the following inland fresh water areas: Long Pine Key Lake, Pine Glade Lake, Sisal Pond, Big Ficus Pond, Sweetbay Pond, Paurotis Pond, Nine Mile Pond, Royal Palm Pond, Pine Island Pond, Parachute Key Ponds, Coot Bay Pond, Mrazek Pond, and L67 canal.

(4) The following described areas are closed to all public entry: Little Madeira Bay, Taylor River, East Creek, Mud Creek, Davis Creek, Joe Bay and its easternmost portion, commonly called Snag Bay, and all creeks inland from the northern shoreline of Long Sound to U.S. Highway 1.

(5) Vessels used as living quarters shall not remain in or be operated in the waters of the Park for more than 14 days without a permit issued by the Superintendent. Said permit will prescribe anchorage location, length of stay, sanitary requirements and such other conditions as considered necessary.

(6) The following area bordering the Shark Valley Loop Road from Tamiami Trail south is closed to all boating: Sections 19, 30, and 31, Township 54 South, Range 36 East; sections 6, 7, 18, 19, and 30, Township 55 South, Range 36 East.

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BILLING CODE 4310-70-M

Proposed Rules

Federal Register
Vol. 45, No. 33
Friday, February 15, 1980

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

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1701

Specification for Telephone Station Protectors; Revision of Existing Bulletin

AGENCY: Rural Electrification Administration.

ACTION: Proposed rule.

SUMMARY: REA proposes to revise Bulletin 345–39, Specification for Telephone Station Protectors, to conform with the recently developed proposed industry standard for these devices, PEG–2. This will lead to uniform requirements and test procedures throughout the industry with a resulting savings through standardization.

DATE: Public comments must be received by REA no later than: April 15, 1980.

ADDRESS: Submit written comments to the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Harry M. Hutson, telphone (202) 447–3827.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to revise REA Bulletin 345–39, Specification for Telephone Station Protectors. Interested persons may obtain copies of this proposed action from the address indicated above. All written submissions made pursuant to this action will be made available for public inspection during regular business hours, address above.

On issuance of revised Bulletin 345–39, Appendix A to Part 1701 will be modified accordingly.

This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Draft Impact Analysis has been prepared and is available from the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355–6, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated: February 7, 1980.

John H. Arnesen,

Assistant Administrator—Telephone.

[FR Doc. 80–4724 Filed 2–14–80; 8:45 am]

BILLING CODE 3410–15–M

Food Safety and Quality Service

7 CFR Part 2852

United States Standards for Grades of Grapefruit Juice[1]

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Proposed rule.

SUMMARY: The purpose of this proposed rule is to revise the voluntary grading standards for grapefruit juice. The proposed rule is submitted at the initiative of the Department and by the request of the citrus industry. Its effects would be to improve the standards by protecting consumers from grapefruit juice of poor appearance, eliminating the bias against juice from mature, well-ripened grapefruit, and updating the standard to include the Department's uniform grade nomenclature.

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

ADDRESS: Written comments to: Executive Secretariat, Attn: Annie Johnson, Food Safety and Quality Service, U.S. Department of Agriculture, Room 3807, South Building, Washington, D.C. 20250. See also comments under Supplementary Information.

FOR FURTHER INFORMATION CONTACT: Mr. Howard W. Schutz, Processed Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–6247.

[1] Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug and Cosmetic Act, or with applicable State laws and regulations.

SUPPLEMENTARY INFORMATION:

Comments

Interested persons are invited to submit comments concerning this proposal. Written comments must be sent in duplicate to the Office of the Executive Secretariat and should bear a reference to the date and page number of this issue of the Federal Register. All comments submitted regarding this notice will be made available for public inspection in the Office of the Executive Secretariat during regular business hours (7 CFR 1.27(b)).

Background

On October 12, 1977, an advance notice of proposed rulemaking was published in the Federal Register (42 FR 51952–51953), soliciting views and comments from interested persons on revision of the voluntary grading standards for grapefruit juice. This advance notice indicated that the Department was considering the elimination of color as a quality factor in the grapefruit juice standard. The current standards assign different levels of importance to color in determining grade, depending upon the type of grapefruit juice—single strength, frozen concentrated, concentrated for manufacturing, or dehydrated. These color requirements tend to discriminate against juice obtained from mature, well-ripened grapefruit juice.

The response to the advance notice was varied. Consumers as a group misunderstood the term "color." Several of those commenting believed that the term "color" meant artificial coloring. Others implied that it was a "cosmetic" factor. Processors were divided on the issue. California, Texas, and a portion of the Florida citrus processors supported the elimination of color as a quality factor in the standard. The remainder of the Florida citrus industry, and the trade association representing that industry, objected to the elimination of color as a quality factor. This division of the Florida industry is essentially between processors marketing pink grapefruit juice and those marketing white grapefruit juice. However, the majority of the persons commenting felt that color of grapefruit juice should have reduced importance in determining

quality or be eliminated entirely as a grade factor.

On June 30, 1978, a proposed rule was published in the Federal Register (43 FR 28511–28516) to eliminate color from the voluntary grading standards, except where necessary to protect against grapefruit juice of unusual or abnormal qualities. The response to this proposed rule was again divided. The Florida citrus industry, as an association, favored retention of color as a quality factor; however, individual processors within the association opposed the associations' stand. Processors from California and Texas favored the elimination of color as a quality factor. Consumers felt that color could be eliminated if it resulted in no substantial hazard to the quality of grapefruit juice at the marketplace.

On December 15, 1978, a proposed rule as published in the Federal Register (43 FR 58575–58580), by the Federal Food and Drug Administration, to adopt, to the extent practicable, the Codex standard developed by the Codex Alimentarious Commission for grapefruit juice. This standard would establish standards of identity and fill of container for grapefruit juice. The presently proposed USDA rule would adopt the FDA requirements for minimum Brix levels for defining grapefruit juice, grapefruit juice from concentrate, and dehydrated grapefruit juice. However, the FDA proposed rule would not settle the issue of color as a quality factor in the voluntary grading standards.

After evaluation of comments from interested persons, the Department has concluded that a second proposed rule should be published primarily because of continued division within the citrus industry. Accordingly a revised proposal is set forth herein. This proposal offers protection to consumers from grapefruit that is poor in appearance. It would retain color as a quality factor in the voluntary grading standards, but would redefine the criteria to eliminate the bias against juice from mature, well-ripened grapefruit. Also, this proposal would update the standard to include the Department's uniform grade nomenclature for a single letter grade designation of "A" and "B" for grapefruit juice.

Accordingly, the U.S. Standards for Grades of Frozen Concentrated Grapefruit Juice (7 CFR 2852.1221–2852.1230) would be revised to read as follows, and the Table of Contents would be revised accordingly:

Subpart—United States Standards for Grades of Grapefruit Juice

Sec.

2852.1221 Product description.
2852.1222 Styles.
2852.1223 Color.
2852.1224 Definitions of terms.
2852.1225 Recommended sample unit size.
2852.1226 Grades.
2852.1227 Factors of quality and analysis.
2852.1228 Requirements for grades.
2852.1229 Sample size.
2852.1230 Lot requirements.
2852.1231 [Reserved]
2852.1232 [Reserved]

Authority: Agricultural Marketing Act of 1946, secs. 203, 205, 60 Stat. 1087, as amended, 1097, as amended; (7 U.S.C. 1622, 1624).

Subpart—U.S. Standards For Grades of Grapefruit Juice

§ 2852.1221 Product description.

(a) "Grapefruit juice" is the product represented as defined in the standard of identity for grapefruit juice (21 CFR 146.132), issued under the Federal Food, Drug and Cosmetic Act.

(b) "Grapefruit juice from concentrate" is the product represented as defined in the standard of identity for grapefruit juice from concentrate (21 CFR 146.132), issued under the Federal Food, Drug and Cosmetic Act.

(c) "Frozen concentrated grapefruit juice" is the product processed by concentrating and preserving by freezing the product represented as defined in the standard of identity for grapefruit juice (21 CFR 146.132), issued under the Federal Food, Drug and Cosmetic Act.

(d) "Concentrated grapefruit juice for manufacturing" is the product processed by concentrating and preserving by physical means the product represented as defined in the standard of identity for grapefruit juice (21 CFR 146.132), issued under the Federal Food, Drug and Cosmetic Act. Any safe and suitable ingredient(s) permissible under the Federal Food, Drug and Cosmetic Act may be used, including preservatives.

(e) "Dehydrated grapefruit juice" is the product processed by concentrating and preserving by dehydration the product represented as defined in the standard of identity for grapefruit juice (21 CFR 146.132), issued under the Federal Food, Drug and Cosmetic Act. Any safe and suitable ingredient(s) permissible under the Federal Food, Drug and Cosmetic Act may be used.

§ 2852.1222 Styles.

(a) Unsweetened.

(b) Sweetener added.

§ 2852.1223 Color.

(a) White or amber.

(b) Pink or red.

§ 2852.1224 Definitions of terms.

(a) *Acid* means the percent, by weight, of total acidity (calculated as anhydrous citric acid).

(b) *Appearance* means the physical properties of grapefruit juice which are evaluated by the human eye.

(c) *Brix-acid ratio* means the proportion of grapefruit soluble solids and added sweetener, if any, to acid.

(d) *Brix* means the percent, by weight, of grapefruit soluble solids and added sweetener, if any.

(e) *Coagulation* means curdling of grapefruit juice.

(f) *Color.* (1) "Good color" means the grapefruit juice is representative of juice expressed from mature, well-ripened grapefruit; and the grapefruit juice may show fading and lack of luster. Grapefruit juice that is good color may be given a score of 18 to 20 points.

(2) "Reasonably good color" means the grapefruit juice is slightly affected by scorching, oxidation, or caramelization. Grapefruit juice that is reasonably good color may be given a score of 16 or 17 points.

(3) "Poor color" means the grapefruit juice fails to meet the requirements for "reasonably good color." Grapefruit juice that is poor color may be given a score of 0 to 15 points.

(g) Defects means juice cells, pulp, seeds or portions of seeds, specks, particles of membrane, core peel or any other attributes that affect the appearance or drinking quality of grapefruit juice.

(1) "Practically free from defects" means defects in excess of that normally expected in grapefruit juice are not present. Grapefruit juice that is practically free from defects may be given a score of 18 to 20 points.

(2) "Reasonably free from defects" means the presence of defects does not seriously affect the appearance or drinking quality of grapefruit juice. Grapefruit juice that is reasonably free from defects may be given a score of 16 or 17 points.

Grapefruit juice that fails the requirements for "reasonably free from defects" may be given a score of 0 to 15 points.

(h) *Flavor.* (1) "Good flavor" means:

(i) *Grapefruit juice* that is typical of freshly extracted juice from mature, well-ripened grapefruit. The grapefruit juice may be slightly affected by processing, packaging or storage conditions.

(ii) *Grapefruit juice from concentrate* that is typical of freshly extracted juice from mature, well-ripened grapefruit. The grapefruit juice may be slightly affected by processing, packaging or storage conditions.

(iii) *Frozen concentrated grapefruit juice* that is typical of freshly extracted juice from mature, well-ripened grapefruit; and does not have more than a slight trace of bitterness.

(iv) *Concentrated grapefruit juice for manufacturing* that is practically free from traces of scorching, caramelization, oxidation and terpene.

(v) *Dehydrated grapefruit juice* that is free from terpene, caramelization, oxidation and rancid flavors.

Grapefruit juice that has a good flavor may be given a score of 54 to 60 points.

(2) "Reasonably good flavor" means:

(i) *Grapefruit juice* that is materially but not seriously affected by bitterness, terpene, processing, storage or container flavors.

(ii) *Grapefruit juice from concentrate* that is materially but not seriously affected by bitterness, terpene, processing, storage or container flavors.

(iii) *Frozen concentrated grapefruit juice* that is fairly typical of freshly extracted grapefruit juice, no more than slightly affected by bitterness, and is free from abnormal flavors of any kind.

(iv) *Concentrated grapefruit juice for manufacturing* that is no more than slightly affected by scorching, caramelization or oxidation. It may have a trace of terpene, but is free from any other abnormal flavors.

(v) *Dehydrated grapefruit juice* that is no more than slightly affected by scorching, caramelization, oxidation or terpene flavors.

Grapefruit juice that has a reasonably good flavor may be given a score of 48 to 53 points.

(3) "Poor flavor" means the grapefruit juice fails the requirements for "reasonably good flavor." Grapefruit juice that has a poor flavor may be given a score of 0 to 47 points.

(i) *Free and suspended pulp* means the particles of membrane, core, peel, and similar material that separate from suspension by centrifuging

(j) *Gelation* means the formation of gel-like properties in the grapefruit juice.

(k) *Reconstituted juice* means the grapefruit juice obtained by mixing thoroughly one (1) part by volume of concentrated grapefruit juice with a specific volume of water.

(l) *Reconstitutes properly* means that upon mixing with water the concentrate dissolves readily.

(m) *Recoverable oil* means the volume of oil that may be recovered from grapefruit juice as determined by the "Methods of Analysis of the Association of Official Analytical Chemists."

(n) *Sample unit* means a portion of grapefruit juice used for grading.

(o) *Terpene* means a specific flavor found in oils and resins.

§ 2852.1225 Recommended sample unit size.

The requirements for all factors of quality are based on the following:

(a) The entire contents of a container; or

(b) A representative portion of the contents of a container.

§ 2852.1226 Grades.

(a) "U.S. Grade A" is the quality of grapefruit juice that:

(1) Meets the applicable requirements of Tables I–V; and

(2) Scores not less than 90 points.

(b) "U.S. Grade B" is the quality of grapefruit juice that:

(1) Meets the applicable requirements of Tables I–V; and

(2) Scores not less than 80 points.

(c) "Substandard" is the quality of grapefruit juice that fails to meet the requirements for grade B.

§ 2852.1227 Factors of quality and analysis.

The grade for a lot of product is based on observation and analysis of grapefruit juice and reconstituted grapefruit juice for the following quality and analytical factors:

(a) *Quality:* (1) Appearance; (2) Coagulation; (3) Color; (4) Defects; (5) Flavor; (6) Gelation; (7) Reconstitution; and (8) Total score points.

(b) *Analytical:* (1) Brix Measurement; (2) Brix/Acid ratio; (3) Free and suspended pulp; and (4) Recoverable oil.

§ 2852.1228 Requirements for grades.

Table I—*Grapefruit Juice*

Factors	Grade A		Grade B	
	Unsweetened	Sweetened	Unsweetened	Sweetened
Quality:				
Appearance	Fresh grapefruit juice.		Fails grade A.	
Coagulation.	None		Slight.	
Color	Good		Reasonably good.	
Defects	Practically free		Reasonably free.	
Flavor	Good		Reasonably good.	
Reconstitution.	Reconstitutes properly.		Reconstitutes properly.	
Score points	Minimum—90		Minimum—80.	
Analytical:				
Brix Minimum.	Meets FDA requirements			
Brix-acid ratio:				
Minimum	8:1	9:1	7:1	9:1
Maximum	14:1	14:1	None	None
Free and suspended pulp (percent by weight): Maximum.	10		15	
Recoverable oil (percent by weight): Maximum.	0.020		0.025	

Table II—*Grapefruit Juice From Concentrate*

Factors	Grade A		Grade B	
	Unsweetened	Sweetened	Unsweetened	Sweetened
Quality:				
Appearance	Fresh grapefruit juice.		Fails grade A.	
Coagulation.	None		Slight.	
Color	Good		Reasonably good.	
Defects	Practically free		Reasonably free.	
Flavor	Good		Reasonably good.	
Reconstitution.	Reconstitutes properly.		Reconstitutes properly.	
Score points	Minimum—90		Minimum—80.	
Analytical:				
Brix Minimum.	Meets FDA requirements			
Brix-acid ratio:				
Minimum	8:1	9:1	7:1	9:1
Maximum	14:1	14:1	None	None
Free and suspended pulp (percent by weight): Maximum.	10		15	
Recoverable oil (percent by weight): Maximum.	0.020		0.025	

Table III—*Frozen Concentrated Grapefruit Juice*

Factors	Grade A		Grade B	
	Unsweetened	Sweetened	Unsweetened	Sweetened
Quality:[1]				
Appearance	Fresh grapefruit juice (reconstitued juice).		Fails grade A.	
Color	Good		Reasonably good.	
Defects	Practically free		Reasonably free.	
Flavor	Good		Reasonably good.	
Reconstitution.	Reconstitutes properly.		Reconstitutes properly.	
Score points	Minimum—90		Minimum—80.	
Analytical:				
Brix of concentrate:				
Minimum	38.0°		38.0°	
Maximum	42.0°		42.0°	
Grapefruit soluble solids:				
Minimum		38.0%		38.0%
Maximum		48.0%		48.0%
Brix-acid ratio:				
Minimum	9:1	10:1	7:1	9:1
Maximum	14:1	13:1	16:1	13:1
Free and suspended pulp (percent by weight-reconstituted juice): Maximum.	10		10	
Recoverable oil (percent by weight): Maximum.	0.020		0.020	

	Unsweetened	Sweetened	Unsweetened	Sweetened
Seeds and portions of seeds (reconstituted juice): Pass through round perforations—3.2 mm (0.125 in).	Slightly detract		Materially detract.	
Fail to pass through round perforations—3.2 mm (0.125 in).	Practically none			

[1] Reconstituted prior to grading.

Table IV—*Concentrated Grapefruit Juice for Manufacturing*

Factors	Grade A	Grade B
Quality:[1]		
Color	Good	Reasonably good.
Defects	Practically free	Reasonably free.
Flavor	Good	Reasonably good.
Gelation	Slightly	Materially.
Reconstitution.	Reconstitutes properly.	
Score points	Minimum—90	Minimum—80.
Analytical:		
Brix-acid ratio: Minimum.	6:1	5.5:1
Free and suspended pulp (percent by weight, reconstituted juice): Maximum.	10	12

[1] Reconstituted prior to grading.

Table V—*Dehydrated Grapefruit Juice*

Factors	Grade A	Grade B
Quality:[1]		
Appearance	Fresh grapefruit juice.	Fails grade A.
Color	Good	Reasonably good.
Defects	Practically free	Reasonably free.
Flavor	Good	Reasonably good.
Reconstitution.	Reconstitutes properly.	
Score points	Minimum—90	Minimum—80.

	Unsweetened	Sweetened	Unsweetened	Sweetened
Analytical:[2]				
Brix Minimum.	Meets FDA requirements			
Brix-acid ratio:				
Minimum	8:1	9:1	7:1	9:1
Maximum	14:1	14:1	None	None
Recoverable oil (percent by volume): Maximum.	0.020		0.025	

[1] Reconstituted prior to grading.
[2] Reconstituted prior to analysis.

§ 2852.1229 Sample size.

The sample size to determine the requirements of these standards shall be as specified in the sampling plans and procedures in the "Subpart-Regulations Governing Inspection and Certification" of "Part 2852—Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products" (7 CFR 2852.1–2852.83).

§ 2852.1230 Lot requirements.

A lot of grapefruit juice is considered as meeting requirements for quality if:

(a) The requirements specified in Tables I, II, III, IV, and V, as applicable, are met; and

(b) The sampling plans and procedures in 7 CFR 2852.38 are met.

§ 2852.1231 [Reserved]

§ 2852.1232 [Reserved]

This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Draft Impact Analysis has been prepared and is available from Mr. Howard W. Schutz, Processed Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Done at Washington, D.C., on February 11, 1980.

Donald L. Houston,

Administrator, Food Safety and Quality Service.

[FR Doc. 80-4365 Filed 2-14-80; 8:45 am]

BILLING CODE 3410-DM-M

Animal and Plant Health Inspection Service

9 CFR Part 92

Equine Piroplasmosis; Intent To Form Panel

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of intent to form a panel.

SUMMARY: This document announces the Department's intent to form a panel to investigate Equine Piroplasmosis (EP), a communicable disease of equidae. This action is being taken to obtain more scientific information concerning this disease.

FOR FURTHER INFORMATION CONTACT: Dr. D. E. Herrick, USDA, APHIS, VS, Import-Export Staff, Room 817, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8170.

SUPPLEMENTARY INFORMATION: On April 27, 1979, there was published in the Federal Register (44 FR 24863) a proposed rule to revise Title 9, Code of Federal Regulations, Part 92, to delete the requirement that horses being offered for entry into the United States be negative to a test for EP. Interested persons were given until June 19, 1979, to comment.

The comments received on the proposed amendment indicated wide public interest with opinions differing on the desirability of the proposal's provisions. The main issue in question is the seriousness of this disease, should horses be allowed to enter this country without being tested.

Therefore, the Administrator has concluded that these circumstances require that further information and data be obtained concerning the disease and the impacts of removing the test requirement from the regulations. Accordingly, the Department intends to form a panel consisting of intergovernmental employees to review this matter. The panel will hold a public meeting and solicit comment from experts who have had personal experience with the disease, regarding the nature of the disease and the potential impacts of removing the test requirement from the regulations. Subsequent to taking further comment, the panel will develop a report on these issues to be used in the decision making process concerning the proposed rule. This report will be made available for public comment prior to any final decision regarding the EP test requirement.

The members of the panel will be announced in a future issue of the Federal Register together with the date and time of the public meeting to be held on this matter.

After consideration of all information which has been submitted pursuant to the proposed rulemaking and the comments received pursuant to the procedures outlined in this notice, a determination will be made regarding whether the regulations will be amended as proposed.

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

J. K. Atwell,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 80-4364 Filed 2-14-80; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket No. PRM-50-26]

Domestic Licensing of Production and Utilization Facilities; William K. Watson; Filing of Petition for Rulemaking

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Publication of Petition for Rulemaking from William K. Waston.

SUMMARY: The Nuclear Regulatory Commission is publishing for public comment, as a petition for rulemaking, a motion filed before the Commission on January 6, 1980, by William K. Watson. This petition, which has been assigned Docket No. PRM-50-26, requests that the Commission amend 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities," to provide that an applicant for a license for a facility which will store certain quantities of nuclear products be required to design the facility to protect against release to the atmosphere of these products if the facility is attacked by nuclear weapons detonated at ground level and having an equivalent yield of up to 5 megatons.

DATE: Comment period expires April 15, 1980.

ADDRESSES: A copy of the petition for rulemaking is available for public inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, DC. A copy of the petition may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC, 20555.

All persons who desire to submit written comments or suggestions concerning the petition for rulemaking should send their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT: Joseph M. Felton, Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC, 20555, Telephone: 301-492-7211.

SUPPLEMENTARY INFORMATION: The pertinent paragraph of the Commission's regulations, 10 CFR § 50.13, now reads as follows:

"An applicant for a license to construct and operate a production or utilization facility, or for an amendment to such license, is not required to provide for design features or other measures for the specific purpose of protection against the effects of (a) attacks and destructive acts, including sabotage, directed against the facility by an enemy of the United States, whether a foreign government or other person, or (b) use or deployment of weapons incident to U.S. defense activities."

The petitioner requests that this paragraph be replaced by the following wording:

"An applicant for a license to construct a production or utilization facility, or for an amendment to such license, wherein it is contemplated there will be stored anywhere within the facility nuclear products with a radioactive half life of one year or more in quantities in excess of 100,000 Curies, shall be required to design the facility in such a manner that the nuclear products cannot be released to the atmosphere by the use of a nuclear weapon with an equivalent yield of less than five (5) megatons which is detonated at ground level at the geographical location of any structures at the facility which contain the aforesaid quantities of radioactive material."

The petitioner alleges that nuclear armed cruise missiles are now able with reasonable probability to directly impact a building, pond, or storage tank and disseminate the contents over a wide region. In support of his contentions, the petitioner attaches an article from an unidentified publication, entitled "Why Nuclear Power Should go Underground". This article refers to Government-sponsored reports which, according to the article, indicate that a direct hit by nuclear weapons in the 20- to 100-kiloton range could smash the reactor containment vessel and release its contents.

Dated at Washington, D.C., this 7th day of February 1980.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 80-4706 Filed 2-14-80; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF ENERGY

Office of Leasing Policy Development

10 CFR Parts 376 and 390

Correction to Notice of Hearing Locations Regarding Proposed Rulemaking for a Fixed Net Profit Share Bidding System for Outer Continental Shelf Oil and Gas Leases and Accounting Procedures for Determining Net Profit Share Payments

AGENCY: Department of Energy.

ACTION: Correction to Notice of Hearing Locations.

SUMMARY: On February 5, 1980, the Department of Energy issued a notice, specifying times and locations for public hearings with regard to its proposed rule on fixed net profit share bidding systems, in the Federal Register (45 FR 8662, February 8, 1980).

In this notice, the date of the Washington, D.C., public hearing was incorrectly listed as February 26, 1980. The correct date is February 20, 1980, as originally noted in the Notice of Proposed Rule (44 FR 73089, December 6, 1979).

FOR FURTHER INFORMATION CONTACT: Stuart W. Edwards (202) 633-9035.

Issued in Washington, D.C. on February 12, 1980.

Susan Pearce,

Acting Director, Leasing Policy Development.

[FR Doc. 80-5167 Filed 2-14-80; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Ch. I

Improving Government Regulations; Semiannual Agenda

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Semiannual agenda.

SUMMARY: In response to Executive Order 12044, "Improving Government Regulations", and the Treasury Department directive implementing that Executive Order, Customs has prepared and is publishing for public information a list of significant regulations either under development or under review.

FOR FURTHER INFORMATION CONTACT: For additional information regarding

any particular regulatory project described in the agenda, communicate with the person identified as the "Contact". Comments or inquiries of a general nature should be directed to: Todd J. Schneider, Regulations and Research Division, Office of Regulations and Rulings, U.S. Customs Service, Room 2335, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-8237).

SUPPLEMENTARY INFORMATION:

Background

On November 8, 1978, the Department of the Treasury published a report in the Federal Register (43 FR 52120) to implement E.O. 12044. The report included a directive that each Treasury bureau or office shall publish a semiannual agenda of significant regulations either under development or under review. The agenda is to describe each regulatory project ("project") being considered, the need for and legal basis for the action being taken, the name and telephone number of a knowledgeable agency official, and whether a regulatory analysis will be prepared. In addition, subsequent agendas will show the status of projects referred to in the previously published agenda. A notice published in the preliminary pages of the Federal Register on October 10, 1978 (43 FR xii), provides that Customs will publish its semiannual agenda on February 1 and August 1 of each year.

The following is the third semiannual agenda to be published by Customs. It has been determined that none of the projects listed will require a regulatory analysis under the criteria set out in the Executive Order and implementing Treasury directive.

General statutory authority for the development or review of regulations relating to Customs matters is found in section 301, title 5, United States Code (5 U.S.C. 301), and in sections 66 and 1624, title 19, United States Code (19 U.S.C. 66, 1624). When appropriate, specific statutory authority is indicated after the description of each project.

In accordance with the Treasury directive implementing E.O. 12044, no action, other than preliminary studies, may be taken on any project commenced after May 22, 1978, without Secretarial approval of a "work plan". Work on many of the described projects commenced before May 22, 1978, and, therefore, no work plan will be prepared. For these projects, and others which are in an early stage of preparation, no work plans are available to the public. However, projects which either have had work plans approved or are the subject of documents published in the Federal Register (FR) as an advance notice of proposed rulemaking (ANPRM), a notice of proposed rulemaking (NPRM), or a final rule—Treasury Decision (T.D.), are identified by work plan number or Federal Register citation. Approved work plans are available to the public under the provisions of the Freedom of Information Act, as amended (5 U.S.C. 552), and Part 103, Customs Regulations (19 CFR Part 103). Requests should be addressed to the Freedom of Information and Privacy Branch, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Dated: February 13, 1980.

By direction of the Secretary of the Treasury.

R. E. Chasen,

Commissioner of Customs.

Part I—*Regulations Under Development*

Title/Citation (19 CFR—)	Summary
Vessels; Drawback/Parts 4 and 22	*Description:* Conform regulations relating to Panama Canal Zone to provisions of Panama Canal Treaty. *Need:* Amendments required by Treaty of September 7, 1977 "Panama Canal Treaty." *Authority:* 19 U.S.C. 1466. *Contact:* Donald H. Reusch (202-566-5706). *Status:* T.D. 79-276 published October 29, 1979 (44 FR 61654).
Public gaugers-Petroleum/Parts 4 and 151	*Description:* Ensure maintenance of reliable statistics by implementing standardized guidelines and procedures for monitoring imports of petroleum and petroleum products. *Need:* Implement recommendations of Customs Petroleum Task Force. *Authority:* 19 U.S.C. 1202. *Contact:* Alice Rigdon (202-566-5354). *Status:* Work Plan 79-27 approved; NPRM published December 21, 1979 (44 FR 75624); T.D. under development.
Vessels; foreign repairs/§§ 4.7 and 4.14	*Description:* Revision of requirements and procedures for handling entries relating to foreign repairs and equipment purchases by U.S. vessels. *Need:* To expedite processing of entries. *Authority:* 19 U.S.C. 1466, 1498, 1514. *Contact:* James Fritz (202-566-5706). *Status:* NPRM published April 4, 1979 (43 FR 14090); T.D. under development.
Vessels; navigation fees/§ 4.99	*Description:* Amend fee schedule under which Customs charges and collects fees for specific services provided to vessels. *Need:* To implement provisions of Pub. L. 95-410, "Customs Procedural Reform and Simplification Act of 1978". *Authority:* 31 U.S.C. 483a. *Contact:* Jerry Laderberg (202-566-5706). *Status:* NPRM published May 25, 1979 (44 FR 30376); T.D. 80-26, published January 18, 1980 (45 FR 3570).
Vessels; forms substitution/§ 4.99	*Description:* Authorize printing of Customs forms used in connection with the entry and clearance of vessels by private parties and foreign governments on metric A4 size paper. *Need:* To further U.S. policy regarding metric system and to facilitate international commerce. *Authority:* General. *Contact:* John Mathis (202-566-5706). *Status:* Work Plan 79-9 approved; T.D. 79-255 published October 4, 1979 (44 FR 57637).
Air commerce/Parts 6, 10, and others	*Description:* Establish new rules for (1) duty-free trade in civil aircraft and parts for civil aircraft, and (2) dutiability of foreign repairs to, and foreign purchases of parts and materials for, U.S.-registered civil aircraft. *Need:* To implement Title VI, Civil Aircraft Agreement, of Pub. L. 96-39, "Trade Agreements Act of 1979." *Authority:* General. *Contact:* John Mathis (202-566-5706). *Status:* Work Plan 79-30 approved; NPRM published January 8, 1980 (45 FR 1633).
Air commerce/§§ 6.3 and 6.8	*Description:* Simplification and clarification of aircraft clearance procedures. *Need:* To facilitate clearance of aircraft departing U.S. *Authority:* 49 U.S.C. 1509. *Contact:* John Mathis (202-566-5706). *Status:* Work Plan 79-6 approved; T.D. under development.
Petroleum/Part 10	*Description:* Regulation of petroleum exports from Canada.

Part I—*Regulations Under Development—Continued*

Title/Citation (19 CFR—)	Summary
	Need: Conforming amendment required by Pub. L. 95-159. *Authority:* General. *Contact:* G. Scott Shreve (202-566-5307). *Status:* T.D. under development.
Endangered species-Antiques/Parts 10 and 12	*Description:* Provide for importation of specified antique articles otherwise prohibited entry by Endangered Species Act of 1973 at designated ports of entry. *Need:* Implement provisions of Pub. L. 95-632, "Endangered Species Act Amendments of 1978". *Authority:* 19 U.S.C. 1202. *Contact:* Harrison Feese (202-566-8651). *Status:* Work Plan 79-28 approved; NPRM under joint development by Customs and Fish and Wildlife Service.
Conforming amendments/Parts 10, 12, and others	*Description:* Conform regulations to provisions of various titles of Pub. L. 96-39, "Trade Agreements Act of 1979." *Need:* Miscellaneous amendments required by the Trade Agreements Act of 1979. *Authority:* General. *Contact:* Benjamin Mahoney (202-566-5765). *Status:* Work Plan 79-31 approved; T.D. under development.
Carnets (E.C.S./A.T.A.)/Parts 10 and 114	*Description:* Substitute use of A.T.A. carnet for E.C.S. carnet in relation to the entry of commercial samples. *Need:* United States withdrawal from Customs Convention on E.C.S. carnets (TIAS 6632) and accession to the Convention on A.T.A. Carnets (TIAS 6631). *Authority:* General. *Contact:* Jerrald Worley (202-566-8607). *Status:* T.D. under development.
Entry of noise-emitting merchandise; standards and labeling/Part 12.	*Description:* Regulations to administer the EPA noise emission standard and labeling requirements on certain imported merchandise. *Need:* To implement provision of Pub. L. 92-572, "Noise Control Act of 1972". *Authority:* General. *Contact:* Harrison Feese (202-566-8651). *Status:* NPRM under joint development by Customs and EPA.
Importation of motor vehicles/§ 12.73	*Description:* Conform regulations governing importation of motor vehicles under Clean Air Act to proposed EPA amendments on Federal emission standards. *Need:* To implement provisions of "Clean Air Act of 1955" as amended by Pub. L. 95-95. *Authority:* 19 U.S.C. 1484. *Contact:* Harrison Feese (202-566-8651). *Status:* NPRM under joint development by Customs and EPA.
Entry of electronic products/§§ 12.90 and 12.91	*Description:* Implement FTC labeling requirements for certain imported electronic products. *Need:* Required by provisions of Pub. L. 93-523, "Public Health Service Act". *Authority:* General. *Contact:* Darrell Kast (202-566-5765). *Status:* NPRMs published September 5, 1975 (40 FR 41118) and July 27, 1976 (41 FR 31223); procedures under joint development by Customs and FTC.
Entry of energy-using products; labeling/§ 12.92	*Description:* Implement FTC labeling requirements for certain imported energy-using products. *Need:* Required by provisions of Pub. L. 94-163, "Energy Policy Conservation Act". *Authority:* General. *Contact:* Harrison Feese (202-566-8651). *Status:* NPRM under joint development by Customs and FTC.
In-bond transportation of merchandise/Parts 18, 123 and 144	*Description:* Change time limits and other rules relating to in-bond transportation of merchandise. *Need:* To give Customs greater control over merchandise transported in bond. *Authority:* 19 U.S.C. 1552, 1553, 1557, 1623. *Contact:* J. Bradley Lund (202-566-5354). *Status:* NPRM published August 13, 1976 (41 FR 34271); T.D. under development.
Transportation in bond/§ 18.8	*Description:* Increase amount of liquidated damages rquired by carrier's bond for shortage, failure to deliver or irregular delivery of duty-free merchandise. Carrier also would be liable for duty on dutiable merchandise, as well as liquidated damages. *Need:* To clarify carrier's obligations under required bond and provide for liquidated damages as deterrent to violations. *Authority:* 19 U.S.C. 1551, 1623. *Contact:* William Rosoff (202-566-5856). *Status:* Work Plan 79-11 approved; NPRM under development.

Part I—*Regulations Under Development—Continued*

Title/Citation (19 CFR—)	Summary
Drawback; identification of entries/Part 22	*Description:* Require drawback entries be identified at time of entry. *Need:* To reduce delays in processing drawback claims. *Authority:* 19 U.S.C. 1313; 31 U.S.C. 483a. *Contact:* George Steuart (202-566-8453). *Status:* ANPRM under development.
Drawback; bulk-fungible goods/§ 22.5	*Description:* Allow drawback without actual use of bulk-fungible goods if substituted for goods of same kind/quality. *Need:* To extend to other articles privileges now applicable to petroleum products. *Authority:* General. *Contact:* Donald Beach (202-566-5856). *Status:* Action on NPRM suspended pending economic analysis and study as to whether legislation is required.
Entry of merchandise/Parts 24, 141, 142, 144	*Description:* To reduce the 10-working day period during which estimated duties must be deposited after merchandise is released under an entry or a permit for immediate delivery. *Need:* To improve the Government's cash flow by earlier collection of duties. *Authority:* 19 U.S.C. 1484, 1505, 1557. *Contact:* Benjamin Mahoney (202-566-5765). *Status:* Possibility of accelerated duty payment remains under study.
Customs accounting procedure: Bonds/Parts 24 and 113	*Description:* Charge interest on delinquent accounts of importers and others with Customs. *Need:* To encourage importers to pay Customs bills promptly and thereby improve cash flow. *Authority:* 19 U.S.C. 1623. *Contact:* Robert B. Hamilton (202-566-2598). *Status:* Work Plan in review in Customs.
Port of entry limits/§ 101.3	*Description:* Extend port of entry limits of Brownsville, Tex. *Need:* To improve service to public. *Authority:* 19 U.S.C. 2; E.O. 10289. *Contact:* Robert Schenarts (202-566-8151). *Status:* NPRM published February 9, 1979 (44 FR 8276); T.D. 79-254 published October 4, 1979 (44 FR 57068).
New Customs district/§ 101.3	*Description:* Establish Customs district at Dallas-Ft. Worth, Tex. *Need:* To improve service to public. *Authority:* 19 U.S.C. 2; E.O. 10289. *Contact:* Robert Schenarts (202-566-8151). *Status:* NPRM published August 15, 1978 (43 FR 36106); T.D. 79-232 published August 20, 1979 (44 FR 48671).
Customhouse brokers/Part 111	*Description:* Amend regulations relating to responsibilities of customhouse brokers. *Need:* To clarify responsibilities of customhouse brokers and to ensure uniform compliance with applicable regulations. *Authority:* 19 U.S.C. 1641. *Contact:* Edward B. Gable, Jr. (202-566-8047). *Status:* Action on Work Plan 79-5 suspended pending review of related legislative proposals.
Carriers of bonded merchandise/§ 112.11	*Description:* Revise criteria for designating private carriers of bonded merchandise to require only that they file bonds and transport their own property. *Need:* To lessen restrictions of prior regulation. *Authority:* 19 U.S.C. 1551. *Contact:* Donald Beach (202-566-5856). *Status:* Work Plan 79-10 approved; NPRM under development.
Customs Bonds/Part 113	*Description:* Consolidation of Customs bonds and related forms. *Need:* To simply bond structure and language preparatory to expansion of AMPS program. *Authority:* 19 U.S.C. 1623. *Contact:* Joseph Goody (202-566-2974). *Status:* ANPRM under development.
Customs bonds, letter of credit/Part 113	*Description:* Authorize use of letter of credit in lieu of foreign-trade zone bond to guarantee payment of claims made by Customs against a foreign-trade zone operator. *Need:* To facilitate use of foreign-trade zones. *Authority:* 19 U.S.C. 81c, 1623. *Contact:* William Rosoff (202-566-5856). *Status:* NPRM under development (consolidated with "Trade fairs", § 147.45, below).
Contiguous countries; manifest discrepancies/§ 123.9	*Description:* Establish uniform procedures for handling manifest discrepancies of vehicles and certain vessels arriving from contiguous countries. *Need:* To facilitate entry of vessels and vehicles from Canada or Mexico. *Authority:* General. *Contact:* Donald Reusch (202-566-5706). *Status:* NPRM published July 28, 1978 (43 FR 32817); T.D. under development.

Part I—*Regulations Under Development—Continued*

Title/Citation (19 CFR—)	Summary
Contiguous countries; railroad equipment/§ 123.12	*Description:* Admission of empty foreign railroad equipment without entry and payment of duty in certain instances. *Need:* To clarify permitted use of foreign railroad equipment. *Authority:* General. *Contact:* Michael Tomenga (202-566-5706). *Status:* Work Plan 79-18 under development.
Contiguous countries; manifest validation/§§ 123.41 and 123.42	*Description:* Require truck driver carrying merchandise between U.S. and Canada to present manifest for validation by U.S. Customs at U.S. port of departure. *Need:* Jointly initiated by U.S. and Canadian Customs to prevent evasion of duty when merchandise re-enters U.S. from Canada on in-transit documentation *Authority:* 19 U.S.C. 1553, 1554. *Contact:* J. Bradley Lund (202-566-5354). *Status:* NPRM published December 9, 1976 (41 FR 53810); new NPRM under development.
Copyright/Part 133	*Description:* Amendments to regulations relating to recordation of copyrights with Customs. *Need:* To implement provisions of Pub. L. 94-533, "Copyright Act of 1976". *Authority:* 17 U.S.C. 1603. *Contact:* Samuel Orandle (202-566-5765). *Status:* NPRM under joint development by Customs and Copyright Office.
Entry of merchandise; special permits for immediate delivery/ Parts 141 and 142.	*Description:* Revise Consumption Entry (Customs Form 7501) to accommodate new entry procedures. *Need:* To implement provisions of Pub. L. 95-410, "Customs Procedural Reform and Simplification Act of 1978". *Authority:* 19 U.S.C. 1484. *Contact:* William Wagner (202-566-5307). *Status:* Request for comments on the proposed form published May 23, 1979 (44 FR 29916); comments under review at Customs.
Entry and liquidation/Parts 141, 142, and others	*Description:* Amendments relating to the entry and liquidation of merchandise. *Need:* To implement provisions of Pub. L. 95-410, "Customs Procedural Reform and Simplification Act of 1978". *Authority:* 19 U.S.C. 467, 1315, 1484, 1504, 1505, 1520, 1559. *Contact:* Herbert Geller (202-566-5307). *Status:* NPRM published November 29, 1978 (44 FR 55774), T.D. 79-221 published August 9, 1979 (44 FR 46794).
Entry of merchandise/§ 141.89	*Description:* To revise the additional information required on entry of footwear. *Need:* To assist Customs in the appraisement and classification of imported footwear. *Authority:* 19 U.S.C. 1202, 1481, 1484. *Contact:* Linda Mays (202-566-2357). *Status:* NPRM published July 28, 1978 (43 FR 32819); after consideration of comments, a second NPRM under development.
Informal entries/§ 143.23	*Description:* Provide for use of Customs Form 7523 for informal entry of non-commercial, duty-free merchandise, regardless of value. *Need:* Public benefit and Customs convenience. *Authority:* General. *Contact:* Drury Williford (202-566-5354). *Status:* Work Plan 79-17 approved; T.D. 80-10 published January 4, 1980 (45 FR 1012).
Foreign-trade zones/§ 146.48	*Description:* Change of appraisement practice involving costs of processing and profit for certain merchandise produced in foreign-trade zones. *Need:* To encourage use of domestic labor and materials in foreign-trade zones. *Authority:* 19 U.S.C. 81h. *Contact:* Thomas Lobred (202-566-2938). *Status:* NPRM published May 21, 1979 (44 FR 29489); T.D. in review at Treasury Department.
Trade fairs/§ 147.45	*Description:* Removal of trade fair merchandise from foreign-trade zones for consumption without permission of Foreign-Trade Zones Board. *Need:* Amendments required to implement provisions of Pub. L. 91-692. *Authority:* 19 U.S.C. 81h. *Contact:* William Rosoff (202-566-5856). *Status:* NPRM under development (consolidated with "Customs bonds, letter of credit", Part 113, above).
Registration of merchandise/§ 148.1	*Description:* New instructions for registration of personal effects taken abroad. *Need:* To ensure uniform registration procedures. *Authority:* 19 U.S.C. 1498. *Contact:* Bernard Harris (202-566-5354). *Status:* Work Plan under development.
Personal declarations and exemptions/§ 148.73	*Description:* Execution of written baggage declarations by military personnel. *Need:* To conform Customs and DOD regulations. *Authority:* General. *Contact:* Donald Thompson (202-566-5607). *Status:* NPRM under development.
Examination of merchandise/§ 151.2	*Description:* Expand Accelerated Cargo Clearance and Entry Processing Test (ACCEPT), an automated selective merchandise examination system, to various ports of entry.

Part I—*Regulations Under Development—Continued*

Title/Citation (19 CFR—)	Summary
	Need: Facilitate movement of merchandise by fewer but more intensive examinations. *Authority:* 19 U.S.C. 1202, 1499. *Contact:* Michael Lanoue (202-566-8651). *Status:* Work Plan 79-20 approved; NPRM in review at Treasury Department.
Appraisement of merchandise/Part 152	*Description:* Amendments required by new International Valuation Code agreed to in Multilateral Trade negotiations. *Need:* To implement Title II, Customs Valuation, of Pub. L. 96-39, "Trade Agreements Act of 1979." *Authority:* General. *Contact:* Thomas Lobred (202-566-2938) *Status:* Work Plan 79-26 approved; NPRM under review at Treasury Department.
Recordkeeping, inspection, search, and seizure/§ 162.47	*Description:* Waiver of bond requirements by district director for individuals who show proof of inability to obtain bond. *Need:* Decisions of U.S. Courts of Appeals, *Wren v. Eide*, 542 F. 2d 757 (9 Cir. 1976), and *Lee & Fish v. Thornton*, 538 F. 2d 27 (2 Cir. 1976). *Authority:* General. *Contact:* Joseph Priddy (202-566-5748) *Status:* T.D. under development.
American manufacturer's petitions/Part 175	*Description:* Reflect extension of procedures applicable to American manufacturer's petitions to cases involving anti-dumping and countervailing duties. *Need:* To implement provisions of Pub. L. 93-618, "Trade Act of 1974". *Authority:* 19 U.S.C. 1516. *Contact:* John Elkins (202-566-8237). *Status:* Withdrawn in light of Reorganization Plan No. 3 of 1978 (44 FR 69273) and E.O. 12188 (45 FR 989) transferring function to Commerce Department.

Part II—*Existing Regulations To Be Reviewed*

Bond/Part 18	*Description:* Transportation in bond and merchandise in transit. *Need:* To ensure consistency of format and style. *Contact:* James Seal (202-566-8237). *Status:* Customs review of draft completed; NPRM under development.
Finance/Part 24	*Description:* Customs financial and accounting procedure. *Need:* To ensure consistency of format and style. *Contact:* James Seal (202-566-8237). *Status:* Customs review of draft completed; NPRM under development.
Duties/Parts 10 and 54	*Description:* Articles conditionally free, subject to reduced rate, etc., and certain importations temporarily free of duty. *Need:* To ensure consistency of format and style. *Contact:* Jenny Johnson (202-566-8237). *Status:* Customs review of draft completed; NPRM under development.
Freedom of Information/Part 103	*Description:* Availability of information. *Need:* To conform to amendments to Freedom of Information Act made by Pub. L. 93-502. *Contact:* John Roth (202-566-8237) *Status:* NPRM published August 20, 1979 (44 FR 48763); T.D. under development.
Drawback/Part 22	*Description:* Drawback. *Need:* To modernize procedures relating to claims for drawback. *Contact:* George Steuart (202-566-5856). *Status:* Preliminary draft in Customs review.

[FR Doc. 80-5072 Filed 2-14-80; 8:45 am]
BILLING CODE 4810-22-M

19 CFR Part 101

Proposed Change in the Field Organization of the Customs Service

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: This notice proposes to amend the Customs Regulations to change the field organization of the Customs Service by establishing, on a two-year experimental basis, a new Customs port of entry at Huntsville, Alabama, in the Mobile, Alabama, Customs district. The proposed change is part of Customs continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public. The proposed amendment to the regulations is not considered to be significant.

DATES: Comments must be received on or before April 15, 1980.

ADDRESS: Comments (preferably in triplicate) may be addressed to the Commissioner of Customs, Attention: Regulations and Research Division, U.S. Customs Service, 1301 Constitution Avenue NW., Room 2335, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:
Bernard J. Harris, Office of Inspection, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202–566–8157).

SUPPLEMENTARY INFORMATION:

Background

As part of a continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better services to carriers, importers, and the public, the Customs Service proposes to establish, on a two-year experimental basis, a new Customs port of entry at Huntsville, Alabama, in the Mobile, Alabama, Customs district (Region V).

According to a study by the Huntsville-Madison County Chamber of Commerce prepared for the Huntsville-Madison County Airport Authority, over 140 firms in the area conduct import-export operations. The study states that there has been major industrial growth in the area in the electronics and chemical industries geared heavily toward international trade, and that a 124 percent increase in imports and a 75 percent increase in exports is anticipated in the period ending June 30, 1983. As a result, the Airport Authority and the Chamber of Commerce have requested the establishment of a Customs port of entry at Huntsville. This request has the support of local business interests and members of the Alabama congressional delegation.

To meet the needs of the Huntsville importing community, which is described in the study as a 28-county area encompassing parts of four states, the State of Alabama is investigating the possibility of establishing a foreign-trade zone in the Huntsville area. Because a foreign-trade zone must be located in or adjacent to a port of entry, the establishment of a port of entry at Huntsville also would aid in establishing a foreign-trade zone there.

In addition, establishing a Customs port of entry at Huntsville may be helpful in redistributing the Customs workload from the congested Los Angeles, California, and Chicago, Illinois, ports of entry which now clear most imported merchandise destined to the Huntsville area.

The geographical boundaries of the proposed Huntsville, Alabama, Customs port of entry would include all the territory within the counties of Limestone, Madison, Morgan, and Marshall, all in the State of Alabama.

Criteria for Port of Entry Eligibility

Facilities at a Customs port of entry should include wharfage and anchorage adequate for ocean-going cargo/passenger vessels, airport runways, and other facilities adequate for modern jet aircraft; warehousing space for secure storage of imported cargo pending Customs inspection and release; adequate passenger terminal facilities, administrative office space, cargo inspection areas, primary and secondary inspection areas, storage areas, and other space necessary for regular Customs operations. These facilities, including office space occupied by Customs employees, must be provided without cost to the Government.

In accordance with Customs criteria for port of entry status, the actual or potential annual workload should include 1,500 consumption entries (formal and informal), 1,000 scheduled international aircraft arrivals (passenger and cargo), or an appropriate combination.

Currently, no international aircraft arrive at Huntsville. However, Huntsville's port of entry application projects 4,652 annual consumption entries (formal and informal).

Evaluation at End of Two-Year Period

To determine whether (1) establishing an inland port at Huntsville will relieve the workload at Los Angeles and Chicago and other border ports, and (2) there is sufficient need for Customs services in the area, the Huntsville port of entry would be established on a two-year experimental basis. Should the projection of annual consumption entries be confirmed during the two-year period, the number in excess of Customs criterion for entries would be considered if Huntsville failed to meet other Customs workload criteria.

At the conclusion of the two-year period, Customs would evaluate the amount of international business, continued need for Customs services in the area, and the adequacy of Customs facilities. Should the extent of that business or the adequacy of the facilities fail to meet the criteria used by Customs to determine port of entry eligibility, as outlined above, the designation of Huntsville as a port of entry would be revoked.

Amendment to the Regulations

If the proposed change is adopted, the list of Customs regions, districts, and ports of entry in section 101.3, Customs Regulations (19 CFR 101.3), would be amended accordingly.

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with section 103.8(b), Customs Regulations (19 CFR 103.8(b)), during regular business hours at the Regulations and Research Division, Room 2335, Headquarters, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

Authority

This change is proposed under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR 1949–1953 Comp., Ch. II), and pursuant to authority provided by Treasury Department Order No. 101–5 (44 FR 31057).

Regulation Determined To Be Nonsignificant

In a directive published in the Federal Register on November 8, 1978 (43 FR 52120), implementing Executive Order 12044, "Improving Government Regulations", the Treasury Department stated that it considers each regulation or amendment to an existing regulation published in the Federal Register and codified in the Code of Federal Regulations to be "significant". However, regulations which are nonsubstantive, essentially procedural, do not materially change existing or establish new policy, and do not impose substantial additional requirements or costs on, or substantially alter the legal rights or obligations of, those affected, with Secretarial approval, may be determined not to be significant. Accordingly, it has been determined that this proposed amendment does not meet the Treasury Department criteria in the directive for "significant" regulations.

Drafting Information

The principal authors of this document were Lawrence P. Dunham and Laurie Strassberg Amster, Regulations and Research Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: February 4, 1980.

Richard J. Davis,

Assistant Secretary of the Treasury.

[FR Doc. 80-4815 Filed 2-14-80; 8:45 am]

BILLING CODE 4810-22-M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Chapter I

[Notice No. 80-2]

Improving Government Regulations; Semiannual Agenda of Regulations

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF).

ACTION: Semiannual Agenda of Regulations, significant and nonsignificant, under development and review.

SUMMARY: This semiannual agenda lists the regulations that ATF will be developing and reviewing from February 1, 1980, through August 1, 1980. The purpose of the semiannual agenda is to give the public adequate notice of ATF regulatory activities.

FOR FURTHER INFORMATION CONTACT: For general information about this semiannual agenda, contact Ms. Armida N. Stickney or Mr. Charles N. Bacon.

For information about any particular item on the semiannual agenda, contact the individual listed in the second column, subheading "Contact," for that item.

Telephone number for all contact persons: 202-566-7626 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Description

This Semiannual Agenda of Regulations is divided into two parts. Part I lists all regulation projects concerned with the development of regulations which ATF has under consideration as of February 7, 1980. Part II lists, separately, existing regulations which are being reviewed pursuant to Treasury Directive 50-04.F, paragraph 12. A table, which defines abbreviations used throughout this semiannual agenda, follows Part II.

Part I and Part II are set-up in columnar form and are composed of the following divisions:

1. Title/Citation

The first column states briefly the subject of the regulation and the affected part number of Title 27 of the Code of Federal Regulations.

2. Summary

The second column includes—

Description—A description of the proposed or final rule, or of the regulatory manner under consideration;

Need—A brief statement of why the regulation is needed;

Legal basis—The legal basis for the action being taken;

Contact—The name of the person to be contacted for additional information;

Status—The current or anticipated chronology of the development of the regulation, including any final action taken since the last semiannual agenda;

Priority—If the regulation project is assigned the letter "A", it is considered top priority; a "B" regulation project is considered high priority, and a "C" regulation project is considered regular.

Regulatory analysis—If a regulatory analysis is required for a regulation project, a statement to this effect will appear in this subdivision.

The next ATF semiannual agenda will be published in the Federal Register of Friday, August 1, 1980.

Issuance

By direction of the Secretary of the Treasury, this Semiannual Agenda of Regulations reads as set forth below.

Signed: February 11, 1980.

G. R. Dickerson,

Director.

Part I—*Regulations Under Development*

Title/citation	Summary
Alcohol	
50 ml container for wine, 27 CFR 4.73	*Description:* Adds a 50 ml (1.7 fluid ounce) size to the standards of fill for wine. [Rev.] *Need:* Some types of wine, especially sherry and port wines, have traditionally been produced in a miniature size for sale by airlines and railroads. Under current regulations, a size smaller than 100 ml may no longer be used in the United States. *Legal basis:* 27 U.S.C. 205. *Contact:* Charles N. Bacon. *Status:* NPRM to be published in February 1980. *Priority:* C.
Grape Brandy, 27 CFR Part 5	*Description:* ATF will consider whether standards of identity for "varietal grape brandy" should be added to the present labeling designations of "brandy" and "grape brandy". [Rev.] *Need:* Responds to a petition to permit the production and sale of brandies produced from specific varieties of grapes. *Legal basis:* 27 U.S.C. 205. *Contact:* Armida N. Stickney. *Status:* ANPRM published January 2, 1980 (45 FR 50); comment period ends April 1, 1980. *Priority:* B.
Prohibited trade practices under the FAA Act, 27 CFR Parts 6, 8, 10, and 11.	*Description:* Implements the trade practice subsections, 5(a)-5(d), of the FAA Act. Regulations will specify practices which are prohibited by the FAA Act and will list exceptions to these prohibitions. [Rev.] *Need:* Provisions of the FAA Act have been implemented through letters, ATF Rulings, and circulars. A need exists to update, revise, and codify these rulings. *Legal basis:* 27 U.S.C. 205. *Contact:* Charles N. Bacon. *Status:* T.D. under development; publication targeted for June 1980. *Priority:* A.
American Viticultural areas, 27 CFR Part 9	*Description:* A new Part 9 entitled American Viticultural Areas was added to Title 27 of the Code of Federal Regulations. This part will list approved viticultural areas to be used as American appellations of origin in accordance with 27 CFR Part 4 (Appellation of Origin Regulations). [New] *Status:* T.D. w/o N. published October 2, 1979 (44 FR 56692).
Proposed Viticultural Area (Augusta, Missouri) 27 CFR 9.22	*Description:* Establishes an American viticultural area for the labeling and advertising of wine. [New] *Need:* Responds to a petition from an industry member to establish a viticultural area. *Legal basis:* 27 U.S.C. 205. *Contact:* Tom Mutton. *Status:* Public hearing transcript under study. (Inquire contact person for additional information of status.) *Priority:* A.
Proposed Viticultural area (The Pinnacles, California) 27 CFR Part 9.	*Description:* Establishes an American viticultural area for the labeling and advertising of wine. [New]

Part I—*Regulations Under Development—Continued*

Title/citation	Summary
	Need: Responds to a petition from an industry member to establish a viticultural area. *Legal basis:* 27 U.S.C. 205. *Contact:* Tom Minton. *Status:* NPRM under internal development; publication targeted for February 1980. *Priority:* A.
Proposed Viticultural Area (Napa Valley, California) 27 CFR Part 9.	*Description:* Establishes an American viticultural area for labeling and advertising of wine. [New] *Need:* Responds to a petition from an industry member to establish a viticultural area. *Legal basis:* 27 U.S.C. 205. *Contact:* Tom Minton. *Status:* NPRM under internal development; publication targeted for February 1980. *Priority:* A.
Proposed Viticultural Area (Santa Maria Valley, California) 27 CFR Part 9.	*Description:* Establishes an American viticultural area for the labeling and advertising of wine. [New] *Need:* Responds to a petition from an industry member to establish a viticultural area. *Legal basis:* 27 U.S.C. 205. *Contact:* Norman P. Blake. *Status:* Petition is being evaluated. (Inquire contact person for additional information on status.) *Priority:* A.
Proposed Viticultural Area (Los Carneros, California) 27 CFR Part 9.	*Description:* Establishes an American viticultural area for the labeling and advertising of wine. [New] *Need:* Responds to a petition from an industry member to establish a viticultural area. *Legal basis:* 27 U.S.C. 205. *Contact:* Tom Minton. *Status:* Petition is being evaluated. (Inquire contact person for additional information on status.) *Priority:* A.
Proposed Viticultural Area (Sonoma Valley, California) 27 CFR Part 9.	*Description:* Establishes an American viticultural area for the labeling and advertising of wine. [New] *Need:* Responds to a petition from an industry member to establish a viticultural area. *Legal basis:* 27 U.S.C. 205. *Contact:* James A. Hunt. *Status:* Petition is being evaluated. (Inquire contact person for additional information on status.) *Priority:* A.
Proposed Viticultural Area (Santa Cruz Mountains, California) 27 CFR Part 9.	*Description:* Establishes an American viticultural area for the labeling and advertising of wine. [New] *Need:* Responds to a petition from an industry member to establish a viticultural area. *Legal basis:* 27 U.S.C. 205. *Contact:* James A. Hunt. *Status:* Petition is being evaluated. (Inquire contact person for additional information on status.) *Priority:* A.
Determination of color in White Wine and Treatment of Sherry with activated Carbon, 27 CFR Part 240.	*Description:* ATF proposed to (1) replace the Lovibond Method with the Association of Official Analytical Chemists (AOAC) Method 11.B01–11.B02 for determining color in wine, (2) provide winemakers continuing authority to treat sherry with activated carbon in order to remove excess color, and (3) set a new limitation on the amount of activated carbon to remove the excess coloring sherry. [Rev.] *Need:* Regulatory changes may be necessary to accommodate technological advances. *Legal basis:* 26 U.S.C. 5382. *Contact:* Armida N. Stickney. *Status:* NPRM published July 10, 1979 (44 FR 40351); T.D. publication targeted for April 1980. *Priority:* C.
Regulations Implementing the Distilled Spirits Tax Revison Act of 1979, 27 CFR Parts 5, 13 and 19 [formerly 186 and 201], 170, 173, 194, 195, 196, 197, 200, 211, 212, 213, 231, 240, 250, 251, and 252.	*Description:* The Distilled Spirits Tax Revison Act of 1979, (1) eliminated the wine gallon method for imposing the distilled spirits tax, (2) eliminated the rectification tax, and (3) converted DSP/s from the former distilled spirits tax system to an all-in-bond tax system. [Rev.] *Need:* The Act was passed by Congress as a part of the Trade Agreements Act of 1979 and became effective on January 1, 1980. As a result, ATF issued temporary regulations. *Legal basis:* Statutory provisions are contained in 26 U.S.C. Chapter 51. *Contact:* Edward J. Sheehan. *Status:* Temporary T.D. with N. published December 11, 1979 (44 FR 71612, 44 FR 71613). Comment period on temporary regulation ends September 11, 1980. T.D. publication targeted for March 1981. *Priority:* A.
Additional deferral of tax for distilled spirits containing wine, 27 CFR Parts 19 and 250.	*Description:* Allows bottlers of distilled spirits to additionally defer the distilled spirits tax on wine used in distilled spirits products. *Need:* Because of a new method of taxation, the distilled spirits industry is provided a transitional relief in paying the distilled spirits tax attributable to the wine component of distilled spirits products. Prior to January 1, 1980, the wine used in distilled spirits products was taxed generally at $0.17 or $0.67 per wine gallon. As of January 1, 1980, the

Part I—*Regulations Under Development—Continued*

Title/citation	Summary
	wine component of the distilled spirits products is to be taxed as distilled spirits at the rate of $10.50 per proof gallon. *Legal basis:* 26 U.S.C. 5061. *Contact:* Edward J. Sheehan. *Status:* Temporary T.D. published February 1, 1980 (45 FR 7528).
Formulas for Rectified Products [Form 27-B, Supplemental] 27 CFR Parts 170, 201, 250, and 252.	*Description:* This regulatory project would (1) redesignate the form number and change the title on formulas for rectified products, (2) allow rectifiers to submit a single formula for multiple plant coverage, (3) eliminate the requirement in certain cases for formulas to include a statement of process, and (4) eliminate the requirement for riders to formulas. [Rev.] *Status:* These regulations were incorporated into the temporary regulations implementing the Distilled Spirits Tax Revision Act of 1979.
Alternate premises between DSP/s and bonded wine cellars or taxpaid wine bottling houses 27 CFR Parts 19 [formerly 201], 231, and 240.	*Description:* Allows proprietors of DSP/s and contiguous bonded wine cellars or taxpaid bottling houses to alternate their premises without having to submit qualifying documents each time they propose an alternation. [New] *Status:* This regulation was incorporated into the temporary regulations implementing the Distilled Spirits Tax Revision Act of 1979.
Strip stamps and alternate Devices 27 CFR Parts 19 [formerly 201], 194, 250, 251, and 252.	*Description:* Specific areas revised may include (1) authorization to use alternatives to strip stamps, (2) elimination of references to serial numbers on strip stamps in the regulations; (3) elimination of blue and white strip stamps and the substitution of green and red strip stamps, respectively; and (4) elimination of certain overprinting requirements on green strip stamps. [Rev.] *Status:* These regulations were incorporated into the temporary regulations implementing the Distilled Spirits Tax Revision Act of 1979.
Export storage facilities at DSP/s, 27 CFR Part 19 [formerly 201]	*Description:* A liberalization of regulations relating to use of export storage facilities. These regulations would allow the transfer-in-bond of distilled spirits between different export storage facilities. [Res.] *Status:* These regulations were revoked by the Distilled Spirits Tax Revison Act of 1979.
Distilled spirits meters, 27 CFR Part 19 [formerly 201]	*Description:* Regulations to permit tax payment gauging of distilled spirits by approved metering systems. [Res.] *Status:* The use of meters for tax determination was eliminated by the Distilled Spirits Tax Revision Act of 1979.
Samples of distilled spirits, 27 CFR Part 19 [formerly 201]	*Description:* A liberalization of regulations relating to the withdrawal and use of distilled spirits for research, development, or testing purposes. Specific changes allow spirits to be withdrawn to central or commercial laboratories, ease recordkeeping requirements and eliminate the schedule of samples. [Rev.] *Status:* These regulations were incorporated into the temporary regulations implementing the Distilled Spirits Tax Revision Act of 1979.
New completely denatured alcohol formula No. 20, 27 CFR Parts 211 and 212.	*Description:* Establishes a new completely denatured alcohol formula suitable for blending in motor fuels. [New] *Need:* A new completely denatured alcohol formula may be more suitable for blending with gasoline in the production of gasohol. *Legal basis:* 26 U.S.C. 5241. *Contact:* Norman P. Blake. *Status:* Temporary T.D. with N. under internal review. *Priority:* A.
Special tax, 27 CFR Parts 179, 194, 197, 245, 250, 251, and 252.	*Description:* Implements adjustments in interest applicable to overpayments and underpayments of special tax, and conforms ATF regulations to changes made by the Internal Revenue Service on Form 11. [Rev.] *Need:* Regulations need to be revised to conform to Form 11, and to revise the interest rate statement. *Legal basis:* Pub. L. 93-625 and 26 U.S.C. 6621 and 7805. *Contact:* Steve Semon. *Status:* T.D. w/o N. under internal review; publication targeted for April 1980. *Priority:* B.
Procedures and Practices	
Seizures and forfeitures; carriers and contraband cigarettes, 27 CFR Part 72.	*Description:* The regulation would (1) implement section 111 of Pub. L. 95-410 (Customs Procedural Reform and Simplification Act of 1978) by increasing the appraised value of carriers from $2,500 to $10,000 and (2) implement Pub. L. 95-575 which provides that any contraband cigarettes involved in any violation of criminal law shall be subject to seizure and forfeiture. [Rev.] *Need:* To implement the provisions of Pub. L. 95-410 and Pub. L. 95-575. *Legal basis:* 26 U.S.C. 7805, 49 U.S.C. 68, and 18 U.S.C. 2346. *Contact:* Armida N. Stickney. *Status:* T.D. w/o N. published February 8, 1980.
Electronic fund transfers of alcohol excise tax payments, 27 CFR parts 19 [formerly 201], 70, 170, 240, 245, and 270 (26 CFR Parts 301 and 601).	*Description:* This regulation project would modify the present system of collecting alcohol excise taxes by return. The proposed system would require that certain alcohol taxpayers make their payments via electronic fund transfer directly to financial institutions. [Rev.]

Part I—*Regulations Under Development—Continued*

Title/citation	Summary
	Need: This project would implement the cash management recommendations resulting from the President's Reorganization Project. *Legal basis:* 26 U.S.C. 5061(a), 5703(b), and 7805. *Contact:* Armida N. Stickney. *Status:* Currently under internal study and development. NPRM expected April 1980. *Priority:* A.
ATF procedural rules, 27 CFR Parts 70 and 71 (26 CFR Parts 301 and 601).	*Description:* Incorporates all of the procedural requirements which relate to ATF and which now appear in Internal Revenue Service Regulations, 26 CFR Parts 301 and 601, into ATF procedural regulations. [Rev.] *Need:* Eliminates a source of confusion and places all of the procedural regulations into Title 27: Alcohol, Tobacco Products and Firearms. *Legal basis:* 26 U.S.C. 7805. *Contact:* Steve Simon. *Status:* Temporary T.D. with N. under internal development. (Inquire contact person for additional information.) *Priority:* B.
Appeal procedure for claims for abatement, remission or refund of excise taxes, 27 CFR Part 71.	*Description:* Establishes an appeal procedure whereby claims denied at the regional level may be appealed to the ATF Director. [New] *Need:* Current regulations do not provide for an appeal process for a claimant who feels that a claim was unfairly denied by the regional regulatory administrator (except in the case of newly discovered information). *Legal basis:* 26 U.S.C. 7805. *Contact:* John Ference. *Status:* Target date for publication of NPRM is April 1980. *Priority:* A.
Disclosure of tax return information, 27 CFR Part 71	*Description:* Proposed regulations would implement Title XII of Pub. L. 94–455, relating to disclosure of tax return information. [New] *Need:* Regulations may be needed to govern disclosure of tax return information, because of the changes made in this area by Pub. L. 94–455. *Legal basis:* 26 U.S.C. 6103. *Contact:* Armida N. Stickney. *Status:* Currently under internal study and development. *Priority:* A.
Tobacco Products	
Records requirement for cigarette distributors, 27 CFR Part 296, Subpart F.	*Description:* Implements recordkeeping provisions of Pub. L. 95–575 in order to curtail trafficking of contraband cigarettes. [New] *Need:* Records would be useful in tracing the movement of cigarettes and making enforcement of this law easier. *Legal basis:* Pub. L. 95–576 (18 U.S.C. 2343). *Contact:* Tom Minton. *Status:* NPRM published January 15, 1980 (45 FR 2855); comment period ends February 29, 1980. *Priority:* A.
Tobacco excise tax acceleration project, 27 CFR Parts 270, 275, and 285.	*Description:* This regulatory project would change the deferral and return periods for tobacco excise tax payments and would use electronic fund transfers for the payment of those excise taxes. [Rev.] *Need:* This project would implement the cash management recommendations resulting from the President's Reorganization Project. *Legal basis:* 26 U.S.C. 5061(a), 5703(b), and 7805. *Contact:* James A. Hunt. *Status:* Currently under internal study and development. (Inquire contact person for additional information on status.) *Priority:* A.

Part II—*Regulations Under Review*

Title/citation	Summary
Alcohol	
Wine; standard of identity for cider, 27 CFR Part 4	*Description:* Liberalizes standard of identity for cider by permitting cider to be made from a mixture of apples and pears. [Rev.] *Need:* Responds to a petition from an industry member. *Legal basis:* 27 U.S.C. 205. *Contact:* Tom Minton. *Status:* ANPRM published January 15, 1980 (45 FR 2855); comment periods ends March 17, 1980. *Priority:* B.
Bottles per shipping case for wine, 27 CFR Part 4	*Description:* Eliminates the regulatory requirement that wine be packed with a specified number of bottles per case. [Res.] *Need:* The requirement to pack a specified number of bottles per case has resulted in numerous requests for exemptions due to various reasons. These exemptions have proven to be an administrative burden on ATF, and have

Part II—*Regulations Under Review—Continued*

Title/citation	Summary
	hindered industry. Elimination of this requirement would remove an unnecessary restriction. *Legal basis:* 27 U.S.C. 205. *Contact:* James A. Hunt. *Status:* Revision under internal development; NPRM publication targeted for winter 1980. *Priority:* C.
Labeling of wine, 27 CFR Part 4	*Description:* Amends labeling regulations to make bulk-packed wine for consumers conform to same labeling requirements as wine bottled in bottles. [Rev.] *Need:* Amendment would eliminate separate statements—"packed by" for containers over four liters, and "bottled by" for containers of four liters or less. This amendment would save money and standardize labels. *Legal basis:* 27 U.S.C. 205. *Contact:* James A. Hunt. *Status:* This regulation project is being incorporated into the project on "bottles per shipping case for wine".
The fetal alcohol syndrome; a public awareness campaign, 27 CFR Parts 4, 5, and 7.	*Description:* To consider the need for health warning labels or alternate programs. [New] *Contact:* Michael Dressler at 566-7591. *Status:* ANPRM published January 16, 1978 (43 FR 2186). Progress report published February 9, 1979 (44 FR 8286). An industry-Federal public awareness program has been formulated and is being monitored. Under Pub. L. 96-180, a report on proposed Government actions will be sent to the President and the Congress by June 1, 1980.
Advertising of wine, distilled spirits, and malt beverages, 27 CFR Parts 4, 5, and 7.	*Description:* The advertising regulations under section 5(f) of the FAA Act are being reviewed for updating and possible revision. [Rev.] *Need:* Regulatory changes may be necessary to accommodate social and technological advances. *Legal basis:* 27 U.S.C. 205. *Contact:* Tom Minton. *Status:* ANPRM published on November 21, 1978 (43 FR 54266). (Inquire contact person for additional status information.) *Priority:* A.
Partial ingredient labeling for wine, distilled spirits, and malt beverages, 27 CFR Parts 4, 5, and 7.	*Description:* A major revision of FAA labeling requirements for all domestic and imported beverages would require that alcoholic beverage labels list essential components, colorings, flavorings, and preservatives. [Rev.] *Need:* This proposal would assist consumers in identifying ingredients contained in alcoholic beverages. *Legal basis:* 27 U.S.C. 205. *Contact:* Norman P. Blake or Roger L. Bowling. *Status:* NPRM published February 2, 1979 (44 FR 6740); extension of comment period published June 4, 1979 (44 FR 32014); future action under consideration. (Inquire contact person for additional information on status.) *Priority:* A. *Regulatory analysis:* A regulatory analysis is not required. However, ATF has decided that a regulatory analysis should be prepared and has such an analysis under development.
Labeling of distilled spirits and wine, 27 CFR Parts 5 and 7	*Description:* Simplifies the minimum type size for statements appearing on distilled spirits or wine labels. [Rev.] *Status:* This regulation project is being incorporated into the project on "Partial Ingredient Labeling" for alcoholic beverages.
Transfer of volatile fruit flavor concentrate between manufacturing plants, 27 CFR 18.127.	*Description:* Allows volatile fruit flavor concentrate of 15-24 percent alcohol content to be transferred between volatile fruit flavor manufacturing plants of same ownership. [Rev.] *Need:* Concentrates cannot be transferred between manufacturing plants unless reduced in alcohol content. This amendment would liberalize a current restriction on plant operations without jeopardizing revenues. *Legal basis:* 26 U.S.C. 5511. *Contact:* James A. Hunt. *Status:* An ATF ruling will be issued in lieu of a NPRM; publication targeted for September 1980. *Priority:* C.
Distilled spirits liquor bottles, 27 CFR Parts 19 [formerly 201], 173, 194, 250, and 251.	*Description:* Eliminates registration of liquor bottle manufacturers with ATF. Liquor bottle indicia requirement would be amended to read "Liquor Bottle" and transferred to Parts 19, 250, and 251. Simplifies procedures for approval by ATF of distinctive liquor bottles. [Res. & Rev.] *Need:* Contain substantive rules which have not been significantly revised in the preceding six years. *Legal basis:* 26 U.S.C. 5301 and 7805. *Contact:* Robert L. White. *Status:* NPRM currently under internal development; publication targeted for April 1980. *Priority:* B.
Bonding requirements, 27 CFR Part 211	*Description:* Certain bond requirements would be decreased or eliminated. [Rev. or Res.] *Need:* A study of bonding requirements and previous bond defaults has shown that it may be possible to decrease or eliminate bond requirements for some taxpayers without jeopardy to Federal revenues.

Part II—*Regulations Under Review—Continued*

Title/citation	Summary
	Legal basis: 26 U.S.C. 5272. *Contact:* Steve Simon. *Status:* NPRM publication targeted for June 1980. *Priority:* B.
Elimination of bonding requirements for experimental DSP/s, 27 CFR 201.65.	*Description:* Reduces bonding requirements on certain experimental DSP/s producing alcohol for fuel use. [Rev.] *Need:* Would eliminate and administrative burden for the Government and industry members. *Legal basis:* 26 U.S.C. 5312(b). *Contact:* Tom Minton. *Status:* NPRM under review within ATF. *Priority:* A.
Operational losses of distilled spirits, 27 CFR Part 19 [formerly 201].	*Description:* Increases the amount of allowable losses occurring during bottling operations at DSP/s. Current regulatory allowances are not providing adequate coverage of bottling losses. [Rev.] *Need:* To more closely align bottling losses with modern production methods. *Legal basis:* 26 U.S.C. 5008. *Contact:* Norman P. Blake. *Status:* T.D. ATF-61 was published October 1, 1979 (44 FR 56326), and effective for the year beginning July 1, 1978.
Distribution and use of denatured alcohol and rum, 27 CFR Part 211.	*Description:* A reissuance of regulations relating to the distribution and use of denatured alcohol by bonded dealers and users. Requirements will be liberalized and made more simple. [Rev.] *Status:* This project is suspended due to manpower allocation to regulation projects with greater public impact.
Distribution and use of tax free alcohol, 27 CFR Part 213	*Description:* Reissuance of regulations relating to the distribution and use of tax-free alcohol by qualified individuals. Requirements will be liberalized and made more simple. [Rev.] *Status:* This project is suspended due to manpower allocation to regulation projects with greater public impact.
Formulas for denatured alcohol and rum, 27 CFR Part 212	*Description:* This regulatory project will update, clarify, simplify, and reissue the regulations relating to formulas of denatured alcohol and rum. [Rev.] *Need:* Revision of 27 CFR Part 212 may be necessary to accommodate industry practices and changes in chemical terminology. *Legal basis:* 26 U.S.C. 5241. *Contact:* Steve Simon. *Status:* NPRM is under internal development; publication targeted for July 1980. *Priority:* C.
Wine; public use forms, 27 CFR Parts 231 and 240	*Description:* Eliminates several forms required to be kept by proprietors of wineries, and changes the information to be recorded to more accurately reflect operations at wineries. [Res.] *Need:* The maintenance of these public use forms is unnecessary, and may be burdensome to some winery proprietors. *Legal basis:* 26 U.S.C. 5367. *Contact:* James A. Hunt. *Status:* T. D. published January 24, 1980 (45 FR 5694).
Wine; recodification, 27 CFR Parts 240, 231, and 170, Subpart Z..	*Description:* Updates, simplifies, and clarifies regulations relating to wine. Incorporates all regulations and outstanding ATF rulings relating to the production of wine into one CFR Part. [Rev.] *Need:* Present rules are at times redundant and confusing. *Legal basis:* 26 U.S.C. 7805. *Contact:* Tom Minton. *Status:* ANPRM published May 22, 1979 (44 FR 29691); NPRM publication targeted for July 1980. *Priority:* B.
Production of beer, 27 CFR Part 245	*Description:* A reissuance of regulations relating to the production of beer. Requirements would be simplified, and technological advances will be incorporated into the regulations. [Rev.] *Need:* Contains substantive rules which have not been significantly revised in the preceding six years, and which are complex and may be simplified and clarified. *Legal basis:* 26 U.S.C. 5051-5056, 26 U.S.C. 5401-5417. *Contact:* Charles N. Bacon. *Status:* Revision under internal development; NPRM publication targeted for October 1980. *Priority:* B.
Export of bulk beer, 27 CFR Parts 245 and 252	*Description:* Allows the export of beer in bulk containers without payment of tax. [Res.] *Need:* Would eliminate an unnecessary burden on the brewing industry. *Legal basis:* 26 U.S.C. 5053. *Contact:* Tom Minton. *Status:* NPRM under review within ATF. *Priority:* C.
U.S. Customs certification on distilled spirits from Puerto Rico, 27 CFR Part 250.	*Description:* This regulation changes the Customs certification on distilled spirits entering the United States from Puerto Rico. [Rev.] *Need:* The U.S. Customs Service does not consider Puerto Rican distilled spirits as an import; therefore, it may be necessary to revise the certification procedures for these spirits which are brought into the United States from Puerto Rico.

Part II—*Regulations Under Review—Continued*

Title/citation	Summary
	Legal basis: 26 U.S.C. 7805. *Contact:* James A. Hunt. *Status:* NPRM under internal development; publication targeted for February 1980. *Priority:* A.
Exportation of wine, distilled spirits, and malt beverages, 27 CFR Part 252.	*Description:* This regulatory project will update, clarify, simplify, and reissue the regulations relating to the exportation of wine, distilled spirits, and malt beverages. [Rev.] *Need:* Present procedures for the certification of the export of alcoholic beverages are burdensome upon Government and industry, and do not work well in all cases. ATF has determined to study the export procedures and make necessary changes. *Legal basis:* 26 U.S.C. 7805 *Contact:* Steve Simon. *Status:* NPRM under internal development; publication targeted for June 1980. *Priority:* C.
Markings on cases of distilled spirits for export, 27 CFR Part 252.	*Description:* Deletes the regulatory requirement to mark packages or cases of wine, beer, or distilled spirits for export with the words "Without Payment of Tax" or "Drawback Claimed". [Rev.] *Need:* The requirement to mark cases of distilled spirits, wine, or beer for export is burdensome to proprietors of DSP/s, vintners, or brewers; and this requirement does not serve to protect the revenue. *Legal basis:* 26 U.S.C. 5206, 5368, 5412. *Contact:* Charles N. Bacon. *Status:* Revision under internal development. NPRM publication targeted for March 1980. *Priority:* A.
Explosives	
Recodification and redesignation of explosives regulations, 27 CFR Part 181.	*Description:* Recodification of explosives regulations which are to be updated, clarified, and simplified. It will further implement Title XI of the Organized Crime Control Act of 1970 and will adopt standards of safety and security. [Rev.] *Need:* The explosives regulations have not been significantly revised in the past six years. Many technological advances may have made these regulations obsolete. *Legal basis:* 18 U.S.C. 847. *Contact:* James A. Hunt. *Status:* Revision under internal development. *Priority:* A.
Firearms	
Definition of "engaged in the business", 27 CFR Part 178	*Description:* This regulation project attempts to define the term "engaged in the business". The law and regulations do not define this term. [Rev.] *Need:* Is the subject of criticism by the public and of request by the Congress for review *Legal basis:* 18 U.S.C. 926. *Contact:* Robert White. *Status:* ANPRM published December 19, 1979 (44 FR 75186); comment period ends March 18, 1980 *Priority:* A.
Sales of firearms at gun shows, 27 CFR Part 178	*Description:* This regulation project would allow the sale of firearms at organized gun shows held in the same State as the licensee's premises. *Need:* Present regulations require licensees to conduct businesses only at the address shown on their license. ATF wishes to determine if licensees should be permitted to conduct business at gun shows. *Legal basis:* 18 U.S.C. 926. *Contact:* James A. Hunt. *Status:* Regulatory change is under consideration. *Priority:* A.
Suspension procedures for firearms licenses and explosives licenses or permits, 27 CFR Parts 178 and 181.	*Description:* This regulation would allow ATF to suspend the license or permit of Federal firearms licensees or of explosives licensees or permittees. *Need:* When adverse administrative actions are taken against the holder of a Federal firearms licensee or explosives licensee or permittee, current regulations provide only for the revocation of, or for the denial of, an application for a license or permit. Less severe administrative actions, such as suspension of the license or permit for a period of time are not now available. ATF wishes to determine if license or permit suspension should be used as an alternative adverse administrative action. *Legal basis:* 18 U.S.C. 847 and 926. *Contact:* Norman Blake. *Status:* Regulatory change is under consideration. *Priority:* A.
National Firearms Act, 27 CFR Part 179	*Description:* These regulations would streamline the transfer procedures for title II weapons. [Rev.] *Status:* This project is suspended due to manpower allocation to regulation projects with greater public impact.
Tobacco Products	
Importation of tobacco products, 27 CFR Part 275	*Description:* Eliminates U.S. Customs Service involvement on importation of Puerto Rican tobacco products. Eliminates direct ATF supervision of tobacco product shipment from Puerto Rico. [Res.] *Status:* This project is suspended due to manpower allocation to regulation projects with greater public impact.

Part II—*Regulations Under Review—Continued*

Title/citation	Summary
Manufacturer's identification on tobacco products packages, 27 CFR Parts 270, 290, and 295.	*Description:* Removes a regulatory requirement relating to labeling. Permits identification of the manufacturer of cigarettes or cigars by means of a code on the label. [Rev.] *Need:* Special permission for manufacturer identification by code has been approved for use on some labels in certain cases, and no jeopardy to the revenue has been experienced. Consequently, all manufacturers may be permitted to use this method, on the condition that ATF be permitted to identify the codes to any member of the public making a request for such identification. *Legal basis:* 26 U.S.C. 5723. *Contact:* Steve Simon. *Status:* NPRM currently under internal development; publication targeted for May 1980. *Priority:* C.
Markings on packages of large cigars 27 CFR parts 270, 275, 290, and 295.	*Description:* Removes the requirement to mark the wholesale price on packages of large cigars. This requirement was added by Pub. L. 94-455. [Res.] *Need:* The requirement has not been invoked by those affected or by ATF for more than one year. *Legal basis:* Pub. L. 94-455 and 26 U.S.C. 7805. *Contact:* Steve Simon. *Status:* Publication of T.D. w/o N. targeted for March 1980. *Priority:* C.
Tobacco products transferred to export warehouses, 27 CFR Parts 275 and 290.	*Description:* Proposed regulations would implement Pub. L. 95-455, relating to transfer of liability for tobacco taxes and to exemptions from tobacco taxes. [New] *Status:* This project is suspended due to manpower allocation to regulation projects with greater public impact.
Exportation of tobacco products, 27 CFR Part 290	*Description:* This regulatory project will update, clarify, simplify, and reissue the regulations relating to the exportation of tobacco products. [Rev.] *Status:* This project is suspended due to manpower allocation to regulation projects with greater public impact.

Table of Abbreviations

Abbreviation	Meaning
ANPRM	Advance notice of proposed rulemaking.
ATF	Bureau of Alcohol, Tobacco and Firearms.
CFR	Code of Federal Regulations.
DSP	Distilled spirits plant.
FR	**Federal Register**
FAA Act	Federal Alcohol Administration Act.
FDA	Food and Drug Administration.
New	New regulation is proposed.
NPRM	Notice of proposed rulemaking.
Pub. L.	Public Law.
Res.	Rescission of an existing regulation.
Rev.	Revision or amendment of an existing regulation.
T.D.	Treasury decision.
T.D. with N.	[Temporary] Treasury decision with notice.
T.D. w/o N.	Treasury decision without notice.
Treasury	Department of the Treasury.

[FR Doc. 80-5073 Filed 2-14-80; 8:45 am]
BILLING CODE 4810-31-M

DEPARTMENT OF LABOR

Wage and Hour Division, Employment Standards Administration

29 CFR Part 1

Procedures for Predetermination of Wage Rates; Extension of Comment Period

AGENCY: Wage and Hour Division, Labor.

ACTION: Proposed rule; Extension of Comment Period.

SUMMARY: This document extends the period for filing comments regarding a proposed rule intended to revise Part 1 of Title 29 of the Code of Federal Regulations (29 CFR Part 1) which concerns Procedures For Predetermination of Wage Rates. This action is taken in response to requests by various interested parties who need additional time to submit their comments.

DATE: Comments must be received on or before March 27, 1980.

ADDRESS: Comments should be sent to Mrs. Dorothy P. Come, Assistant Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Dorothy P. Come, Assistant Administrator, Wage and Hour Division,

Employment Standards Administration, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Telephone: 202-523-8333.

SUPPLEMENTARY INFORMATION: In the Federal Register of December 28, 1979 (44 FR 77026) the Department of Labor published a proposed rule intended to revise 29 CFR Part 1 which concerns Procedures for Predetermination of Wage Rates. Interested persons were requested to submit comments on or before February 26, 1980.

The agency has received requests for an extension from various interested parties who need additional time to submit their comments. The agency believes that the extension of the comment period is appropriate, and that the additional time should be extended to all interested persons. Therefore, the comment period for the proposed rule, revising 29 Part 1 (Procedures For Predetermination of Wage Rates), is extended to March 27, 1980.

Signed at Washington, D.C., this 8th day of February, 1980.

Donald Elisburg,

Assistant Secretary of Labor, Employment Standards Administration.

[FR Doc. 80-4813 Filed 2-14-80; 8:45 am]

BILLING CODE 4510-27-M

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29 CFR Part 4

Service Contract Act; Labor Standards for Federal Service Contracts; Extension of Comment Period

AGENCY: Wage and Hour Division, Labor.

ACTION: Proposed rule; Extension of Comment Period.

SUMMARY: This document extends the period for filing comments regarding a proposed rule intended to revise Part 4 of Title 29 of the Code of Federal Regulations (29 CFR Part 4) which concerns Labor Standards for Federal Service Contracts. This action is taken in response to requests by various interested parties who need additional time to submit their comments.

DATE: Comments must be received on or before March 27, 1980

ADDRESS: Comments should be sent to Mrs. Dorothy P. Come, Assistant Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Dorothy P. Come, Assistant Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Telephone: 202-523-8333.

SUPPLEMENTARY INFORMATION: In the Federal Register of December 28, 1979 (44 FR 77036) the Department of Labor published a proposed rule intended to revise 29 CFR Part 4 which concerns Labor Standards for Federal Service Contracts. Interested persons were requested to submit comments on or before February 26, 1980.

The agency has received requests for an extension from various interested parties who need additional time to submit their comments. The agency believes that the extension of the comment period is appropriate, and that the additional time should be extended to all interested persons. Therefore, the comment period for the proposed rule, revising 29 CFR Part 4 (labor Standards for Federal Service Contracts), is extended to March 27, 1980.

Signed at Washington, D.C., this 8th day of February, 1980.

Donald Elisburg,

Assistant Secretary of Labor, Employment Standards Administration.

[FR Doc 80-4814 Filed 2-14-80; 8:45 am]

BILLING CODE 4510-27-M

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29 CFR Part 5

Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act); Extension of Comment Period

AGENCY: Wage and Hour Division, Labor.

ACTION: Proposed rule; Extension of Comment Period.

SUMMARY: This document extends the period for filing comments regarding a proposed rule intended to revise Part 5 of Title 29 of the Code of Federal Regulations (29 CFR Part 5) which concerns Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act).

This action is taken in response to requests by various interested parties who need additional time to submit their comments.

DATE: Comments must be received on or before March 27, 1980.

ADDRESS: Comments should be sent to Mrs. Dorothy P. Come, Assistant Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Dorothy P. Come, Assistant Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Telephone: 202-523-8333.

SUPPLEMENTARY INFORMATION: In the Federal Register of December 28, 1979 (44 FR 77080) the Department of Labor published a proposed rule intended to revise 29 CFR Part 5 which concerns Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act). Interested persons were requested to submit comments on or before February 26, 1980.

The agency has received requests for an extension from various interested parties who need additional time to submit their comments. The agency believes that the extension of the comment period is appropriate, and that the additional time should be extended to all interested persons. Therefore, the comment period for the proposed rule, revising 29 CFR Part 5, is extended to March 27, 1980.

Signed at Washington, D.C., this 8th day of February, 1980.

Donald Elisburg,

Assistant Secretary of Labor, Employment Standards Administration.

[FR Doc 80-4812 Filed 2-14-80; 8:45 am]

BILLING CODE 4510-27-M

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S-108-1]

Electrical Standards; Public Hearing

AGENCY: Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

ACTION: Notice of informal public hearing.

SUMMARY: This notice schedules an informal public hearing on the proposed electrical standards, 29 CFR Part 1910, Subpart S, as published in the Federal

Register on September 25, 1979 (44 FR 55274).

DATES: The informal public hearing will begin on May 6, 1980 at 9:30 a.m. All notices of intention to appear at the public hearing and all written comments relating to the hearing issues must be received by April 8, 1980. All testimony and evidence which will be introduced into the hearing record must be received by April 22, 1980.

ADDRESSES: The informal hearing will be held in the Auditorium, New Department of Labor Building, 3rd Street and Constitution Avenue NW., Washington, D.C. 20210. Send written comments to: Docket Officer, Docket S–108–1, Room S6212, U.S. Department of Labor, Washington, D.C. 20210.

Send notices of intention to appear, and testimony and evidence which will be introduced into the hearing record to: OSHA, Division of Consumer Affairs, Room N3635, U.S. Department of Labor, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: On the public hearing: Mr. J. Thomas Hall, Division of Consumer Affairs, Room N3635, U.S. Department of Labor, Washington, D.C. 20210, (202–523–8024).

On the proposed electrical standards: Mr. Sil Patti, Office of Electrical and Electronic Engineering Safety Standards, Room N3510, U.S. Department of Labor, Washington, D.C. 20210, (202–523–7207).

SUPPLEMENTARY INFORMATION: On September 25, 1979, OSHA published (44 FR 55274) a proposed revision of its electrical safety standards contained in 29 CFR Part 1910, Subpart S. This revision, to simplify, clarify, and update the existing standard, was proposed under section 6(b) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 29 U.S.C. 655), Secretary of Labor's Order No. 8–76 (41 FR 25059), and 29 CFR Part 1911.

Interested persons were invited to attend a public meeting on November 8, 1979, and were initially given until November 30, 1979, to submit written comments on the proposal, to file objections, and to request a hearing. At the request of several commenting parties, the comment period was subsequently extended to December 31, 1979 (44 FR 66621).

Over 190 written comments have been received, including several requests for a hearing. In response to the objections raised and the hearing requests received, OSHA invites testimony, evidence, and comments on the following issues which have been raised in the hearing requests:

1. Whether the proposal should be more performance oriented or, on the other hand, should provide greater specification.

2. Whether the scope of the standard is clear with respect to its coverage of public utilities.

3. Whether the proposal would change the existing "grandfathering" and "retroactive" provisions (current §§ 1910.309 (a) and (b); proposed § 1910.302(b)).

4. Whether the marking and approval requirements in proposed §§ 1910.303(a), 1910.303(e), and 1910.307(b)(4) deviate from the existing regulations and whether they relate to employee safety.

5. Whether the impedance and ampacity requirements of National Electrical Code (NEC) section 250–51 should be included in the standard.

6. Whether the prohibition of the use of structural metal frames of buildings as the equipment grounding conductor (1978 NEC 250–58(a)) should be included in the standard.

7. Whether the definitions for Class II locations and their associated explanatory notes should be changed.

8. Whether installations of electrolytic cells should be covered by the guarding provisions of proposed § 1910.303.

Public Participation in Hearing

Under section 6(b)(3) of the Act and 29 CFR Part 1911, an opportunity to submit oral testimony concerning the hearing issues will be provided at an informal hearing scheduled to begin at 9:30 a.m. on May 6, 1980, in the Auditorium, New Department of Labor, 3rd Street and Constitution Avenue NW., Washington, D.C. 20210.

Notice of Intention to Appear

Persons desiring to participate at the hearing, including those who previously requested that a public hearing be held, must file a notice of intention to appear, which must be received by April 8, 1980, with Mr. J. Thomas Hall, OSHA Division of Consumer Affairs, Room N3635, U.S. Department of Labor, 3rd Street and Constitution Avenue NW., Washington, D.C. 20210. Telephone: (202) 523–8024. Persons who do not intend to appear at the hearing may submit written comments on the hearing issues, by April 8, 1980, to the Docket Office, Docket S–108–1, U.S. Department of Labor, Washington, D.C. 20210. Telephone: (202) 523–7894.

The notices of intention to appear, which will be available for inspection and copying at the OSHA Division of Consumer Affairs, must contain the following information:

1. The name, address, and telephone number of each person to appear;

2. The capacity in which the person will appear;

3. The approximate amount of time required for the presentation;

4. The specific issues that will be addressed;

5. A detailed statement of the position that will be taken with respect to each issue addressed; and

6. Whether the party intends to submit documentary evidence, and if so, a detailed summary of the evidence to be adduced in support of the position.

Filing of Testimony and Evidence Before Hearing

Any party requesting more than 15 minutes for presentation at the hearing, or who will submit documentary evidence, must provide in quadruplicate the complete text of its testimony, including all documentary evidence to be presented at the hearing, to the OSHA Division of Consumer Affairs, where they will be available for inspection and copying. This material must be received by April 22, 1980. Each submission will be reviewed in light of the amount of time requested in the notice of intention to appear. In instances where the information contained in the submission does not justify the amount of time requested, a more appropriate amount of time will be allocated and the participant will be notified of that fact.

Any party who has not substantially complied with the above requirement may be limited to a 15 minute presentation, and may be requested to return for questioning at a later time. Any party who has not filed a notice of intention to appear may be allowed to testify, as time permits, at the discretion of the Administrative Law Judge.

Conduct of the Hearings

The hearing will commence at 9:30 a.m. on May 6, 1980, with the resolution of any procedural matters relating to the proceeding. The hearing will be presided over by an Administrative Law Judge who will have all the powers necessary or appropriate to conduct a full and fair informal hearing as provided in 29 CFR Part 1911, including the powers:

1. To regulate the course of the proceedings;

2. To dispose of procedural requests, objections, and comparable matters;

3. To confine the presentation to the matters pertinent to the issues raised;

4. To regulate the conduct of those present at the hearing by appropriate means;

5. In the Judge's discretion, to question and permit questioning of any witness; and

6. In the Judge's discretion, to keep the record open for a reasonable stated time to receive written information and

additional data, views, and arguments from any person who has participated in the oral proceeding.

Following the close of the hearing, the presiding Administrative Law Judge will certify the record of the hearing to the Assistant Secretary of Labor for Occupational Safety and Health. Proposed Subpart S of Part 1910 will be reviewed in light of all testimony and written submissions received as part of the record, and a standard will be issued or a determination will be made not to issue a rule, based on the entire record of this proceeding.

This hearing notice for proposed Subpart S was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 3rd Street and Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 12th day of February 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80-5025 Filed 2-14-80; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF THE TREASURY

Secret Service

31 CFR Ch. IV

Improving Government Regulations; Semiannual Agenda of Regulations

AGENCY: U.S. Secret Service, Treasury.

ACTION: Semiannual agenda.

SUMMARY: Notice is hereby given, as required by the Department of the Treasury implementation plan for Executive Order 12044 (43 FR 52120), that the United States Secret Service does not presently have any significant regulations under development or review.

FOR FURTHER INFORMATION CONTACT: Bob Goff, (202) 535-5771.

By direction of the Secretary of the Treasury.

Dated: January 30, 1980.

H. S. Knight,

Director, U.S. Secret Service.

Approved: February 4, 1980.

Richard J. Davis,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 80-5166 Filed 2-14-80; 8:45 am]

BILLING CODE 4810-42-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 288

[DoD Instruction 7230.7]

User Charges; Schedules of Fees and Rates

AGENCY: Office of the Secretary of Defense

ACTION: Proposed rule.

SUMMARY: The Department of Defense is proposing changes to its "Schedule of Fees and Rates." The fees and rates apply to certain services relating to copying, certifying, and searching of records rendered to the public. The changes reflect increases in consumer prices.

DATES: Comments must be received by March 17, 1980.

ADDRESS: Send written comments to the Office of the Deputy Assistant Secretary of Defense (Management Systems), the Pentagon, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT: Mr. Robert E. Flaherty, 202-697-7297.

SUPPLEMENTARY INFORMATION: In FR Doc. 79-19107, appearing in the Federal Register on June 20, 1979 (44 FR 36029), the Office of the Secretary of Defense published this part as a final rule. This proposed rule will revise the schedule of fees and rates. Accordingly, it is proposed to revise § 288.9 of this part, reading as follows:

§ 288.9 Schedule of Fees and Rates.

This schedule applies to authorized services related to copying, certifying, and searching records rendered to the public by DoD Components, except when those services are excluded or excepted from charges under § 288.3(d) or § 288.8. Except as provided in special cases prescribed below, a minimum fee of $2.85 will be levied for processing any chargeable case. Normally only one copy of any record or document will be provided.

Requests involving.—(a) *Training and Education:*

	Fee
(1) Transcripts:	
Original copy	$2.85
Each additional copy (includes requests for transcripts of graduation from military academies and schools)	.35
(2) Certificates:	
Original copies	2.85
Each additional copy (includes all requests for certificates, verification of attendance, and course completion from service schools and other facilities)	.35

(b) *Medical and Dental Records of Patients and Former Patients (when requested for purposes other than further medical treatment).* Covers request for information from or copies of medical records, including clinical records (inpatient records of military and nonmilitary patients), health records (military outpatient records), outpatient records (nonmilitary outpatient records), dental records, and loan of X-rays.

(1) Searching and processing (per hour)	$10.85
Minimum charge	6.80
(2) Each typewritten page	2.85
(3) Office copy reproductions (per image)	.07
(4) Loan of each X-ray	2.10
(5) Copy of X-ray:	
8" x 10"	2.10
10" x 12"	2.85
14" x 17"	4.25

(c) *Military Membership and Record (Excluding Medical and Dental Records)*

(1) Address of record, each	$2.85
(2) Copies of releasable military personnel records, such as effectiveness reports for officers and enlisted personnel, reproduced for the personal use of active retired and former members or next of kin of missing in action or deceased member of the Armed Forces:	
(i) Minimum charge (up to six reproduced images)	2.85
(ii) Each additional image	.07
(iii) Statement of verification of service or report of separation, for individuals with other than honorable discharges	4.25

(d) *Photography*

(1) Still pictorial or documentary photographic prints; no more than three prints may be sold from any individual negative on each order. Unlisted standard sizes of prints may be furnished, if available, at proportionate rates.

8" x 10" single-weight glossy finish, 1st print	$1.50
2d and 3d prints, each	1.20
8" x 10" double-weight matte finish, 1st print	2.35
2d and 3d prints, each	2.10
11" x 14" double-weight matte finish, each	4.95
16" x 20" double-weight matte finish, each	6.50
20" x 24" double-weight matte finish, each	9.15
35mm color transparency slide made from color negative material, each	4.15
35mm duplicate from 35mm slide	.70
4" x 5" black and white negative, each	2.65
4" x 5" color transparencies or color negative, each	9.45
8" x 10" color transparencies or color negative, each (in quantities not to exceed three copies of any one view)	19.75
8" x 10" color type "C" print, 1st print	5.30
2d and 3d prints, each	2.35
11" x 14" color type "C" print, 1st print	11.30
2d and 3d prints, each	7.10
16" x 20" color type "C" print, each	20.65
16" x 20" color type "C" print, mounted on 20" x 24" cardboard, each	27.10
70mm color internegative, each	8.25

(2) Aerial photographic prints, contact prints, or exact negative sizes, single-weight glossy or double-weight semimatte, black and white, per frame:

Contact Prints:	
70mm film	$3.00
5" x 5", paper or film	3.00
9" x 9", 10" x 10", paper	3.00
9" x 9, 10" x 10", film	4.50
Enlargements:	
9" x 9" (from 70mm only), paper	3.00
9" x 9" (from 70mm only), film	4.50
12" x 12" thru 15" x 15" (1.5X), paper	6.00
18" x 18" thru 20" x 20" (2X), paper	7.50
24" x 24" thru 30" x 30" (3X), paper	9.00
36" x 36" thru 40" x 40" (3X), paper	18.00

For an intermediate-size enlargement, use the price listed for the next larger size.

(3) Aerial photographic indices and mosaic copies, each:

10" x 12"	$4.50
20" x 24"	7.50

(4) Reproduction of cover overlays each:

Transparent foil film overlays	$3.75
Transparent paper overlays	2.25

(5) Motion Picture.

	Price per foot	
	Contract	Reduction
Color:		
16mm work print (negative/positive)	$0.20	$0.28
16mm reversal work print	.20	.28
16mm master positive	.44	.75
16mm dup negative (from master positive)	.47	.52
16mm reversal dup negative	.47	.52
16mm internegative (from reversal original)	1.00	
16mm short rolls (under 200 feet), add	[1].07	
16mm tab-to-tab printing, add	[1].18	
35mm work print (negative/positive)	.26	
35mm master positive	.71	
35mm dup negative	.71	
35mm reversal dup negative	1.41	
35mm short rolls (under 400 feet) add	[1].07	
35mm tab-to-tab printing, add	[1].21	
Black and White:		
16mm work print (negative/positive)	.12	.19
16mm master positive (fine grain)	.15	.20
16mm dup negative	.24	.31
16mm short rolls (under 200 feet), add	[1].07	
16mm tab-to-tab printing, add	[1].08	
35mm work print	.13	
35mm master positive	[1].17	
35mm dup negative	.28	
35mm short rolls (under 400 feet), add	[1].07	
35mm tab-to-tab printing, add	[1].08	
Magnetic Tape:		
Dub (16mm, 35mm, ¼") per hour	$64.85 plus raw stock.	
Miscellaneous:		
Searching, each hour or fraction thereof		14.70
Minimum charge per order (including stock search)		28.25
16mm film to 2mm video tape (does not include tape) per hour		254.05
Minimum charge		141.15

[1]To basic price.

(e) *Construction and Engineering Information.* Copies of aerial photograph maps, specifications, permits, charts, blueprints, and other technical engineering documents.

(1) Searching, per hour or fraction thereof (including overhead costs)	$10.85
(2) First print	2.10
(3) Each additional print of same document	.70

(f) *Copies of Medical Articles and Illustrations.* Standards contained in the basic Instruction will be utilized in computing costs.

(g) *Claims, Litigation.* (Includes court-martial records furnishing information from Report of Claims Investigations; e.g., automobile collision investigations, safety reports, etc.). Requests pertaining to private litigation and to cases in which the United States is a party and where court rules provide for reproduction of records without cost to the Government (if not covered in 2. or 3., above).

(1) Searching and processing (per hour)	$10.85
Minimum charge	6.80
Note.—Charges for professional search or research will be made in accordance with 10.b., below.	
(2) Office copy reproduction (minimum up to six reproduced images)	2.85
(3) Each additional image	.07
(4) Certification and validation with seal, each	4.25

(h) *Publications and Forms.* A search and/or processing fee, as prescribed in 10.a. below, will be made for requests requiring extensive time (1 hour or more).

(1) Shelf Stock. (Requesters may be furnished more than one copy of publication or form if it does not deplete stock levels below projected planned usage.)

(i) Minimum fee per request (up to six reproduced pages)	$2.85
(A) Form, per copy	.07
(B) Publications, per printed page	.01
(C) Microfiche, per fiche	.08
(ii) (Examples: Cost of 20 forms, $4.25; cost of a publication with 100 pages, $3.85; cost of microfiche publication consisting of 10 fiches, $3.65)	

(2) Office Copy Reproduction (when shelf stock is not available)

(i) Minimum charge	$2.85
(ii) Minimum charge first fiche	7.10
(iii) Each additional page	.07
(iv) Each additional fiche	.14

(i) *Engineering Data (Microfilm).*

(1) Aperture Cards:	
(i) Silver duplicate negative, per card	$0.60
When keypunched and verified, per card	.70
(ii) Diazo duplicate negative, per card	.50
When keypunched and verified, per card	.60
(2) 35mm roll film, per frame	.40
(3) 16mm roll film, per frame	.35
(4) Paper prints (engineering drawings), each	.70
(5) Paper reprints of microfilm indices, each	.07

(j) *General.* Charges for any additional services not specifically provided above and consistent with the provisions of the basic Instruction will be made by the respective DoD Components at the following rates:

(1) Clerical search and processing, per hour	$10.85
Minimum charge	6.80
(2) Professional searching or researching	
(To be established at actual hourly rate prior to search. A minimum charge will be established at ½ hourly rate.)	
(3) Minimum charge for office copy reproduction (minimum up to six images)	2.85
(4) Each additional image	.07
(5) Each typewritten page	2.85
(6) Certification and validation with seal, each	4.25
(7) Hand-drawn plots and sketches, each hour or fraction thereof	8.15

(31 U.S.C. 483a; Title V, Pub. 2, 137 82nd Congress, Act of August 31, 1951, 65 Stat. 290)

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

February 12, 1980.

[FR Doc. 80-4922 Filed 2-14-80; 8:45 am]

BILLING CODE 3810-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1414-3]

Missouri: Approval and Promulgation of Implementation Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability.

SUMMARY: The State of Missouri, on December 13, 1979, submitted to EPA draft regulations which were written to satisfy the requirements of Part C and Sections 172(b)(6), 172(b)(11)(A) and 173 of the Clean Air, as amended. Part C of the Act is concerned with the prevention of significant deterioration of air quality. Sections 172(b)(6), 172(b)(11)(A) and 173 are requirements for permit programs for new and modified major stationary sources of air pollutants in areas where air quality is worse than national standards.

Interested persons are invited to examine the proposed regulations and submit comments.

The EPA is considering separating review and action on these regulations into two parts; 1) provisions applicable to Part C and 2) provisions applicable to Sections 172(b)(6), 172(b)(11) and 173. If this course is chosen there will be separate rulemaking actions. Proposed rulemaking action(s) describing the regulations will be published at a later date. The period for submittal of comments will extend for 30 days after the proposed rulemaking(s).

ADDRESSES: Comments should addressed to Wayne Leidwanger, Air Support Branch, EPA, 324 East 11th Street, Kansas City, Missouri 64106.

The Missouri draft regulations may be reviewed during normal business hours at the above address and also at the following locations: EPA, Public Information Reference Unit, Room 2922, 401 M Street SW., Washington, D.C. 20460; Missouri Department of Natural Resources, 2010 Missouri Boulevard, Jefferson City, Missouri 65101.

FOR FURTHER INFORMATION CONTACT: Wayne Leidwanger, 816/374-2080, (FTS) 758-2080.

SUPPLEMENTARY INFORMATION: Part C of the 1977 Clean Air Act Amendments requires states to revise their State Implementation Plans to provide for prevention of significant deterioration (PSD). Part D of the Act requires SIP revisions for attainment of the National Ambient Air Quality Standards (NAAQS) in areas which have been designated nonattainment. The State of

Missouri submitted a plan to satisfy the requirements of Part D on July 2, 1979. On October 25, 1979, EPA proposed action on the Missouri Part D SIP revision (44 FR 61384). That proposed rulemaking cited deficiencies in the new source review procedures of the part D plan. The final rulemaking on the Missouri Part D SIP will be published in the Federal Register in the near future.

The State of Missouri has drafted regulations to satisfy the Part C requirements and the new source review deficiencies cited in the October 25, 1979, proposed rulemaking (44 FR 61384). The purpose of this notice is to announce that the draft regulations are available for public review and comment and that the state has scheduled a public hearing on their proposed regulations on February 27, 1980. The public is encouraged to submit written comments on these proposed regulations. A description of the regulations and proposed EPA action will be published in the Federal Register in the proposed rulemaking(s).

Dated: February 8, 1980.

William W. Rice,

Acting Regional Administrator.

[FR Doc. 80-5050 Filed 2-14-80; 8:45 am]

BILLING CODE 6560-01-M

GENERAL SERVICES ADMINISTRATION

Public Buildings Service

41 CFR Part 101-20

Rules and Regulations Governing Public Buildings and Grounds

AGENCY: Public Buildings Service, General Services Administration.

ACTION: Proposed rule.

SUMMARY: The General Services Administration (GSA) proposes to amend its rules and regulations governing public buildings and grounds and the procedures to be followed in permitting the occasional use of public buildings by members of the public. The Public Buildings Cooperative Use Act of 1976 (Pub. L. 94-541), among other things, encourages the occasional use of common areas in public buildings by members of the public for cultural, educational, and recreational purposes. In addition, the courts have held that literature distribution and solicitation of funds to support one's religion is a protected activity under the First Amendment. As a result of this, the courts have held various statutes and ordinances unconstitutional when they impose a ban on religious solicitation and literature distribution in particular public places or buildings.

DATE: Comments must be received by April 15, 1980.

ADDRESS: Written comments should be addressed to: General Services Administration (PBOP), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Mr. Donald A. Winegarden, Director, Operations Division, Office of Buildings Management (202-566-1563).

SUPPLEMENTARY INFORMATION: The intent of the proposed change is to create rules and procedures that will promote the occasional use of public buildings for cultural, educational, and recreational activities, as well as activities protected under the First Amendment. These activities will be subject to reasonable time, place, and manner restrictions to maintain a balance between the public's right to use these buildings and GSA's responsibility to safety operate and maintain the public buildings under its charge and control.

It is further proposed that heads of agencies, rather than GSA Regional Administrators, be delegated authority to authorize the serving of alcoholic beverages for appropriate official uses when granted in writing. Since the head of an agency is responsible for the activities of agency employees, this authority would be consistent with other official responsibilities of an agency head.

The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therfore, is not significant for the purposes of Executive Order 12044. Accordingly, GSA proposes to amend 41 CFR Part 101-20 as follows:

Subpart 101-20.3—Conduct on Federal Property

1. Section 101-20.302 is revised to read as follows:

§ 101-20.302 Admission to property.

Property shall be closed to the public during other than normal working hours. The closing of property will not apply to that space in those instances where the Government has approved the after-normal-working-hours use of buildings or other property space for cultural, educational, recreational, and other activities authorized by the Public Buildings Cooperative Use Act of 1976 (Pub. L. 94-541). During normal working hours, property shall be closed to the public only when situations require this action to ensure the orderly conduct of Government business. The decision to close the property shall be made by the designated official under the Facility Self-Protection Plan after consultation with the buildings manager and the ranking representative of the Federal Protective Service responsible for protection of the facility or the area. This requirement does not preempt the authority of the regional Director, Federal Protective Service Division, or any other authorized GSA official to effect a security alert of a facility. This action shall be coordinated with the designated official. The designated official is the highest ranking offical of the primary occupant agency or an alternate high ranking official designated in advance by agreement of occupant agency officials. When property is closed to the public, admission to this property will be restricted to authorized persons who shall sign the building register and display Government or other indentifying credentials when requested by Federal Protective Officers or other authorized individuals. Entry upon property in violation of any of the above applicable provisions is prohibited.

2. Section 101-20.303 is revised to read as follows:

§ 101-20.303 Preservation of property.

The improper disposal of rubbish on property; the willful destruction of or damage to property; the theft of property; the creation of any hazard on property to persons or things; the throwing of articles of any kind from or at a building or the climbing upon statues, or any part of the building, is prohibited.

2. Section 101.20.307 is revised to read as follows:

§ 101-20.307 Alcoholic beverages and narcotics.

Operating a motor vehicle while on the property by a person under the influence of alcoholic beverages, narcotic drugs, hallucinogens, marihuana, barbiturates, or amphetamines, is prohibited. Entering upon the property, or while on the property, under the influence of or using or possessing any narcotic drug, hallucinogen, marihuana, barbiturate, or amphetamine is prohibited. This prohibition shall not apply in cases where the drug is being used as prescribed for a patient by a physician. Entering upon the property, or being on the property, under the influence of alcholic beverages is prohibited. The use of alcoholic beverages on property is prohibited except, upon occasions and on property upon which the head of the responsible agency has for appropriate

official uses granted an exemption in writing.

3. Section 101–20.308 is revised to read as follows:

§ 101–20.308 Soliciting, vending, and debt collection.

Soliciting alms, commercial soliciting, and vending of all kinds, displaying or distributing commercial advertising, or collecting private debts on GSA-controlled property is prohibited. This rule does not apply to (a) national or local drives for funds for welfare, health, or other purposes as authorized by the "Manual on Fund Raising Within the Federal Service," issued by the U.S. Civil Service Commission under Executive Order 10927 of March 18, 1961, and sponsored or approved by the occupant agencies; (b) concessions or personal notices posted by employees on authorized bulletin boards; (c) solicitation of labor organization membership or dues authorized by occupant agencies under the Civil Service Reform Act of 1978 (Pub. L. 95–454); and (d) a licensee, permittee, or lessee, and their agents and employees, with respect to space provided for cultural, educational, or recreational use under the Public Buildings Cooperative Use Act of 1976 (40 U.S.C. 601). Other types of solicitation on public areas of GSA-controlled property are permitted in accordance with Subpart 101–20.7.

4. Section 101–20.309 is revised to read as follows:

§ 101–20.309 Distribution of handbills.

Posting or affixing materials, such as pamphlets, handbills, or flyers, on bulletin boards or elsewhere on GSA-controlled property is prohibited, except as authorized in § 101–20.308 or when these displays are conducted as part of authorized Government activities. Distribution of materials, such as pamphlets, handbills, or flyers, is prohibited, except in those areas of the property open to the public, such as entrances and lobbies, unless conducted as part of authorized Government activities. The buildings manager or a representative shall be notified in advance of the proposed distribution in public areas and shall impose restrictions on the proposed distribution in accordance with Subpart 101–20.7, but the buildings manager or his or her representative shall not exercise control over the content of the material.

5. Subpart 101–20.7 is retitled to read as follows:

Subpart 101–20.7—Occasional Use of Public Areas in Public Buildings

6. Section 101–20.700 is revised to read as follows:

§ 101–20.700 Scope of subpart.

The Public Buildings Cooperative Use Act of 1976 (Pub. L. 94–541), among other things, encourages the occasional use of common areas in public buildings by members of the public for cultural, educational, and recreational activities. The purpose of these regulations is to create rules and procedures to be followed in permitting the occasional use of public buildings.

7. Sections 101–20.701 thru 101–20.707 are retitled and revised to read as follows:

§ 101–20.701 Definitions.

(a) "Public building" shall have the same meaning as is given in Section 13 of the Public Buildings Act of 1959, as amended, 40 U.S.C. 612.

(b) "Public area" shall mean any area within a public building ordinarily open to members of the public, such as lobbies, halls, corridors, courtyards, auditoriums, meeting rooms, and any other area not specifically leased by any lessee-occupant of the public building.

(c) "Buildings manager" shall mean the employee of GSA designated to supervise the implementation of the occasional use provision of the Public Buildings Cooperative Use Act within a particular public building.

(d) "Regional officer" shall mean the regional Director of the Buildings Management Division of GSA designated to supervise the implementation of the occasional use provision of the Public Buildings Cooperative Use Act within those regions that GSA may from time-to-time create.

(e) "Applicant" shall mean any member of the public who applies for a permit to use a public area in a public building.

(f) "Permittee" shall mean any member of the public who has been granted a permit to use a public area in a public building.

(g) "Recognized labor organization" shall mean a labor organization recognized under Title VII of the Civil Service Reform Act of 1978 (Pub. L. 95–454) governing labor management relations.

§ 101–20.702 Permits.

(a) *Application.* Any person or organization desiring to use any public area in a public building shall first obtain a permit from the buildings manager. To obtain this permit, there shall be submitted, at least 30 calendar days but no more than 90 calendar days in advance of the proposed use, a copy of any material proposed for distribution and a written statement setting forth the following:

(1) The full name, mailing address, and telephone number of the person or organization sponsoring, promoting, or conducting the proposed activity;

(2) The full name, mailing address, and telephone number of the individual person or persons who will have supervision of and responsibility for the proposed activity;

(3) The full name, mailing address, and telephone number of the individual person or persons who will be engaged in the proposed activity;

(4) The subject matter of any proposed distribution or communication, and the purpose thereof;

(5) A description of the proposed activity, indicating the type of communication to be involved;

(6) The dates and hours during which the proposed activity is to be carried out, and its expected duration; and

(7) The number of persons to be engaged in this activity.

(b) *Filing.* Applications shall be filed in the buildings manager's office or such other place as he or she may designate. Applications may be submitted by mail or in person.

(c) *Supplemental information.* After an application has been filed, the buildings manager may reasonably require the applicant to furnish supplemental information for the purposes of approving or disapproving the application under § 101–20.703.

(d) *Permit issuance.* The permit shall be issued within 30 calendar days following receipt of the application by the buildings manager or the applicant shall, within that 30-day period, be furnished a written statement indicating the reasons the permit will be denied.

(1) A permit shall not be issued for a period of time in excess of 30 calendar days, unless specifically approved by the regional officer.

(2) If permits are requested for the same public area for the same time period, the buildings manager will issue permits on a first-come-first-served basis.

(e) *Delayed decision.* If the supplemental information is required, the buildings manager may delay decision upon an application until either 15 calendar days after receipt of the supplemental information or expiration of the original 30 calendar day period prescribed in section (d) above, whichever is later. When a decision is delayed, the buildings manager shall immediately inform the applicant what further information is required.

§ 101–20.703 Disapproval of application or cancellation of permit.

(a) *Grounds for disapproval or cancellation.* The buildings manager

shall disapprove any application or cancel an issued permit for use of a public area if the proposed use:

(1) Is a commercial activity;

(2) Would threaten the safety of the users of the public area in question;

(3) Would unduly obstruct the free passage of the users of the public area;

(4) Would damage the public building or any property within the public building;

(5) Would disrupt the primary use of the public area or interfere with the tenants' quiet enjoyment of their leasehold;

(6) Would interfere with a previously approved use of the public area by another member of the public;

(7) Is obscene within the meaning of obscenity in sections 1461–65 title 18 of the United States Code;

(8) Pertains directly or indirectly to any judicial proceeding then pending in the public building and would reasonably be expected to interfere or impede the judicial proceeding;

(9) Is in violation of the prohibition against political solicitations in section 603 of title 18 of the United States Code; and

(10) Is sponsored or conducted by any organization, individual, or activity practicing or advocating discrimination on the basis of race, creed, color, sex, or national origin.

(b) *Notice of disapproval of application or cancellation of permit.* Upon disapproving an application or canceling an issued permit for any of the above reasons, the buildings manager shall:

(1) Notify promptly the applicant/permittee of disapproval or cancellation and the reasons for this action; and

(2) Inform the applicant of his or her right to appeal the disapproval or cancellation to the regional officer under § 101–20.704.

§ 101–20.704 Appeals from disapproval of application or cancellation of permit.

(a) *Time for appeal.* Within 5 calendar days of notification of the buildings manager's decision to disapprove any application or cancel an issued permit under § 101–20.703, the applicant/permittee may appeal the buildings manager's determination to the regional officer.

(b) *Method of appeal.* The applicant/permittee may institute an appeal under § 101–20.704 by notifying the regional officer, in writing, that he or she desires to appeal.

(c) *Intervention.* The regional officer may permit interested persons to intervene in any proceeding under § 101–20.704 if review will not thereby be delayed.

(d) *Record.* Review by the regional officer shall be carried out based on the materials and documents submitted by the applicant/permittee, the buildings manager, and any intevenors. No trail-type hearing is required, but there shall be an opportunity for the applicant/permittee, buildings manager, and the intervenors to state the reasons the application and/or cancellation should or should not be approved.

(e) *Scope of review.* The regional officer shall affirm the buildings manager's decision unless persuaded that the reasons given by the buildings manager for the ruling are not supported by the evidence.

(f) *Time for review.* The regional officer shall affirm or reverse the buildings manager's determination within 20 calendar days of the date on which the applicant/permittee notified the regional officer of his or her desire to appeal. If the regional officer does not rule within this period, the application will be considered to be approved or the permit validly issued.

(g) *Notification.* Upon reaching a decision on an appeal taken under § 101–20.704, the regional officer shall promptly notify the applicant/permittee and the buildings manager of the decision and the reasons therefor.

(h) *Judicial review of disapproval.* When an application has been disapproved or a permit canceled under § 101–20.703(a)(7) or (8) by the buildings manager, and the buildings manager's decision has been upheld by the regional officer, GSA shall have the burden of seeking judicial review of the regional officer's ruling upon request of the applicant/permittee.

(i) If the issue for judicial determination is not decided by the court within 10 calendar days from the date of the applicant's request for judicial review, an interim permit shall be considered issued under these regulations to the applicant and the proposed activity may be carried on as though a permit had been issued, subject to the same restrictions and obligations as for other permitted activities.

§ 101–20.705 Schedule of use.

(a) *Schedule.* Nothing in these regulations shall prevent the buildings manager from;

(1) Reserving certain times of the year for tenant and non-public use of public areas of the public buildings; or

(2) Setting aside certain days or times for maintenance, construction, or repair.

(b) *Time.* Public areas made available may be used during or outside the regular working hours of Federal agencies, provided this use will not interfere with the conduct of Government business:

(1) When public areas are used after normal working hours, all adjacent areas not approved for afterhours usage shall be locked to restrict the participant's movements to only that space or area(s) approved for usage.

(c) *Location.* To the maximum extent possible, the public areas made available should be isolated from those areas of the public building used for the day-to-day operation of the building.

§ 101–20.706 Services and costs.

(a) *Costs.* The space to be provided under these regulations is furnished free of charge. Building services, such as security, cleaning, heating, ventilating, and air-conditioning, shall be provided by GSA. The applicant shall be requested to reimburse GSA for services over and above those normally provided, unless the applicant desires to provide these services and this request has been approved by the regional officer. The Regional Administrator may provide the services free of charge if the cost is insignificant and if it is in the public's interest.

(b) *Alteration of public area.* Generally, there shall be no alteration to public areas used under these regulations by persons, firms, or organizations, unless it is determined by the Regional Administrator that changes should be made in a public building to encourage and aid in the proposed use. The permittee must make adequate provisions for the:

(1) Protection of the safety of any user of the public area; and

(2) Prevention of injury or damage to the public building.

(c) *Program requirements.* The furnishing of any item necessary for the proposed activity, such as tickets, audiovisual equipment, etc., shall be the responsibility of the permittee.

§ 101–20.707 Restrictions on behavior.

(a) *General.* In conducting the permitted activities, the permittee shall be subject to the rules and regulations governing public buildings and grounds in Subpart 101–20.3. In addition, a permittee shall:

(1) Not misrepresent his or her identity to the public;

(2) Not distribute any item for which the prior approval of the buildings manager or his or his representative has not been obtained, pursuant to § 101–20.702(d) of these regulations;

(3) Not leave leaflets or other material unattended at any place on GSA-controlled property;

(4) Not conduct any activities in a misleading or fraudulent manner;

(5) Wear an identification badge containing the following at all times on GSA-controlled property:

(a) Name;

(b) Address;

(c) Telephone number; and

(d) Name of group or organization; and

(6) Not receive or accept any donation of money except at a "solicitation booth," which shall be located within the permitted public areas at those points designated by the buildings manager.

(b) *Cultural, educational, or recreational use.* Any holder of a permit for use of a public area for cultural, educational, or recreational activities may (1) sell paintings, photographs, crafts, other works of art, or other items related to the respective activity; (2) charge admission; (3) sell programs, guides, or descriptions of the use; or (4) solicit and accept contributions; except that a permittee may not engage in activities that would interfere with the preference afforded blind licensees under the Randolph-Sheppard Act (20 U.S.C. 107).

8. Sections 101–20.708 and 101–20.709 are added to read as follows:

§ 101-20.708 Posting of notices and information bulletins.

Only the following types of notices or information bulletins may be posted on bulletin boards or placed otherwise about the premises:

(a) Official business notices of the occupant agency;

(b) Request for funds for welfare, health, and other purposes, approved by the head of the occupant agency;

(c) Notices to Federal employees by concessionaires and agency employees of groups or organizations recognized by the occupant agency;

(d) Personal notices of agency employees, such as the sale of an employee's home, requests for carpool participation, etc.; and

(e) Recognized labor organization notices and issuances on space provided by the agency under agreement between the agency and the recognized labor organization.

§ 101-20.709 Nonaffiliation with the Government.

The General Services Administration reserves the right to advise the public through signs and/or announcements of the presence of any permittees and of their nonaffiliation with the Federal Government.

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

Dated: February 12, 1980.

A. R. Marschall,

Commissioner, Public Buildings Service.

[FR Doc. 80-4938 Filed 2-14-80; 8:45 am]

BILLING CODE 6820-23-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

42 CFR Part 405

Medicare Program; Cost Reporting Requirements for Home Health Agencies

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the Medicare regulations on reimbursement of home health agencies (HHAs). They would require: (1) HHAs that are not based in hospitals or skilled nursing facilities to use the "step-down" method of allocating costs to various cost centers; and (2) all HHAs to use a single method of apportioning costs between Medicare and non-Medicare patients, based on the cost per visit by type of service furnished.

These changes will improve administration of the Medicare program by replacing the various cost finding and cost apportionment methods with a single method of cost finding and cost apportionment and assist in the application of cost limits to HHAs by requiring the use of improved methods of determining the cost by type of service.

DATES: Comments should be received by: April 15, 1980.

ADDRESSES: Address comments in writing to: Administrator, Health Care Financing, Administration, Department of Health, Education, and Welfare, P.O. Box 17073, Baltimore, MD 21235.

If you prefer, you may deliver your comments to: Room 5220, Switzer Building, 330 C Street, SW., Washington, D.C.; or to Room 789 East High Rise Building, 6401 Security Boulevard, Baltimore, Maryland.

When commenting please refer to File Code MAB–127–P.

Agencies and organizations are requested to submit comments in duplicate. Comments will be available for public inspection, beginning approximately 2 weeks after publication, in Room 5220 of the Department's offices at 330 C Street, SW., Washington, D.C. on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (202–245–0365).

FOR FURTHER INFORMATION CONTACT: Fred Koenig, 301–594–8612.

SUPPLEMENTARY INFORMATION:

Purpose

The purpose of this proposed amendment to the regulations is to: (1) Improve program administration by replacing the various cost finding and cost apportionment methods that are found in Part I of the Medicare Provider Reimbursement Manual, and currently used by HHAs, with a single method of cost finding and cost apportionment; (2) assist in the implementation of the HHA cost limits by type of service furnished by the HHA (e.g., skilled nursing care, physical therapy, speech pathology); and (3) improve the way in which reasonable cost determinations are made for services furnished by HHAs.

Background

Medicare expenditures for home health benefits have increased from $287 million in fiscal year 1976 to a projected $786 million in fiscal year 1979.

The Department, concerned about the increase in the cost of benefits for home health and other provider services furnished under the Medicare program, proposed legislation to limit Medicare's share of these costs. As a result, section 223 of Pub. L. 92–603 (section 1861(v)(1)(A) of the Social Security Act) authorizes the Secretary to establish limits on the costs of services furnished by providers.

The first limits issued by the Department applied to hospital costs. We next issued limits on the cost of home health benefits, which were published in the Federal Register on June 1, 1979 (44 FR 31814) and became effective July 1, 1979. These limits are now being applied on an aggregate basis. This means that the costs for all types of services are totaled and an overall cost limit applied to the agency. In the near future, we will publish a proposed notice to apply a specific limit to the cost of each type of service furnished by the agency, rather than applying only a total limit.

Keen congressional interest in the high cost of home health benefits was also evidenced by hearings held in 1976 and 1977 before the Subcommittee on Oversight of the House Ways and Means Committee. These hearings raised numerous questions concerning the reasonableness of home health agency costs claimed for Medicare reimbursement. This prompted the General Accounting Office (GAO) to investigate high cost home health agencies. GAO submitted a report to Congress on May 15, 1979, stating that certain home health agencies incurred

excessive administrative costs and that costs for home health visits by these HHAs often far exceed the costs claimed by other home health agencies.

Additionally, the Administrator of HCFA made a commitment in testimony before the Subcommittee on Oversight on August 10, 1978, to adopt new regulations concerning the cost reporting requirements for home health agencies.

Further, more recent hearings held before the Senate Special Committee on Aging in August 1979 pointed up continuing evidence of the unreasonableness of certain costs claimed by HHAs and the inadequacy of the current cost finding and cost apportionment methods used by HHAs in detecting excessive costs. In addition, contacts between HCFA staff and the staff of the Subcommittee on Oversight have been ongoing in an effort to keep the Congress advised of progess in issuing regulations to require a single cost finding and cost apportionment method, thereby assisting in determining those costs that are excessive and in implementing the HHA cost limits.

Although the rise in home health benefits is partially attributable to a growth in demand for services and to inflation, other reasons, including the use of a number of different cost finding and cost apportionment methods, has limited our ability to compare cost data and to develop effective measures of inefficiency. Thus, we are proposing to amend current cost reporting regulations to include requirements for home health agencies that would assist us in implementing the HHA cost limits.

Implementation of this proposed regulation will require a new HHA cost report. However, this revised cost report will completely replace the cost report presently in use which will not create any additional reporting burden to the home health industry. Rather, the proposed changes to the regulation will reduce existing burden by replacing the four current cost report methods of cost finding and cost apportionment with a single method of cost finding and cost apportionment and obviate the need for intermediaries to request additional information from HHAs using the current cost report.

During the development of this proposed legislation, HCFA has had consultations with representatives of the home health industry at which time they were informed of the impending changes in the cost reporting requirements.

Reasonable Cost Reimbursement

Under section 1861(v)(1)(A) of the Act, payment for services furnished by a provider (hospital, skilled nursing facility, or HHA) is made under the "reasonable cost" reimbursement system. This requires a provider to file a cost report with the Medicare fiscal intermediary after the close of the provider's accounting period. The cost report details all the costs incurred in furnishing services to all the provider's patients, and determines the share of those costs that the Medicare program should pay. Preparation of a cost report requires a provider to use a method of cost finding and a method of cost apportionment. Cost finding is the process of ascertaining the costs of the various types of services furnished (see 42 CFR 405.453). Cost apportionment is the process of determining Medicare's share of those costs (see 42 CFR 405.452).

The reasonable cost reimbursement system also provides for establishing limits on a provider's incurred costs which may be recognized as reasonable, based on estimates of the costs necessary in the efficient delivery of needed health services to individuals covered by Medicare. As indicated above, this authority was added to the statutory definition of "reasonable cost" in section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)) by section 223 of the Social Security Amendments of 1972 (Pub. L. 92-603). It is implemented by regulations at 42 CFR 405.460, (as amended on June 1, 1979 (44 FR 31802)), and is applied to HHAs by the cost limits published on June 1, 1979. The reasonable cost reimbursement system also provides for paying the lesser of the reasonable cost as thus determined, or the provider's customary charges. (See 42 CFR 405.455.)

Cost Finding Method

Currently, home health agencies use a number of cost finding methods, all of which are used with the approval of their fiscal intermediaries and HCFA (see Part I of the Provider Reimbursement Manual §§ 2308ff). However, this use of different cost finding methods makes meaningful comparisons of HHA costs more difficult.

We are proposing that HHAs not based in hospitals or skilled nursing facilities use a single method of cost finding, known as the "step-down method". (HHAs based in hospitals or skilled nursing facilities would continue to use the method applicable to the parent institution. These methods include the step-down method, double apportionment method, and matrix inversion method.) The "step-down method" takes into account the fact that services furnished by certain non-revenue producing departments or centers (e.g., depreciation, transportation, education, etc.) are utilized by certain other non-revenue producing centers, as well as by the revenue-producing centers (see 42 CFR 405.453(d)(1)).

This cost finding method allows us to reflect and determine costs more accurately and increases uniformity of cost reporting. Use of the "step-down" method also allows us to analyze the relationship between non-revenue producing costs and direct patient care costs, thereby enhancing our ability to apply cost limits to HHA costs.

Cost Apportionment Method

Section 1861(v)(1)(A)(i) of the Act requires that our methods for determining a provider's reasonable costs assure that Medicare will pay the full cost of furnishing services to Medicare beneficiaries, and none of the costs for non-Medicare individuals. This is the objective of cost apportionment.

Present cost apportionment methods used by HHAs do not necessarily derive costs by type of service furnished by the HHA. Those that do derive costs by type of service do not necessarily achieve this in a uniform way. We are proposing that HHAs use a single method of cost apportionment. This method will be known as "cost per visit by type of service" method. We propose the use of this method of cost apportionment for several reasons. First, use of this cost apportionment method is needed to dervice full benefit of the cost limits by type of service and to achieve uniform application of cost limits among HHAs. Second, the determination of costs is more precise when computed by type of service than under the other methods currently being used. Third, this new method also allows us to compare costs by type of service for all HHAs, thereby assisting us in identifying those HHAs that have excessive costs.

Under this method, the total allowable cost of visits for each type of service is divided by the total number of visits for that type of service. Next, the number of Medicare covered visits is multiplied by the lesser of the average cost per visit just computed or the limit established by HCFA, for that particular service (see 42 CFR 405.460). This represents the cost Medicare will recognize as the cost for that service.

Relationship of Proposed Regulations to Uniform System for Home Health Agency Reporting

In our discussion with home health agency organizations on these proposed changes to the regulations, questions were raised about their relationship to the requirements of section 1121 of the Social Security Act. That section directs

the Secretary to establish by regulation a uniform system for the reporting of cost data by home health services facilities and organizations. These requirements were added by section 19(a) of Pub. L. 95–142, enacted as part of the 1977 amendments to the Act on October 25, 1977.

The proposed regulations here are not intended to implement the requirements of that section of the law, since work on that project, known as the Uniform System for Home Health Agency Reporting (USHHAR), is still underway and a uniform report for home health agencies is not ready at this time. The USHHAR requirements will also be issued as proposed rulemaking when they have been fully developed.

We believe it is necessary for the changes in this proposed regulation to be issued so that the cost limits on home health agency costs can be applied by type of service, rather than the aggregate. These changes are compatible with those to be issued under USHHAR in that they represent one module of the overall system.

Effect on Medicaid

Under Medicaid, State agencies determine the method of reimbursement for home health services. This proposed amendment to the Medicare regulations would apply to States that use the Medicare principles of reimbursement in determining actual costs of services furnished. Other HHAs would continue to be reimbursed according to the method determined by the State.

Based on the most recent data available, approximately 25 States use the Medicare principles of reimbursement. 16 States reimburse on a "usual or customary" or lower of cost or charges basis, and 11 States have some kind of fee schedule, negotiated rate or a schedule of maximum allowances.

42 CFR Part 405 is amended as follows:

1. Section 405.404 is amended by adding a new paragraph (c) to read as follows:

§ 405.404 Methods of apportionment under title XVIII.

* * * * *

(c) For cost reporting periods beginning on or after July 1, 1980, home health agencies must use the cost per visit by type of service method of cost apportionment, as described in § 405.452(c)(5). Use of this method requires cost funding, as defined in § 405.453(b)(1).

2. Section 405.452 is amended by revising paragraph (c)(4) and adding a new paragraph (c)(5) to read as follows:

§ 405.452 Determination of cost of services to beneficiaries.

* * * * *

(c) *Availability of apportionment methods for cost reporting periods starting after December 31, 1971.* * * *

(4) *New providers.* All providers entering the program on or after January 1, 1979 (with the exception of home health agencies) must use the Departmental Method of apportionment starting with their first cost reporting period.

(5) *Home health agencies.* For cost reporting periods beginning on or after July 1, 1980, all home health agencies must use the cost per visit by type of service method of apportioning costs between Medicare and non-Medicare beneficiaries. Under this method, the total allowable cost of all visits for each type of service is divided by the total number of visits for that type of service. Next, the number of Medicare covered visits is multiplied by the lesser of the average cost per visit just computed or the limit established by HCFA for that particular service (see 42 CFR 405.460). This represents the cost Medicare will recognize as the cost for that service.

* * * * *

3. Section 405.453 is amended by revising paragraph (d) to read as follows:

§ 405.453 Adequate cost data and cost finding.

* * * * *

(d) *Cost finding methods.* After the Close of the accounting period, providers must use one of the following methods of cost finding to determine the acutal costs of services furnished during that period. For cost reporting periods beginning after December 31, 1971, providers using the Departmental Method of cost apportionment must use the Step-Down Method described in Paragraph (d)(1) of this section or an "Other Method" described in paragraph (d)(2) of this section. For cost reporting periods beginning after December 31, 1971, providers using the Combinaion Method of cost apportionment must use the modified cost finding method described in paragrpah (d)(3) of this section. Effective for cost reporting periods beginning on or after July 1, 1980, home health agencies not based in hospitals or skilled nursing facilities must use the Step-Down Method described in paragraph (d)(1) of this section. (Home health agencies based in hospitals or SNFs may use the method applicable to the parent institution.)

* * * * *

(Sec. 1102, 1814(b), 1815, 1861(v), 1871 of the Social Security Act; 42 U.S.C. 1302, 1395f(b), 1395g, 1395x(v), 1395hh)

(Catalog of Federal Domestic Assistance Programs No. 13.773, Medicare-Hospital Insurance; No. 13.774, Medicare-Supplementary Medical Insurance)

Dated: January 21, 1980.

Leonard D. Schaeffer,

Administrator, Health Care Financing Administration.

Approved: February 7, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc 80-4939 Filed 2-14-80; 8:45 am]

BILLING CODE 4110 35-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 21, 87 and 90

[Gen. Docket No. 79-188; RM-3247]

Allocating Spectrum for, and To Establish Other Rules and Policies Pertaining to the Use of Radio in Digital Termination Systems for the Provision of Common Carrier Digital Telecommunications Service, Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Extension of time for filing of reply comments to Notice of Proposed Rulemaking and Inquiry.

SUMMARY: The Commission extends the reply comment period to 60 days for the Notice of Proposed Rulemaking and Inquiry in Docket 79-188, 44 FR 74862, released on August 29, 1979, which was issued in response to the rulemaking petition filed by the Xerox Corporation.

DATE: The filing date for reply comments is extended for one month. Reply comments must be filed with the Commission on or before March 14, 1980.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: J Bertron Withers, Jr., Spectrum Allocation Division, Office of Science and Technology, (202) 632-6350.

Order Extending Time for Filing Reply Comments

Adopted: February 6, 1980.

Released: February 8, 1980.

In the matter of Amendment of Parts 2, 21, 87 and 90 of the Commission's Rules to Allocate Spectrum for, and to Establish Other Rules and Policies Pertaining to, the Use of Radio in Digital Termination Systems for the Provision of Common Carrier Digital Telecommunications Service, General Docket No. 79-188, RM-3247, See (44 FR 74862).

1. On January 31, 1980 GTE Telenet Communications Corporation (GTE

Telenet), by its attorneys, pursuant to Section 1.46 of the Commission's Rules and Regulations, 47 CFR § 1.46, filed a request to extend the time for filing reply comments to March 14, 1980 in the above-captioned matter. Reply comments on the Notice of Proposed Rulemaking and Inquiry (Notice) in this matter, released by the Commission on August 29, 1979, are currently due on or before February 14, 1980.

2. GTE Telenet contends that because of the wide ranging scope of the issues raised by the Notice, and the difficulty of preparing meaningful responses to the many comments to the Notice, the public interest would be well served by the grant of an extension of time for filing reply comments. GTE believes a more thorough analysis of the issues the grant would allow is in the public interest.

3. The Commission wants to gather the most thorough record practicable and to allow those filing reply comments to properly digest and respond to the comments in this proceeding. The Commission feels that this extension would be particularly appropriate since the comment period lasted approximately 135 days including two extensions of time. The extension of 29 days would have the reply comment period last a total of 60 days. The additional time we believe would provide us with more complete and informative reply comments, which, combined with the filings made in the first comment phase of this proceeding, will provide the Commission with a sounder basis upon which to formulate rules and policies pertaining to this matter.

4. The Commission intends to avoid any undue delay in the prompt resolution of this proceeding. Accordingly, any further requests for extension of the deadline for filing reply comments will be scrutinized closely, and granted only upon a showing of unusual circumstances. For the above reasons and since we perceive no harm to any party nor have we received any objections in this matter, the request for extension of the reply comment period to March 14, 1980 is GRANTED.

5. Therefore, IT IS ORDERED, Pursuant to 0.241(d) of the Commission's Rules and Regulations, THAT the date for filing reply comments in this proceeding is extended for a period of 29 days from February 14, 1980. Therefore, reply comments must now be filed on or before March 14, 1980.

Federal Communications Commission.

S. J. Lukasik,

Chief Scientist.

[FR Doc. 80-4973 Filed 2-14-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 61

[Docket No. 19741; FCC 80-40]

Notice Requirements for Schedules for New or Revised Classifications of Service; Proceeding Terminated

AGENCY: Federal Communications Commission.

ACTION: Termination of Proceeding concerning amendment to Part 61 of the Commission's rules (Docket No. 19741).

SUMMARY: On May 16, 1973, the Commission adopted a Notice of Proposed Rulemaking in Docket No. 19741 in which it proposed to increase the notice period which is required of carriers before certain of their tariff filings become effective. The instant proceeding is terminated due to the fact that the 1977 amendments to Part 61 of the Commission's rules moot the substance and objectives of the rule changes under consideration, therefore there is no usefull public interest purpose in continuing this proceeding.

EFFECTIVE DATE: Nonapplicable.

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

FOR FURTHER INFORMATION CONTACT: Richard Rubin, Common Carrier Bureau, (202) 632-6312.

SUPPLEMENTARY INFORMATION:

Adopted: January 30, 1980.

Released: February 8, 1980.

Order. In the matter of amendment of Part 61 of the Commission's rules relating to Notice Requirements for schedules for new or revised classifications of service, Docket No. 19741, 38 FR 18256, July 9, 1973.

1. On May 16, 1973, the Commission adopted a Notice of Proposed Rulemaking (NPRM) in Docket No. 19741 by which it proposed to amend § 61.58 of the Commission's rules, 47 CFR 61.58, to increase from 30 to 60 days the notice period required of carriers offering new classes or subclasses of communications services over duly authorized facilities. The NPRM also proposed to repeal §§ 61.60 through 61.63 of the Rules,[1] which excepted tariff filings for certain services from the regular notice requirements found in § 61.58. The stated objective of the proposed amendments was to provide the Commission and interested persons with sufficient time to evaluate tariff filings of this nature before they become effective.

2. Comments were received from 12 parties,[2] two of which fully supported the changes proposed in the NPRM.

The other parties' comments ranged from unqualified opposition to qualified support. The American Telephone and Telegraph Company filed reply comments opposing the proposed amendments.

3. Events occurring subsequent to the issuance of our NPRM, however, now appear to have mooted the substantive issues in this rulemaking. In 1976 Congress amended Section 203(b) of the Act, 47 CFR 203(b), to increase from 30 to 90 days, the notice period for any change in the charges, classifications, regulations or practices on file in a carrier's tariffs.[3] In response to this statutory change we amended Section 61.58 of the Rules to reflect the 90-day notice requirement in the case of tariff filings involving a new service offering or a change in rate structure.[4] The notice period for tariff filings not specifically assigned a different period was also increased from 30 to 70 days. Finally, in the same decision we amended §§ 61.60, 61.61, 61.62 and 61.63 to increase from 1 to 15 days the period of notice for specified types of tariff filings.

4. Our review of the NPRM reveals no issues in this proceeding left unresolved by the foregoing actions of the Congress and the Commission. Under these circumstances, therefore, we believe the proceeding may properly be concluded.

5. Accordingly, on the Commission's own motion, it is ordered that Docket No. 19741 is terminated.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-4974 Filed 2-14-80; 8:45 am]

BILLING CODE 6712-01-M

[1] 47 CFR 61.60, 61.61, 61.62 and 61.63

[2] Autophone of San Antonio and Houston Mobilfone Inc. (joint comments); Western Union International, Inc.; Communications Satellite Corporation; ITT World Communications Inc.; TRT Telecommunications Corporation; United Video, Inc.; Nebraska Consolidated Communications Corporation; Data Transmission Company; MCI Telecommunications Corporation and Microwave Communications Inc. (joint comments); American Telephone and Telegraph Company; The Computer and Business Equipment Manufacturers Association; and Utilities Telecommunications Council.

[3] See Pub. L. 94-376, 90 Stat. 1060 (1976).

[4] In the Matter of Amendment of §§ 1.4, 1.773, 61.58, 61.60, 61.61, 61.62, 61.63, 61.64 and 61.66 of the Commission's rules and regulations, 64 FCC 2d 635 (1977).

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1100

[Ex Parte No. 55 (Sub-No. 24)]

Administrative Appeals in Non-Rail Proceedings

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rules.

SUMMARY: The Interstate Commerce Commission is proposing to revise paragraphs (c) and (g) of Rule 97 of its Rules of Practice. Rule 97 concerns administrative appeals in non-rail proceedings. This action is being proposed in order to eliminate confusion concerning the rule.

DATES: Comments should be filed on or before March 31, 1980.

ADDRESSES: An original and 15 copies of any comments should be sent to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr., (202) 275-7292.

SUPPLEMENTARY INFORMATION: The Commission recently completed a revision of its rail appellate rules, Rule 98 of the Rules of Practice (see Ex Parte No. 55 (Sub-No. 24A); decision served June 29, 1979; revised rule published at 44 FR 37936). We had comtemplated embarking on a similar effort with respect to the non-rail appellate procedures contained in Rule 97. However, there is a possibility that motor carrier regulatory reform legislation, now being developed in Congress, may contain provisions that would modify various aspects of the Commission's non-rail procedures (S. 2245 contains such provision). Consequently, it would be premature to attempt a complete revision of our non-rail appellate procedures at this time.

We are, however, undertaking this limited proceeding to eliminate confusion which has resulted from corrections to Rule 97 which were contained in a notice published January 19, 1979 (44 FR 3987). The corrections were intended to make the rule conform to the provisions of former section 17(8) of the Interstate Commerce Act, which provided that:

> (8) Where application for rehearing, reargument, or reconsideration of a decision, order, or requirement of a division, an individual Commissioner, or board is made in accordance with the provisions of this section and the rules and regulations of the Commission, and the decision, order, or requirement has not yet become effective, the decision, order, or requirement shall be stayed or postponed pending disposition of the matter by the Commission or appellate division; but otherwise the making of such an application shall not excuse any person from complying with or obeying the decision, order, or requirement, or operate to stay or postpone the enforcement thereof, without the special order of the Commission.

Section 17(8) clearly indicated that the time filing of an application for rehearing, reargument, or reconsideration would stay a decison of a division, an individual Commissioner, or a board but would not automatically stay a decision of the entire Commission. This distinction was not as clear in Rule 97 as it was in the statute, and the Commission issued the corrections to make Rule 97 conform more closely to section 17(8). We stated at the time our belief that it would be contrary to sound regulatory practice for a party to be able to stay a decision made by the entire Commission, even in an urgent case, by merely filing a pleading which is, or purports to be, an administrative appeal.

Unfortunately the corrections inadvertently eliminated from Rule 97 any provision for filing appeals from full Commission decisions. This was clearly not our intention, and we have continued to accept petitions for review of entire Commission decisions. In an effort to correct this error and to eliminate confusion concerning whether the filing of an administrative appeal stays a decision of the entire Commission, we have rewritten and combined paragraphs (c) and (g) of Rule 97 into a new paragraph (c). We propose to adopt this rewritten rule in place of present paragraphs (c), and (g). Under the new rule, parties could, of course, continue to request that the Commission exercise its discretionary right to stay its proposed actions, with such requests to be determined under generally recognized standards. See, for example, *Virginia Petroleum Jobbers Ass'n.* v. *FPC,* 259 F. 2d 921 (D.C. Cir. 1958), *Metropolitan Area Transit Comm'n.* v. *Holiday Tours, Inc.,* 559 F. 2d 841 (D.C. Cir. 1977), and the Commission's recent decision in Ex Parte No. MC-96 (Sub-No. 2), *Passenger Broker Entry Control,* decided January 23, 1980.

Although the revised rules proposed here are procedural rules, which are exempt from the notice and comment requirements of the Administrative Procedure Act, we believe that this proceeding might benefit from public participation. The public is, therefore, encouraged to study the proposed new paragraph (c) and to file comments on the rule itself and the procedures which it contains. In particular, we encourage the publiic to file comments identifying any language in the rewritten rule which is ambiguous or unclear or which might be inconsistent with the provisions of former section 17(8) of the Interstate Commerce Act.

We propose to adopt the following changes in 49 CFR 1100.97:

§ 1100.97 [Amended]

Revise paragraph (c) to read as follows, and delete paragraph (g):

* * * * *

(c) *Conclusiveness and administrative finality.* The decision of the division or entire Commission affirming a prior decision is administratively final. Any party may file a petition for administrative review of (1) an initial decision of a hearing officer which becomes effective by operation of law; (2) a decision of an employee board; (3) a decision of a division or the entire Commission which reverses, changes, or modifies the prior decision; or (4) a decision, in lieu of an initial decision, issued by a division or the entire Commission. The timely filing of an administrative appeal from one of these decision shall stay the effectiveness of the decision pending disposition of the appeal, unless the decision was issued by the entire Commission. The Commission may, on its own motion or on petition, stay the effect of its decision pending disposition of an appeal.

* * * * *

This action does not appear to affect significantly the quality of the human environment or conservation of energy resources.

Issued under the authority of 49 U.S.C. 10321 and 5 U.S.C. 553.

Decided: February 12, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, and Alexis.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-5104 Filed 2-14-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Reopening of the Comment Period for the Illinois Mud Turtle Reproposal of Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Reopening of the public comment period on the reproposal of Critical Habitat for the Illinois mud turtle.

SUMMARY: The public comment period on the Service's reproposal of Critical Habitat for the Illinois mud turtle, *Kinosternon flavescens spooneri*, is hereby reopened between February 6, 1980, and March 7, 1980.

DATES: The service will consider all comments on this reproposal between February 6, 1980, and March 7, 1980.

ADDRESSES: Comments on the reproposal of Critical Habitat for this species should be made to: Director/OES, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (Phone: 703/235-2771).

SUPPLEMENTARY INFORMATION: In the Federal Register of December 7, 1979 (44 FR 70680-70682), the Service reproposed Critical Habitat for the Illinois mud turtle, *Kinosternon flavescens spooneri*, and announced the time and place for public meetings on this reproposal in Springfield, Illinois, and Muscatine, Iowa, on January 30 and 31, 1980, respectively. During these meetings, information of a technical nature was presented, especially on the taxonomic status of this turtle. Requests were made to representatives of the Service who attended this meeting for an extension of the comment period in order that this information could be made available in writing, along with additional supporting information. The Service agrees that an extension of the comment period is therefore warranted in order to allow full consideration of all available data. The public comment period is accordingly reopened between February 6, 1980 and March 7, 1980; information submitted during this time will become part of the public record and will be considered before a final determination of status is made by the Director.

Dated: February 12, 1980.

Lynn A. Greenwalt,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 80-4965 Filed 2-14-80; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 45, No. 33
Friday, February 15, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

Availability of Funds for Demonstration Grants

AGENCY: Action.

ACTION: Notice of Availability of Funds for Demonstration Grants.

SUMMARY: The following notice announces the availability of approximately $350,000 to fund about six (6) demonstration grants. The notice describes the program purpose, applicant eligibility, grant scope, general selection criteria and application review process.

This announcement is not subject to the requirements of Executive Order 12044, "Improving Government Regulations."

FOR FURTHER INFORMATION CONTACT: Calvin Dawson, Office of Policy and Planning, ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525; 202–254–8420.

The Office of Policy and Planning of ACTION announces the availability of funds for fiscal year 1980 for demonstration grants under the Special Volunteer Programs authorized by the Domestic Volunteer Service Act of 1973, as amended, Pub. L. 93–113, Title I, Part C (42 U.S.C. 4992). Subject to the availability of fiscal year 1980 funding, about $350,000 will be available for approximately six (6) grants ranging in size from approximately $15,000 to $200,000. These grants will be awarded to highly innovative projects utilizing Volunteers in service delivery activities in the areas of energy, rural health, and rural energy. Rural projects will include those projects the bulk of which services would inure to the benefits of persons living in rural areas, i.e. those in the country side and in villages or towns not exceeding 5,000 population. Eligible applicants are state and local governments, private non-profit organizations, and public agencies.

Publication of this announcement does not obligate ACTION to award any specific number of grants, or to obligate the entire amount of funds available, or any part thereof, for demonstration grants under the Special Volunteer Programs.

Applicants will be distributed by the ACTION Regional Offices. All completed applications must be received in the Office of the Regional Grants and Contracts Officer no later than 3:00 p.m. local standard time on April 15, 1980. The sequential steps of the application review process are: Regional review of grant applications by a rating panel and submission to headquarters of up to but not more than 5 applications per region; Headquarters review of applications submitted by regions and final grant selection; and grant awards made by the respective regions. Grant applications will be reiviewed and evaluated against the following criteria: Project develops innovations or knowledge in areas of priority, and of significance to national program development; project shows potential dynamic impact on volunteerism in the community; project has carefully formulated measurable objectives and a feasible method for accomplising them; proposal shows that staff has experience and capability related to volunteer programming; proposal calls for a realistic time plan for completion; proposal has a realistic budget; project shows strong promise of replicability and has plans for implementation and dissemination of project results, including any products for use by others; project reflects commitment from collaborating agencies and organizations where such could be expected to contribute to the value or success of the project; project has adequate plans for data gathering and evaluation. All applications must identify the particular poverty or poverty related human, social, and environmental problems which they are addressing.

For further information and application forms contact the ACTION Regional Grants Officer, who has current guidelines for grant awards. This notice of fund availability should not be confused with the revised guidelines for OPP competitive demonstration grants described in ACTION's semiannual Agenda of Regulations published in 45 FR 1431, January 7, 1980. Those guidelines will be published in the Federal Register in February 1980.

The Regional Offices and the States and American territories they serve are as follows:

Region I (Massachusetts, New Hampshire, Vermont, Connecticut, Rhode Island, and Maine), John W. McCormack Federal Building, Room 1420, Boston, Massachusetts 02109.

Region II (New York, New Jersey, Puerto Rico, Virgin Islands), 26 Federal Plaza, 16th Floor, Suite 1611, New York, New York 10007.

Region III (Maryland, Delaware, Pennsylvania, West Virginia, Virginia, and District of Columbia), U.S. Customs House, Room 103, 2nd and Chestnut Street, Philadelphia, Pennsylvania 19106.

Region IV (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee), 101 Marietta Street, N.W., Room 2524, Atlanta, Georgia 30323.

Region V (Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin), One North Wacker Drive, 3rd Floor, Room 332, Chicago, Illinois 60606.

Region VI (Arkansas, Louisiana, New Mexico, Oklahoma, and Texas), Corrigan Tower Building, Suite 1600, 212 North St. Paul Street, Dallas, Texas 75201.

Region VII (Iowa, Kansas, Missouri, and Nebraska), II Gateway Center, Suite 330, Fourth and State, Kansas City, Kansas 66101.

Region VIII (Colorado, Wyoming, Montana, South Dakota, North Dakota, and Utah), Columbine Building, Room 201, 1845 Sherman Street, Denver, Colorado 80203.

Region IX (American Samoa, Arizona, California, Guam, Hawaii, and Nevada), 211 Main Street, Room 533, San Francisco, California 94105.

Region X (Alaska, Idaho, Oregon, and Washington), 1601 Second Avenue, Seattle, Washington 98101.

Date of Signature: February 8, 1980.

Sam Brown,

Director.

[FR Doc. 80-4611 Filed 2-14-80; 8:45 am]
BILLING CODE 6050-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

Fremont National Forest Grazing Advisory Board; Meeting

The Fremont National Forest Grazing Advisory Board will meet at 10:00 A.M. on Friday, March 14, 1980 at the Forest Supervisor's Office, 34 North D Street, Lakeview, Oreg. 97630. The purpose of this meeting is:

1. Brief members on Land Management Planning process.
2. Discuss use of range better funds.
3. Review range allotment management planning.

The meeting will be open to the public. Persons who wish to attend should notify Ralph B. Roberts, 34 North D Street, Lakeview, Ore., 97630, phone 947-2151. Written statements may be filed with the Board before or after the meeting.

The committee has established the following rules for public participation:

1. Must have pre-notice and placed on agenda.
2. Time limit will be announced at meeting.
3. May be oral or written.
4. Aggrieved grazing permittee must contact:
a. District Ranger regarding decision or recommendations.
b. Forest Supervisor regarding proposed action.
c. Advisory Board member.
d. Forest Supervisor/Board President in emergency.
5. General Public
a. Same steps as aggrieved grazing permittee.
b. Open input on agenda items permitted.
c. May present topics or concerns if prearranged.

Dated: February 5, 1980.

A. J. Horne Jr.,

Acting Forest Supervisor.

[FR Doc. 80-4914 Filed 2-14-80; 8:45 am]

BILLING CODE 3410-11-M

Greys-Salt River Planning Unit; Final Environmental Impact Statement; Bridger-Teton National Forest, Lincoln County, Wyo.; Extension of Review Period

The EPA listing for Availability of Environmental Impact Statements published in the Federal Register on January 8, 1980, Vol. 45, No. 5, page 1679, column 1, paragraph 4, listed the Final Environmental Impact Statement for the Greys-Salt River Planning Unit, Bridger-Teton National Forest, as being available for public review. The review period for this Statement has been extended from February 4, 1980, to February 29, 1980.

Dated: February 8, 1980.

Vern Hamre,

Regional Forester.

[FR Doc. 80-4913 Filed 2-14-80; 8:45 am]

BILLING CODE 3410-11-M

Rural Electrification Administration

Cooperative Power Association, United Power Association; Draft Environmental Impact Statement and Public Scoping Meeting

Notice is hereby given that the Rural Electrification Administration (REA) intends to prepare an environmental impact statement in connection with possible loans and/or loan guarantee commitments for Cooperative Power Association (CPA), Minneapolis, Minnesota, and United Power Association (UPA), Elk River, Minnesota, to provide certain new transmission facilities.

The planned transmission facilities are tentatively assigned ownership responsibilities and summarized as follows:

1. Addition to the existing, UPA owned Benton County substation 5 miles east of St. Cloud, Minnesota, (UPA responsibility).
2. Addition to the existing, Northern States Power Company (NSP) owned Sherco Generating Plant substation 2 miles south of Becker, Minnesota, (NSP responsibility).
3. An approximately 18 mile 345 kV transmission line connecting the Benton County and Sherco substations (the south half of the line an NSP responsibility and the north half of the line a CPA responsibility).

In discussions with Federal and State agencies which may have responsibilities with respect to the proposed project, including REA, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, U.S. Soil Conservation Service, Minnesota Department of Natural Resources, and Minnesota Environmental Quality Board (MEQB). REA has been identified as Federal lead agency and MEQB as State lead agency in preparation of a joint environmental impact statement. The environmental impact statement will satisfy both Federal and State requirements as specified in section 102(2)(c) of the National Environmental Policy Act of 1969, section 1506.2 of the U.S. Council on Environmental Quality regulations, and MEQB regulations.

A joint REA-MEQB public scoping meeting will be held in order to receive public input and comments concerning the need for the project, site and route locations, potential alternatives, significant issues that should be addressed in the environmental impact statement and other matters concerning the proposed construction. Representatives of REA and MEQB will act as chairpersons for said meeting. Other involved Federal and State agencies are invited to send representatives. The meeting is scheduled as follows:

Clear View Elementary School, 1 mile west of Clear Lake, Minnesota on Route No. 24; March 17, 1980, 7:30 p.m.

The Rural Electrification Administration encourages the public to attend the meeting and provide their input. Any person, group or governmental entity which desires to make its comments, question and/or recommendations in writing may do so either at the meeting or by submitting them to Mr. Joe S. Zoller, Assistant Administrator-Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

A record will be made of the meeting and comments made will be responded to in the draft environmental impact statement. In addition, the records of proceedings will be held open through April 11, 1980.

Any questions prior to the meeting concerning the nature of the project should be directed to CPA or UPA at their addresses given above or by calling (612) 925-4556 for CPA or (612) 441-3121 for UPA.

Any REA loans or loan guarantee commitments which may be made pursuant to this potential application will be subject to, and release of funds thereunder will be contingent upon REA's reaching satisfactory conclusions with respect to environmental effects. Final action will be taken only after compliance with the environmental statement procedures required by the National Environmental Policy Act of 1969.

Dated at Washington, D.C. this 8th day of February 1980.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 80-4913 Filed 2-14-80; 8:45 am]

BILLING CODE 3410-15-M

CIVIL AERONAUTICS BOARD

[Docket 37575]

Central Zone—Caracas/Maracaibo, Venezuela, Case; Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge Marvin H. Morse. Future communications should be addressed to Judge Morse.

Dated at Washington, D.C., February 11, 1980.

Joseph J. Saunders,

Chief Administrative Law Judge.

[FR Doc. 80-5004 Filed 2-14-80; 8:45 am]

BILLING CODE 6320-01-M

[Order 80-2-64; Docket 37634]

Denver-Cincinnati/Cleveland/Columbus/Dayton/Indianapolis/Louisville; Show-Cause Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause (80-2-64), Denver-Cincinnati/Cleveland/Columbus/Dayton/Indianapolis/Louisville Show-Cause Proceeding, Docket 37634.

SUMMARY: The Board is instituting the *Denver-Cincinnati/Cleveland/Columbus/Dayton/Indianapolis/Louisville Show-Cause Proceeding* and is proposing to grant unrestricted authority in the Denver-Cincinnati/Cleveland/Columbus/Dayton/Indianapolis/Louisville markets to Continental and USAir to the extent they request authority in these markets, and any other fit, willing and able applicant whose fitness can be established by officially noticeable data. The complete text of the order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than March 20, 1980, a statement of objections, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the objections.

Additional Data: All existing and would be applicants who have not filed (a) illustrative service proposals, (b) environmental evaluations, and (c) an estimate of fuel to be consumed in the first year are directed to do so no later than March 5, 1980.

ADDRESSES: Objections and additional data should be filed in Docket 37634, which we have entitled the *Denver-Cincinnati/Cleveland/Columbus/Dayton/Indianapolis/Louisville Show-Cause Proceeding.* They should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served upon Continental Air Lines and USAir; Colorado Dept. of Highways, Aviation Transportation Section; Ohio Dept. of Transportation, Division of Aviation; Indiana Aeronautics Commission; the Governor of the State of Kentucky; Mayors of Cincinnati, Cleveland, Columbus, Dayton, Indianapolis and Louisville; Airport Manager, Greater Cincinnati Airport; Airport Manager, Cleveland Hopkins International Airport; Airport Manager, Port Columbus International Airport; Airport Manager, James M. Cox Dayton International Airport; Airport Manager, Stapleton International Airport, Denver, Colorado; Airport Manager, Indianapolis International Airport; Airport Manager, Standiford Field, Lousiville, Kentucky; The Kenton County Airport Board; and the Dayton Area Chamber of Commerce.

FOR FURTHER INFORMATION CONTRACT: Richard E. Clusman, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5216.

SUPPLEMENTARY INFORMATION: The complete text of Order 80-2-64 is available from our Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 80-2-64 to that address.

By the Bureau of Domestic Aviation: February 8, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-5002 Filed 2-14-80; 8:45 am]

BILLING CODE 6320-01-M

[Order 80-2-66; Docket 37584]

Green Hills Aviation, Ltd., For Advance Compensation for Losses; Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 11th day of February, 1980.

On December 27, 1979 Green Hills Aviation, Ltd. filed a 30-day notice under section 419(a)(3)(B) of the Act announcing its intent to suspend its operations at Kirksville, Missouri, effective February 1, 1980. By Order 80-1-155, January 24, 1980, we prohibited Green Hills' suspension for 30 days, or until a fit, willing, and able carrier is in place, and requested carriers interested in providing service to Kirksville to file applications by February 27, 1980.[1]

On February 4, 1980, Green Hills petitioned for advance compensation for losses pursuant to section 324.9 of our Economic Regulations. Green Hills alleges that it has suffered substantial losses since December 21, 1979 when it began providing essential air service with twin-engine equipment operated with a pilot and co-pilot; that this has greatly increased operating costs for flights previously conducted profitably with a single-engine aircraft operated by one pilot; that traffic is down due to normal seasonal (winter) reductions; and that its resources have recently been strained by the purchase of the twin-engine equipment, *i.e.*, by the down payments and initial ground and flight training. In summary, Green Hills states that it lacks sufficient funds to survive the initial 30-day compulsory period or subsequent periods if ordered.

We have reviewed Green Hills' petition and find that the information contained therein reasonably supports the requested advance compensation on an interim basis with but two exceptions. First, in calculating depreciation expense the carrier failed to take into account any residual value. This adjustment reduces depreciation by about $467.00 per month. Second, Green Hills has included in the compensation request for the initial 30-day compulsory period a one-time sum of $11,500 to cover the down payment for a backup aircraft. While the cost of maintaining the availability of necessary backup equipment must be recognized, and we have recognized it here in the form of depreciation and interest expenses for Green Hills' backup aircraft, the down payment should not be expensed in a lump sum. On the other hand, the carrier alleges that due to this down payment and other factors such as operating losses since it initiated its twin-engine service in December, it lacks sufficient funds to survive the initial 30-day compulsory period. We have, therefore, decided to include this amount in the compensation for the initial period with the understating that it will be excluded when arriving at the final compensation after forced-service requirements are terminated.[2]

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, particularly sections 102, 204, 419, and 1002(b), and the regulations promulgated in 14 CFR 302 and 324,

1. We set the interim level of advance compensation for losses sustained by Green Hills Aviation, Ltd. by virtue of its provision of essential air service to Kirksville, Missouri at $35,663 for the period February 2, 1980 through March 1,

[1] Green Hills was designated as the temporary replacement carrier for Air Illinois by Order 79-10-38, October 5, 1979. It was to serve Kirksville with a single-engine aircraft with one pilot pending its purchase of twin-engine equipment, at which time it was contemplated that it would seek federal assistance. The city concurred with this arrangement.

[2] Compensation paid in advance pursuant to § 379.4 of our regulations is subject to adjustment after termination of compulsory service.

1980,[3] and $24,163 for each successive 30-day period, less $105.66 for each scheduled flight not completed during the preceding 30-day period;

2. This proceeding shall remain open pending entry of our order fixing the final rate of compensation, and the amount of such rate of compensation may be the same as, lower than, or higher than the interim rate of compensation set here; and

3. We shall serve this order upon all parties to this proceeding.

We shall publish this order in the Federal Register.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,[4]

Secretary.

[FR Doc. 80-5003 Filed 2-14-80; 8:45 am]

BILLING CODE 6320-01-M

[Order 80-2-29; Dockets 36426, 36434, and 36783]

Mississippi Valley Airline, Inc., et al.; Final Order

Thirty day notice of MISSISSIPPI VALLEY AIRLINES, INC. of intent to terminate service at Winona, Minnesota, Docket 36426. Ninety day notice of REPUBLIC AIRLINES, INC. of intent to terminate service at Winona, Minnesota, Docket 36434. Application of the CITY OF WINONA, MINNESOTA for hyphenation with La Crosse, Wisconsin, Docket 36783.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 5th day of February, 1980.

By Order 79-10-200, October 29, 1979, we directed all interested persons to show cause why we should not issue an order hyphenating the point Winona, Minnesota, with the point La Crosse, Wisconsin, on Route 86 of Republic Airlines' certificate of public convenience and necessity, with the point to be known thereafter as La Crosse, Wisconsin/Winona, Minnesota. Our action was taken in response to an application filed by the City of Winona requesting that we so amend the certificate of Republic with service to be provided through the La Crosse airport.

Winona had been receiving service from Mississippi Valley Airlines (MVA), a Part 298 carrier,[1] under a replacement agreement with Republic.[2] MVA's operations and traffic at Winona had been minimal with most flights connecting at La Crosse where both MVA and Republic provided considerable service to Minneapolis/St. Paul and Chicago, Winona's two main communities of interest. On August 21, 1979, MVA filed a 30-day notice under section 419(a)(3) of the Act and section 323.3(c) of the Board's Procedural Regulations to terminate its air transportation at Winona effective September 20. On August 22, Republic filed a 90-day notice under section 401(j) of the Act and 323.3(a) of the Board's Procedural Regulations to terminate its service to Winona on November 21. Order 79-9-101, September 20, 1979, required MVA to continue serving Winona for 30 days, until October 20, and held both MVA and Republic responsible for assuring that continuous air transportation was provided to the community.[3] By Order 79-10-200, MVA was permitted to suspend operations and Republic's obligation was terminated, since the community stated it was willing to be served through La Crosse. Winona indicated that, for the foreseeable future, its air transportation needs could be satisfied through the La Crosse airport which was about 27 road miles and 30 minutes driving time from Winona. However, if in the future this arrangement did not appear to be meeting Winona's air transportation needs, the city requested that it be permitted to have service reinstituted at its own airport. At the same time Order 79-10-200 also proposed to hyphenate Winona with La Crosse.

The time for filing objections was passed, and, to date, our only response has been from Mississippi Valley on November 21, which states that it has no objection to the show cause order but requests that the Board also hyphenate Winona with La Crosse on MVA's certificate of public convenience and necessity for Route 203. By Order 79-6-187, June 28, 1979, MVA was issued new route authority under the unused authority provision of the Act (section 401(d)(5)) to engage in air transportation of persons, property, and mail on the following segments:

6. Between the terminal point La Crosse, Wis., and the terminal point Chicago, Ill.

7. Between the terminal point La Crosse, Wis., and the terminal point Milwaukee, Wis.

MVA contends that hyphenation of Winona with La Crosse on these segments will enable it to better inform the public that service to Winona is available through the La Crosse airport, and no new route authority is involved.

No objections to MVA's proposal have been received.

Inasmuch as no objections to our show cause order have been filed, we deem that all further procedural steps have been waived and we will make final our decision in Order 79-10-200 to amend the certificate of Republic to hyphenate Winona with La Crosse. At the same time, we will also grant MVA's request to amend its certificate to hyphenate Winona with La Crosse. Although our show cause order did not contemplate such action, we see no reason why we should not comply with MVA's request, particularly if it is informative to passengers utilizing MVA's service as the carrier contends. To this extent it is clearly in the public interest.[4] However, once again we want to assure the City of Winona that, should it request service through its own airport, we will take whatever steps are necessary to secure that service.

Accordingly,

1. We amend the certificates of Republic Airlines for Route 86 and Mississippi Valley Airlines for Route 203 as shown in the Appendix;

2. We find that essential air service to Winona, Minnesota, can be provided through the airport at La Crosse, Wisconsin, with the assurance that the City of Winona may request service to its own airport if use of the La Crosse airport for travel to and from Winona proves unsatisfactory to Winona's air service needs;

3. We will permit petitions for reconsideration of our decision herein to hyphenate Winona, Minnesota, with La Crosse, Wisconsin, on Route 203 of the certificate of Mississippi Valley Airlines until 20 days following the service date of this order.

4. We will serve a copy of this order on the Mayor of Winona; the Mayor of La Crosse; the Airport Manager of Winona; the Airport Manager of La Crosse; the Assistant Commissioner of the Minnesota Department of Transportation, Aeronautics Division; the Wisconsin Department of Transportation; the Postmaster General; Mississippi Valley Airlines; and Republic Airlines.

This order shall be published in the Federal Register.

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[3] Of this amount, $11,500 will be adjusted out of the rate when reaching the final compensation determination.

[4] All Members concurred.

[1] MVA operates as a certificated carrier in some markets and as a commuter airline in others. Winona is not a certificated point on MVA's system.

[2] See Orders 69-10-121, October 24, 1969, 75-9-55, September 18, 1975.

[3] Order 79-10-96, October 17, 1979, issued under delegated authority, extended MVA's service obligation until November 19, 1979, or until issuance of the show cause order, whichever occurred first.

[4] Since there has been no prior provision for objections to our hyphenating Winona with La Crosse on MVA's certificate, we will permit petitions for reconsideration of this order to that extent.

By the Civil Aeronautics Board.
Phyllis T. Kaylor, [5]
Secretary.
[FR Doc. 80-5005 Filed 2-14-80; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Advisory Committee (CAC) of the American Economic Association, CAC of the American Marketing Association, CAC of the American Statistical Association, and the CAC on Population Statistics; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that the CAC of the American Economic Association, CAC of the American Marketing Association, CAC of the American Statistical Association, and the CAC on Population Statistics will convene at 9:00 a.m. March 6, 1980 in Conference Room 124 of the Washington National Records Center, Suitland, Maryland.

The CAC of the American Economic Association is composed of 15 members of the American Economic Association. It was established in 1960 to advise the Director, Bureau of the Census, on technical matters, accuracy levels, and conceptual problems concerning the economic censuses; to review major aspects of the Bureau's programs; and advise on the role of analysis within the Bureau and the need for providing data in more detail.

The CAC of the American Marketing Association is composed of 15 members appointed by the President of the American Marketing Association. It was established in 1946 to advise the Director, Bureau of the Census, regarding the statistics that will help in marketing the Nation's products and services and on ways to make the statistics the most useful to users.

The CAC of the American Statistical Association is composed of 15 members appointed by the President of the American Statistical Association. It was established in 1919 to advise the Director, Bureau of the Census, on the Bureau's programs as a whole and on their various parts, consider priority issues in the planning of censuses and surveys, examine guiding principles, advise on questions of policy and procedures, and respond to Bureau requests for opinions concerning its operations.

The CAC on Population Statistics is composed of five members appointed by the Secretary of Commerce, and ten members designated by the President of the Population Association of America from the membership of that Association. It was established in 1965 to advise the Director, Bureau of the Census, on current programs and on plans for the decennial census of population.

The agenda for the meeting, which is scheduled to adjourn at 5:00 p.m., is: (1) Introductory remarks by the Director, Bureau of the Census, including staff and organization changes, major budget and program developments, and the status of census activities; (2) issues relating to adjustment of the decennial census undercount; (3) 1980 Census Promotional Program (This session *only* will be held in Room 2424, Federal Building 3, Bureau of the Census, Suitland, Maryland); (4) issues relating to a mid-decade census; and (5) committee discussion—plenary.

The meeting will be open to the public, and a brief will be set aside for public comment and questions. Extensive questions or statements must be submitted in writing at least 3 days prior to the meeting.

Persons wishing additional information concerning this meeting or who wish to submit written statements may contact Mr. James L. O'Brien, Acting Chief, Statistical Research Division, Bureau of the Census, Room 3573, Federal Building 3, Suitland, Maryland. (Mail address: Washington, D.C. 20233). Telephone (301) 763-5350.

Dated: February 12, 1980.
Vincent P. Barabba,
Director, Bureau of the Census.
[FR Doc. 80-5006 Filed 2-14-80; 8:45 am]
BILLING CODE 3510-07-M

International Trade Administration

Electronic Instrumentation Technical Advisory Committee; Partially Closed Meeting

February 12, 1980.

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. 10(a)(2) (1976), notice is hereby given that a meeting of the Electronic Instrumentation Technical Advisory Committee will be held on Tuesday, March 4, 1980, at 9:30 a.m. in Room 3708, Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C.

The Electronic Instrumentation Technical Advisory Committee was initially established on October 23, 1973. On October 7, 1975, October 21, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Section 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to electronic instrumentation, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates, including proposed revisions of any such multilateral controls.

The Committee meeting agenda has four parts:

General Session

(1) Opening remarks by the Chairman.
(2) Presentation of papers or comments by the public.
(3) Comments on OEA Bulletin No. 167 as related to automatic Test equipment (ATE).

Executive Session

(4) Discussion of matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

With respect to agenda item (4), the Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 6, 1978, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under Executive Order 11652 or 12065. All Committee members have appropriate security clearances.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Electronic Instrumentation Technical Advisory

[5] All Members concurred.

Committee and of any subcommittees thereof was published in the Federal Register on December 27, 1978 (43 FR 60328).

Copies of the minutes of the open portions of the meeting will be available by colling Mrs. Margaret Conrejo, Policy Planning Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202–377–2583.

For further information, contact Mrs. Cornejo, either in writing or by phone at the address or number shown above.

Dated: February 12, 1980.

Kent N. Knowles,

Director, Office of Export Administration, U.S. Department of Commerce.

[FR Doc. 80-4970 Filed 2-14-80; 8:45 am]

BILLING CODE 3510-25-M

Pacific Basin Development Conference

Notice is hereby given that a Pacific Basin Development Conference will be held on February 17–20, 1980 in Honolulu, Hawaii. The Conference will be jointly sponsored by the Island Governments of American Samoa, Guam, Hawaii, and the Northern Marianas, the Department of Commerce, the Department of the Interior, and the Department of Energy.

The purpose of the meeting is to develop an integrated, multi-sector, five-year plan for the American Pacific Islands that would serve as a blueprint for a regional development investment strategy in which the Pacific entities, the private sector, and the Federal government are full working partners.

This plan will be accomplished by some 250 Conference participants who will meet in workshops covering the areas of fisheries, coastal zone management, ports, transportation, telecommunications, trade, tourism, energy, and municipal services. They will review the barriers to and opportunities for development in these areas, recommend plans of action, priorities, and determine resource requirements and responsibilities.

For further information, call Frances Phipps, Special Assistant to the Secretary of Commerce and Pacific Basin Conference Coordinator on (202) 377–5017.

Carolyn C. Tieger,

Assistant Conference Coordinator.

February 11, 1980.

[FR Doc. 80-4906 Filed 2-14-80; 8:45 am]

BILLING CODE 3510-17-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1980; Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Deletions from Procurement List.

SUMMARY: This action deletes from Procurement List 1980 services provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: February 15, 1980.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: On December 21, 1979, the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (44 FR 75693) of proposed deletions from Procurement List 1980, November 27, 1979 (44 FR 67925).

After consideration of the relevant matter presented, the Committee has determined that the services listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following services are hereby deleted from Procurement List 1980:

SIC 7641

Furniture Rehabilitation (excluding upholstery portion), Sacramento, CA plus 60 mile radius, excluding San Joaquin County.

SIC 7699

Repair and Maintenance of Electric and Manual Typewriters, 26 Federal Plaza, 1515 Broadway, 32 Old Slip, 6 World Trade Center, New York, New York.

E. R. Alley, Jr.,

Acting Executive Director.

[FR Doc. 80-4944 Filed 2-14-80; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1980; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1980 commodities and military resale items to be produced and a service to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: February 15, 1980.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: On November 30, 1979 and October 26, 1979, the Committee for Purchase from the Blind and Other Severely Handicapped published notice (44 FR 68946) and (44 FR 61626) of proposed additions to Procurement List 1980, November 27, 1979 (44 FR 67925).

After consideration of the relevant matter presented, the Committee has determined that the commodities, military resale items, and service are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following commodities, military resale items, and service are hereby added to Procurement List 1980:

Class 6230

Light, Desk, 6230–00–299–7771 (GSA Regions 1, 6, 8, 10), 6230–00–682–3423 (GSA Regions 1, 4, Shelby, OH Depot in Region 5, 6, 8, Honolulu, HI Depot in Region 9, 10).

Class 7110

Table, Office, Wood, 7110–00–903–3061; 7110–00–902–3052.

Military Resale Item No. and Name

No. 927 Mop, Stock, Wide Head, Rayon Yarn, Wet Cleaning.

SIC 7349

Janitorial/custodial, Buildings 180 and 2546, Naval Air Station, Whidbey Island, Oak Harbor, WA.

E. R. Alley, Jr.,

Acting Executive Director.

[FR Doc. 80-4945 Filed 2-14-80; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1980; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1980 commodities to be produced and a service to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: March 19, 1980.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested parties an opportunity to submit comments on the possible impact of the proposed action.

It is proposed to add the following commodities and service to Procurement List 1980, November 27, 1979 (44 FR 67925):

Class 8105

Bag, Assembly, Crew, Relief
8105–00–922–9469

Class 8315

Buckle, Belt, Trouser's
8315–00–543–3724

SIC 7399

Repair of Field Jackets
Fort Riley, Kansas

E. R. Alley, Jr.,
Acting Executive Director.

[FR Doc. 80–4943 Filed 2–14–80; 8:45 am]
BILLING CODE 6820–33–M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent To Prepare a Draft Supplemental Environmental Impact Statement for Proposed Fish and Wildlife Mitigation Measures on That Portion of the Missouri River and Adjacent Lands Between Sioux City, Iowa, and the Mouth Near St. Louis, Mo.

AGENCY: Omaha and Kansas City Districts, U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to prepare a DSEIS.

SUMMARY: 1. The proposed Federal action is to mitigate for losses of fish and wildlife habitat resulting from construction and operation of the Missouri River Bank Stabilization and Navigation Project.

2. Reasonable alternatives include no action; various structural alternatives including dike notching and chute openings; land acquisition; and development for habitat restoration or increased fish and wildlife orientated recreation-use.

3.a. Public involvement to date has included coordination for and release of the Final Environmental Statement for Remaining Construction and Maintenance of the Missouri River Bank Stabilization and Navigation Project, 2 January 1979. Two series of public information meetings and numerous other meetings were also conducted with fish and game agencies in the States of Iowa, Kansas, Missouri and Nebraska, and the U.S. Fish and Wildlife Service to specifically address the Mitigation Study. Additional participation by the public or interested Government agencies is invited during the remaining stages of the planning process.

3.b. Significant issues identified to date include land condemnation and the role of fish and wildlife orientated recreation in mitigation.

3.c. Environmental consultation and review of the project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, Council on Environmental Quality Regulations, and all other applicable laws, regulations, and guidelines.

4. In accordance with 40 CFR 1502.9(c)(4), Council on Environmental Quality Regulations, additional scoping is not required.

5. The DSEIS is expected to be released for public review in June 1980.

ADDRESS: Questions concerning the proposed action and DSEIS should be addressed to Mr. Michael Bronoski, Environmental Resources Section, Kansas City District, Corps of Engineers.

Dated: January 22, 1980.

Paul D. Barber,
Chief, Engineering Division.

[FR Doc. 80–4917 Filed 2–14–80; 8:45 am]
BILLING CODE 3710–KN–M

Office of the Secretary

Defense Advisory Committee on Women in the Services (DACOWITS) Meeting

Pursuant to Pub. L. 92–463, notice is hereby given that a special meeting of the Defense Advisory Committee on Women in the Services (DACOWITS) is scheduled to be held from 11:00 a.m. to 4:00 p.m., 15 February 1980, in Room 3D318, The Pentagon. Meeting sessions will be open to the public.

This special meeting has been called without earlier notification to discuss the issue of registration of women for selective service, an issue upon which the Department may be expected to testify in Congressional hearings beginning the week of February 18. It will not negate the normal Executive Committee Meetings held during February and March preparatory to the formal DACOWITS Spring Meeting.

Persons desiring to make oral presentations or submit written statements for consideration at this meeting must contact Captain Mary J. Mayer, Executive Secretary, DACOWITS, OASD (Manpower, Reserve Affairs, and Logistics), Room 3D322, The Pentagon, Washington, D.C. 20301, telephone: 202/697–5655 no later than February 14, 1980.

Dated: February 13, 1980.

H. E. Lofdahl,
Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

[FR Doc. 80–5153 Filed 2–13–80; 4:22 pm]
BILLING CODE 3810–70–M

DELAWARE RIVER BASIN COMMISSION

Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, February 27, 1980, commencing at 2:00 p.m. The hearing will be a part of the Commission's regular February business meeting which is open to the public. Both the hearing and the meeting will be held at Eleventh Floor Conference Room (West), City Hall Annex, Juniper and Filbert Streets, Philadelphia, Pennsylvania. The subject of the hearing will be applications for approval of the following projects as amendments to the Comprehensive Plan pursuant to Article 11 of the Compact and/or as project approvals pursuant to Section 3.8 of the Compact.

1. *Merchantville-Pennsauken Water Company (D 79–10 CP).* A well water supply project to augment public water supplies in the Borough of Merchantville, Townships of Pennsauken and Cherry Hill, and portions of the City of Camden, New Jersey. Designated as Wells Nos. 2 and 6, the two facilities are designed to yield 62 million gallons per month. The total allocation from all water supply wells in the system will remain unchanged since Well No. 6 is a replacement well and Well No. 2 will serve as a standby only.

2. *Warminster Township Municipal Authority (D 79–31 CP).* A well water supply project to augment public water supplies in the Authority's service area in Warminster Township and Ivyland Borough, Buck County, Pa. Designated as Wells Nos. 23A and 23 B, the two new facilities are expected to yield 17.4 million gallons per month and 8.6 million gallons per month, respectively.

3. *Stillwater Water District No. 1 (D 79–56 CP).* A well water supply project to augment public water supplies in Stillwater Township,

Sussex County, N.J. Two new wells will be alternatively pumped to provide a combined yield of about 290,000 gallons per day.

4. *Northampton Municipal Authority (D 79–81 CP).* A well water supply project to augment public water supplies in Northampton, Buck County, Pa. Designated as Wells No 8, the new facility is expected to yield 160,000 gallons per day. The well will replace water from an existing well that has been abandoned.

5. *Warwick Water and Sewer, Inc. (D 79–48).* A project to construct sewers and treatment facilities to serve Warwick Township, Buck County, Pa. Treatment facilities are designed to remove 98% of BOD and 95% of suspended solids from a sewage flow of 600,000 gallons per day. Treated effluent will discharge to Fish Creek, a tributary of Neshaminy Creek.

6. *Perdue, Inc. (D 80–3).* A well water supply project to supply water to the company's poultry processing plant in Georgetown, Sussex County, Del. Designated as Well No. 3, the new facility is expected to yield about 720,000 gallons per day.

Documents relating to the above-listed projects may be examined at the Commission's offices. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the date of the hearing.

W. Brinton Whitall,

Secretary.

February 8, 1980.

[FR Doc. 80-4915 Filed 2-14-80; 8:45 am]

BILLING CODE 6360-01-M

DEPARTMENT OF ENERGY

Conduct of Employees; Waiver Pursuant to Section 602(c) of the Department of Energy Organization Act (Pub. L. 95-91)

Section 602(c) of the Department of Energy Organization Act (Pub. L 95-91, hereinafter referred to as the "Act") authorizes the Secretary of Energy to grant waivers of the divestiture requirements of section 602(a) of the Act to "supervisory employees" (as defined in section 601(a) of the Act) of the Department who have financial interests in "energy concerns" (as defined in section 601(b) of the Act), where exceptional hardship would otherwise result.

Thomas E. Stelson is being considered for the position of Assistant Secretary for Conservation and Solar Energy. Dr. Stelson owns a parcel of land in Somerset County, Pennsylvania, with coal deposits. It has been established to my satisfaction that requiring divestiture of this financial interest would impose exceptional hardship on Dr. Stelson within the meaning of section 602(c) of the Act. Accordingly, I have granted him a waiver of the divestiture requirements of section 602(a) of the Act with respect to this financial interest for the period of his service as Assistant Secretary for Conservation and Solar Energy.

Dr. Stelson's official duties as Assistant Secretary for Conservation and Solar Energy would not give him any direct authority over the Department's coal programs, and would require little, if any, involvement on his part in particular matters that could have a direct and predictable effect on the above-described financial interest. Nevertheless, he will be directed not to participate personally and substantially, as a Government employee, in any particular matter the outcome of which could have a direct and predictable effect on this financial interest, unless the Secretary and the counselor agree that the financial interest in the particular matter is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect of him.

Dated: December 7, 1979.

Charles W. Duncan, Jr.,

Secretary of Energy.

[FR Doc. 80-4900 Filed 2-14-80; 8:45 am]

BILLING CODE 6450-01-M

Conduct of Employees; Waiver Pursuant to Section 602(c) of the Department of Energy Organization Act (Pub. L. 95-91).

Section 602(c) of the Department of Energy Organization Act (Pub. L. 95-91, hereinafter referred to as the "Act") authorizes the Secretary of Energy to grant waivers from the divestiture requirements of section 602(a) of the Act to "supervisory employees" (as defined in section 601(a) of the Act) of the Department of Energy who have financial interests in "energy concerns" (as defined in section 601(b) of the Act), where exceptional hardship would result.

It has been established to my satisfaction that the interest of the individual "supervisory employee" of the Department of Energy whose name is listed below satisfies the requirements of section 602(c) of the Act. Accordingly, I have granted him a waiver from the divestiture provisions of section 602(a) of the Act until such time as the entity in which he has an interest no longer qualifies as an "energy concern" within the meaning of the Act, or until his employment with the Department of Energy terminates, whichever first occurs.

Name and Energy Concern

Floyd R. Correa, Pueblo of Laguna.

The employee named above will be directed not to participate personally and substantially, as a Government employee, in any particular matter the outcome of which could have a direct and predictable effect upon the energy concern in which he has a financial interest, unless the employee's supervisor and the counselor agree that the financial interest in the particular matter is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect of the employee.

Dated: February 4, 1980.

Charles W. Duncan, Jr.,

Secretary of Energy.

[FR Doc. 80-4901 Filed 2-14-80; 8:45 am]

BILLING CODE 6450-01-M

Voluntary Agreement and Plan of Action To Implement the International Energy Program; Meetings

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6201 *et seq.*) notice is hereby provided of the following meetings:

I. A meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on February 25, 1980, at the offices of the IEA, 2 rue Andre Pascal, Paris, France, beginning at 1:30 p.m. The agenda for the meeting is as follows:

1. Opening remarks.
2. Communication to and form IEA and Reporting Companies.
3. Matters arising from Record Note of IAB meeting of January 24, 1980.
4. Report on Standing Group on Emergency Questions (SEQ) meeting of January 30.
5. Report by IEA on February Governing Board meeting including:
   A. Import targets and monitoring procedures.
   B. Status of stocks at sea—proposed addition to Questionnaire A.
   C. Status of Dispute Settlement Centre (DSC) Charter.
6. Report by IEA on worldwide supply and demand situation following Febraury Questionnaire B and outlook for 1980.
7. Subcommittee A Chairman's report including:
   A. Meeting(s) with SEQ *ad hoc* group on emergency data system.
   B. Meeting with SEQ *ad hoc* group on AST–3 planning.
8. Review Netherlands paper on oil sharing.
9. IEA report on Emergency Management Manual modifications.
10. Future meeting dates.

II. A meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on February 26, 1980, at the headquarters of the IEA, 2 rue Andre Pascal, Paris, France, beginning at 9:30 a.m. The purpose of this meeting is to permit attendance by representatives of the IAB at a meeting

of the IEA Standing Group on Emergency Questions (SEQ) which is being held at Paris on that date.

The agenda for the meeting is under the control of the SEQ. It is expected that the following draft agenda will be followed.

1. Adoption of the agenda.
2. Summary Record of the Thirty-First Meeting.
3. Import target monitoring:
   A. Monitoring Procedures.
   B. Preliminary First Quarter 1980 import target results.
4. Assessment of the supply and demand situation:
   A. Assessment after the February 1980 submission.
   B. Year 1980 outlook.
   C. Stock position and development.
5. Simplified sharing systems:
   A: Contribution by the Netherlands.
   B. Contribution by Italy.
6. Emergency demand restraint reviews:
   A. Austria.
   B. Turkey.
7. Emergency Management Manual:
   A. IEA—European Economic Community (EEC) interface.
   B. Outlook for further revisions.
8. Data systems:
   A. Base Period Final Consumption (BPFC) (latest data).
   B. Progress report by the *ad hoc* group on the emergency data system.
   C. Product imbalances.
9. Allocation System Test—3:
   A. Preliminary outline of test scope.
   B. National Emergency Sharing Organization (NESO) involvement.
10. Future meeting dates.
11. Other business.

As provided in Section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, these meetings will not be open to the public.

Issued in Washington, D.C., February 11, 1980.

Craig S. Bamberger,

Acting Assistant General Counsel International Trade & Emergency Preparedness.

[FR Doc. 80-4902 Filed 2-14-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Byrd and Richardson Corp.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a Proposed Remedial Order which was issued to Byrd and Richardson Corporation (BRC), 234 W. Pembroke Avenue, Hampton, Virginia 23661, on November 20, 1979.

This Proposed Remedial Order charges BRC with selling all grades of gasoline in excess of the Maximum Lawful Selling Price in violation of 10 CFR Section 212.93. It was determined that BRC violated the Federal Energy Pricing Guidelines by selling above the Maximum Lawful Selling Price in the amounts of 1.1¢ per gallon for Regular Leaded, 0.5¢ for Regular Unleaded and 1.3¢ for Premium Unleaded. Additionally, BRC failed to properly post the Maximum Lawful Selling Price for each grade of gasoline as required by 10 CFR Section 212.129.

Pursuant to 10 CFR 205.192, BRC is required by the Proposed Remedial Order to reduce its prices at the pump to the Maximum Lawful Selling Price for each grade of gasoline to be in compliance with the Federal Energy pricing regulations.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from James C. Easterday, District Manager of Enforcement, Southeast District, Office of Enforcement, 1655 Peachtree Street, N.E., Atlanta, Georgia 30309, Phone: (404) 881-2661. On or before March 3, 1980, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW., Washington, D.C. 20461 in accordance with 10 CFR Section 205.193.

Issued in Atlanta, Georgia, on the 4th day of February 1980.

James C. Easterday,

District Manager.

[FR Doc. 80-4899 Filed 2-14-80; 8:45 am]

BILLING CODE 6450-01-M

Gasoline Marketing Advisory Committee; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

TITLE: Gasoline Marketing Advisory Committee.

DATE AND TIME: March 6, 1980—9:30 a.m. to 5:00 p.m.

PLACE: Loews' Anatole Hotel, Rosetta Room, 2201 Stemmons Freeway, Dallas, Texas.

CONTACT: Georgia Hildreth, Director, Advisory Committee Management, Department of Energy—Room 8G087, 1000 Independence Avenue SW., Washington, D.C. 20585, Telephone: 202-252-5187.

PURPOSE OF COMMITTEE: To provide the Department of Energy with expert and technical advice concerning the wholesale and retail selling of gasoline.

TENTATIVE AGENDA:

- Old Business
- Conversion to Metric System
- Gasoline Rationing Proposal
- Credit Practices and Rents
- Gasohol
- New Business
- Public Comment (10 minute rule)

PUBLIC PARTICIPATION: The meeting is open to the public. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Advisory Committee Management Office at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

TRANSCRIPTS: Available for public review and copying at the Freedom of Information Public Reading Room, Room 5B180, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C., between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

EXECUTIVE SUMMARY: Available approximately 30 days following the meeting from the Advisory Committee Management Office.

Issued at Washington, D.C. on February 8, 1980.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 80-4903 Filed 2-14-80; 8:45 am]

BILLING CODE 6450-01-M

W. C. Stevens, d.b.a. Hillcrest Exxon; Proposed Remedial Order

Pursuant to 10 CFR § 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a Proposed Remedial Order which was issued to Hillcrest Exxon c/o 2210 N. Roan Street, Johnson City, Tennessee, on December 5, 1979.

This Proposed Remedial Order charges Hillcrest Exxon with selling all grades of gasoline in excess of the maximum lawful selling price in violation of 10 CFR § 212.93. It was determined that Hillcrest Exxon violated the Federal Energy Pricing Guidelines by selling above the maximum lawful selling price in the amounts of 5 cents per gallon for Regular Leaded, 6.1 cents for Premium Leaded and 3.1 cents for Regular Unleaded. Additionally, Hillcrest Exxon failed to properly post the maximum lawful selling price for

each grade of gasoline as required by 10 CFR § 212.129.

Pursuant to 10 CFR § 205.192, Hillcrest Exxon is required by the Proposed Remedial Order to reduce its prices at the pump to the maximum lawful selling price for each grade to be in compliance with the Federal Energy pricing regulations.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from James C. Easterday, District Manager of Enforcement, Southeast District, Office of Enforcement, 1655 Peachtree Street, N.E., Atlanta, Georgia 30309, Phone: (404) 881–2661. On or before March 3, 1980, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Atlanta, Georgia, on the 4th day of February 1980.

James C. Easterday,

District Manager.

[FR Doc. 80-4898 Filed 2-14-80; 8:45 am]

BILLING CODE 6450-01-M

Doyle Elliott, d.b.a. State Line Exxon; Proposed Remedial Order

Pursuant to 10 CFR Section 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a Proposed Remedial Order which was issued to State Line Exxon, Gate City, Virginia, on December 5, 1979.

This Proposed Remedial Order charges State Line Exxon with selling all grades of gasoline in excess of the Maximum Lawful Selling Price in violation of 10 CFR Section 212.93. It was determined that State Line Exxon violated the Federal Energy Pricing Guidelines by selling above the maximum lawful selling price in the amounts of 3.9¢ per gallon for Regular Leaded, 1.8¢ for Premium Leaded and 1.8¢ for Regular Unleaded. Additionally, State Line Exxon failed to properly post the Maximum Lawful Selling Price for each grade of gasoline as required by 10 CFR Section 212.129.

Pursuant to 10 CFR Section 205.192, State Line Exxon is required by the Proposed Remedial Order to reduce its prices at the pump to the maximum lawful selling price for each grade to be in compliance with the Federal Energy pricing regulations.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from James C. Easterday, District Manager of Enforcement, Southeast District, Office of Enforcement, 1655 Peachtree Street, N.E., Atlanta, Georgia 30309, Phone: (404) 881–2661. On or before March 3, 1980, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Atlanta, Georgia, on the 4th day of February 1980.

James C. Easterday,

District Manager.

Approved for Signature.

Lee B. Beitchman,

Acting Chief Enforcement Counsel.

[FR Doc. 80-4900 Filed 2-14-80; 8:45 am]

BILLING CODE 6450-01-M

Harrison's Union 76; Proposed Remedial Order

Pursuant to 10 CFR Section 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a Proposed Remedial Order which was issued to Harrison's Union 76, 3722 Kecoughtan Road, Hampton, Virginia, on November 18, 1979.

This Proposed Remedial Order charges Harrison's Union 76 with selling two grades of gasoline in excess of the Maximum Lawful Selling Price in violation of 10 CFR Section 212.93. It was determined that Harrison's Union 76 violated the Federal Energy Pricing Guidelines by selling above the Maximum Lawful Selling Price in the amounts of 0.5¢ per gallon for Premium Leaded and 1.6¢ for Regular Unleaded. Additionally, Harrison's Union 76 failed to properly post the Maximum Lawful Selling Price for each grade of gasoline as required by 10 CFR Section 212.129.

Pursuant to 10 CFR Section 205.192, Harrison's Union 76 is required by the Proposed Remedial Order to reduce its prices at the pump to the Maximum Lawful Selling Price for the two grades of gasoline to be in compliance with the Federal Energy pricing regulations.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from James C. Easterday, District Manager of Enforcement, Southeast District, Office of Enforcement, 1655 Peachtree Street, N.E., Atlanta, Georgia 30309, Phone: (404) 881–2661. On or before March 3, 1980, any aggrived person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461 in accordance with 10 CFR Section 205.193.

Issued in Atlanta, Georgia, on the 4th day of February 1980.

James C. Easterday,

District Manager.

Approved for Signature.

Lee B. Beitchman,

Acting Chief Enforcement Counsel.

[FR Doc. 80-5000 Filed 2-14-80; 8:45 am]

BILLING CODE 6450-01-M

W. C. Stevens, d.b.a. Pioneer Exxon; Proposed Remedial Order

Pursuant to 10 CFR Section 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a Proposed Remedial Order which was issued to Pioneer Exxon, 2210 N. Roan Street, Johnson City, Tennessee 37601.

This Proposed Remedial Order charges Pioneer Exxon with selling all grades of gasoline in excess of the Maximum Lawful Selling Price in violation of 10 CFR Section 212.93. It was determined that Pioneer Exxon violated the Federal Energy Pricing Guidelines by selling above the Maximum Lawful Selling Price in the amounts of 5.0¢ per gallon for Regular Leaded, 2.1¢ for Premium Leaded and 3.1¢ for Regular Unleaded. Additionally, Pioneer Exxon failed to properly post the Maximum Lawful Selling Price for each grade of gasoline as required by 10 CFR Section 212.129.

Pursuant to 10 CFR Section 205.192, Pioneer Exxon is required by the Proposed Remedial Order to reduce its prices at the pump to the Maximum Lawful Selling Price for each grade of gasoline to be in compliance with the Federal Energy pricing regulations.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from James C. Easterday, District Manager of Enforcement, Southeast District, Office of Enforcement, 1655 Peachtree Street, N. E., Atlanta, Georgia 30309, Phone: (404) 881–2661. On or before March 3, 1980, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR Section 205.193.

Issued in Atlanta, Georgia, on the 4th day of February 1980.

James C. Easterday,

District Manager.

Approved for Signature.

Lee B. Beitchman,

Acting Chief Enforcement Counsel.

[FR Doc. 80-5001 Filed 2-14-80; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Boulder City Area Projects; Intent To Formulate Power Marketing Policy

AGENCY: Western Area Power Administration, Department of Energy.

ACTION: Notice of Intent to Formulate Consolidated Marketing Criteria for the Boulder City Area Projects, Through Public Information and Public Comment Forums.

SUMMARY: The Western Area Power Administration (Western) published in the Federal Register at 44 FR 24153 (April 24, 1979) for public comment, a notice of a request for written comments on the marketing of Boulder Canyon Project power. Included in that notice was the concept of the intergration or consolidation of the Boulder Canyon Project (Hoover Dam) resource with the Parker-Davis Project and Central Arizona Project (Navajo) resources administered by Western, for the marketing of the power from these resources as if from a single resource.

The intent of Western to formulate such consolidation was presented further during a Public Forum held on November 30, 1979, pursuant to notice published at 44 FR 62938 (November 30, 1979) regarding the Boulder Canyon Project and the Central Arizona Project marketing plans. Western will formulate a consolidated power marketing criteria for the Boulder City Area effective with the availability of power from the Parker-Davis Project, Central Arizona Project (Navajo surplus), and the Boulder Canyon Project. The availability of these resources will be staged in time due to the expected in-service dates of proposed capacity additions at Hoover powerplant, projected in-service dates of the Central Arizona Project, and the expiration of electric service contracts for each project.

The consolidated power marketing criteria will be formulated by considering among other things comments, recommendations, and consultations with interested parties, and studies and statutory requirements. The criteria, when finalized, will constitute written guidelines under which applications for power will be accepted. The criteria will be developed under authority of the Federal Water Power Act of 1920, the Boulder Canyon Project Act of 1928, the Rivers and Harbors Act of 1935, the Reclamation Act of 1939, the Act to Consolidate Parker Dam Power Project and Davis Project of 1954, the Colorado River Basin Project Act of 1968, the Department of Energy Organization Act of 1977, as well as other related legislation.

Interested parties are invited to submit written comments directly to Western's Boulder City Area Office and/or present written or oral views, data, or arguments at the public information and comment forums.

DATES: A Public Information Forum will be held February 22, 1980, beginning at 9 a.m. in the Regalium Room at the Caesars Palace in Las Vegas, Nevada.

ADDRESS—FOR FURTHER INFORMATION CONTACT: Mr. R. A. Olson, Area Manager, Western Area Power Administration, Department of Energy, P.O. Box 200, Boulder City, NV 89005, (702) 293–8115.

SUPPLEMENTARY INFORMATION: The Boulder City power marketing area includes southern California, southern Nevada, most of Arizona, and small parts of Utah and New Mexico. The Boulder City Area Office has power marketing responsibility for resources of the Boulder Canyon Project, Parker-Davis Project, the Central Arizona Project (Navajo) and the Pacific Northwest-Pacific Southwest Intertie (Intertie). A brief description of these projects follows:

A. Boulder Canyon Project (Hoover)

The Boulder Canyon Project was the first Federal power development on the Colorado River. The dam is located in Black Canyon, about 25 miles from Las Vegas, Nevada. Construction and operation of Hoover Dam and the associated powerplant was authorized by the Boulder Canyon Project Act of 1928. Commercial power generation began in 1936. The last (No. 17) and largest generator was placed in commercial operation in 1961.

Hoover powerplant is the largest hydroelectric power development serving southern California, southern Nevada, and Arizona, with a 35-year average gross annual energy generation of approximately 4 billion kilowatthours. The installed capacity of Hoover powerplant is 1,345 megawatts.

An uprating of the existing facilities by the Water and Power Resources Service of the Department of the Interior under an ongoing operations, maintenance, and replacement program, provides from 1,345 megawatts to approximately 1,810 megawatts at rated head. This program has an estimated completion date of 1989. A second major program currently underway is the Hoover powerplant modifications feasibility investigations. This program is investigating the feasibility of adding new generators at Hoover Dam and is concentrating on raising the capacity from approximately 1,810 megawatts to approximately 2,300 megawatts. The modification construction program, if authorized is expected to begin in 1987, with completion anticipated in 1992.

B. Parker-Davis Project

The Parker Dam power project was authorized by the Rivers and Harbors Act of August 30, 1935. The Davis Dam Project, formally named "Bullhead Dam," was found feasible and authorized April 26, 1941, by the Secretary of the Interior under provisions of the Reclamation Project Act of 1939.

On May 28, 1954, the Parker Dam Project and Davis Dam Project were consolidated to form the Parker-Davis Project. The major works include Davis Dam and powerplant, Parker Dam and powerplant, approximately 1,600 miles of high-voltage transmission lines, and 32 substations. The rated nameplate capacity of the Davis powerplant is 240,000 kilowatts and that of the Parker powerplant is 120,000 kilowatts. Davis Dam and Parker Dam are located on the Colorado River, 67 miles and 155 miles, respectively, below Hoover Dam. Parker Dam was completed in 1942 and Davis Dam in 1951.

C. Central Arizona Project (Navajo)

Authorized in 1968 and now under construction, the Central Arizona Project will deliver water from the Colorado River to the Phoenix and Tucson areas. In order to supply power and energy to satisfy pumping requirements, the United States participated in the Navajo coal-fired generating station located near Page, Arizona. The Federal entitlement is 24.3 percent of the plant's nameplate capacity of 2,250 megawatts or 547 megawatts and approximately 3.6 billion kilowatthours annually.

D. Pacific Northwest-Pacific Southwest Intertie

Certain AC transmission facilities of the Intertie located in southern Nevada and Arizona were placed in service in 1971 and subsequently placed under the jurisdiction of the Boulder City area. These facilities consist of the Mead and Liberty Substations, a 345-kV line between Mead and Liberty, and a connecting 230-kV line between Liberty, Westwing, and Pinnacle Peak Substations.

The gradual development of Federal power resources on the Colorado River has resulted in these resources being marketed on an individual project basis. Serving customer loads on such a basis has resulted in some reduced efficiencies and duplication of effort in the administration of contracts and power scheduling associated with these

resources. Many power contractors have two or more contracts with the Boulder City area for electric service from the different projects. This results in multiple billing and accounting documents for Federal energy purchased by many customers. The coordination between Boulder City area and the contractors for the scheduling of power is complicated by this system of parallel contracts. The problems of segregating power deliveries for scheduling and billing purposes have become complex, and have created problems in the preparation and coordination of numerous dispatching and accounting procedures.

Currently, the Boulder City area administers 190 agreements with 52 customers. Power contracts for all Federal power projects in the Boulder City area will terminate at various times between the mid and late 1980's. This circumstance offers an opportunity to improve the efficiency of the power marketing, power system scheduling, and accounting functions of the Boulder City area by consolidating contract commitments into a single contract rather than separate contracts for each project. Western intends to develop a single contract concept which would replace the present multiple contracts for each contractor. Each individual project would remain segregated for power and transmission rate-setting purposes in accordance with established law.

The concept of one contract for each contractor has several substantial advantages in the area of contract administration. These advantages are benefits realized in the areas of negotiating, billing, accounting, scheduling, and administration. One contract would contain all agreed upon language for all types of power sales with the appropriate rate schedules. This means that the contractor and contracting officer would need to negotiate only one contract for power sales. Operationally, scheduling and dispatching personnel would have more flexibility in operating the various resources. Some reduction in scheduling and dispatching effort would be realized since fewer sources of capacity and energy would have to be segregated.

In addition to the planned capacity at Hoover powerplant as a result of the uprating and modification program of the Water and Power Resources Service, Department of the Interior, Western expects that the integration of the lower Colorado River hydroelectric system with the Navajo generating station may provide some additional firm capacity and energy.

Following development of Western's proposed marketing policies, further public participation will be invited and resulting comments will be considered prior to issuance of the final marketing policies.

Issued at Golden, Colorado, February 8, 1980.

Robert L. McPhail,

Administrator.

[FR Doc. 80-4904 Filed 2-14-80; 8:45 am]

BILLING CODE 6450-01-M

Colorado River Storage Project Revised Proposed Power Rate Adjustment

AGENCY: Western Area Power Administration, Department of Energy.

ACTION: Announcement of a revised proposed power rate adjustment.

SUMMARY: The Western Area Power Administration (Western) initially proposed a 38-percent rate increase for Colorado River Storage Project (CRSP) firm and peaking power as published at 44 FR 19533 (April 3, 1979) and amended by 44 FR 30759 (May 29, 1979). Public Information Forums were held in Phoenix, Arizona, on April 24, 1979, in Salt Lake City, Utah, on April 25, 1979, and in Denver, Colorado, on April 26, 1979, and written comments were received until the close of the comment period on July 11, 1979. Copies of an April 1979 brochure explaining the need for the increase were mailed to all CRSP customers, distributed to the general public at the aforementioned forums, and mailed or given to any and all parties requesting copies. A subsequent Federal Register notice on August 24, 1979, (44 FR 49785) announced a Public Information Forum which was held in Salt Lake City, Utah, on September 5, 1979. At the September 5 forum, a revised proposed rate increase of 23.8 percent was announced (14.2 percent less than the originally proposed 38 percent). Written comments on the revised proposal were received for 30 days or until October 5, 1979. No new issues were raised in the 30-day period.

Western has ascertained that, contrary to the statement in the last complete sentence on page 1 of the April 1979 brochure, some of the investment costs in the FY 1977 repayment study were not based on the January 1977 price level. The price level for all except three of the participating projects was January 1976. The price level for three participating projects—Animas-La Plata, San Miguel, and West Divide projects—was October 1967. All other investment costs were based on the January 1977 price level.

Western has revised the FY 1977 CRSP power repayment study to include the effect of updating the estimated construction costs of the Animas-La Plata, San Miguel, and West Divide participating projects to the January 1976 price level, the same price level as that used for the other participating projects. This revision results in a rate increase of 25.8 percent (2 percent higher than the 23.8 percent advocated in the September 5, 1979, forum). It also results in a decrease in the amount apportioned to the States for presently unidentified future participating projects from $412,990,000 to $337,090,000. In view of the foregoing, Western is now proposing to increase the monthly power capacity charge from the present $1.34/kW/mo to $1.76/kW/mo and the energy charge from the present 3.4 mills/kWh to 4.1 mills/kWh. Details of the proposal will be sent to all CRSP customers and other interested parties.

In compliance with the National Environmental Policy Act of 1969, Western is preparing an assessment of the environmental impact of the proposed rate adjustment. This document will be made available at a later date to all interested parties upon request.

ADDRESSES: Interested persons wishing copies of the FY 1977 power repayment study as revised February 1980 or related information should contact: Mr. A. M. Gabiola, Area Manager, Salt Lake City Area Office, Western Area Power Administration, Department of Energy, P.O. Box 11606, Salt Lake City, UT 84147, Telephone: (801) 524-5493.

SUPPLEMENTAL INFORMATION: Written comments concerning the above proposed power rate increase action may be submitted on or before March 17, 1980, (*30 days after this notice*). Three (3) copies of the comments shall be submitted to each of the following:

Mr. A. M. Gabiola, Area Manager, Salt Lake City Area Office, Western Area Power Administration, Department of Energy, P.O. Box 11606, Salt Lake City, UT 84147.

Mr. Robert L. McPhail, Administrator, Western Area Power Administration, Department of Energy, P.O. Box 3402, Golden, CO 80401, Telephone: (303) 231-1511.

Dr. Ruth M. Davis Assistant Secretary for Resource Applications, Department of Energy, Room 3400, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, DC 20461, Telephone: (202) 633-9222.

Issued in Golden, Colorado February 8, 1980.

Robert L. McPhail,

Administrator.

[FR Doc. 80-4905 Filed 2-14-80; 8:45 am]

BILLING CODE 6450-01-M

Office of Nuclear Energy

The State Planning Council on Radioactive Waste Management; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (P.L. 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting. Less than 15-days' notice is being given for meeting so that it can be held in conjunction with the National Governor's Conference which is being held in Washington, D.C. beginning February 25, 1980.

Name: The State Planning Council on Radioactive Waste Management.

Date and time: February 24, 1980—1:00 p.m. to 3:00 p.m.

Place: Hyatt Regency, Columbia Room A, 400 New Jersey Avenue NW., Washington, D.C.

Contact: Raymond G. Romatowski, Deputy Director, Office of Nuclear Waste Management, Office of Nuclear Energy, Washington, D.C. 20545, telephone: 301-353-3993.

Agenda: Discussion of Organization and Operations.

Purpose of Council: The State Planning Council on Radioactive Waste Management was established by Executive Order 12192 dated February 12, 1980, to provide advice and recommendations to the President and the Secretary of Energy on nuclear waste management (including interim management of spent fuel). In particular, the Council shall:

(a) Recommend procedural mechanisms for reviewing nuclear waste management plans and programs in such a way to ensure timely and effective State and local involvement. Such mechanisms should include a consultation and concurrence process designed to achieve Federal, State, and local agreement which accommodates the interests of all the parties.

(b) Review the development of comprehensive nuclear waste management plans including planning activities for transportation, storage, and disposal of all categories of nuclear waste. Provide recommendations to ensure that these plans adequately address the needs of the State and local areas affected.

(c) Advise on all aspects of siting facilities for storage and disposal of nuclear wastes, including the review of recommended criteria for site selection and site suitability, guidelines for regional siting, and procedures for site characterization and selection.

(d) Advise on an appropriate role for State and local governments in the licensing process for nuclear waste repositories.

(e) Advise on proposed Federal regulations, standards, and criteria related to nuclear waste management programs.

(f) Identify and make recommendations on other matters related to the transportation, storage, and disposal of nuclear waste that the Council believes are important.

Public participation: The meeting is open to the public. The Chairperson of the Council is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Council will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Advisory Committee Management Office at 202-252-5187. Requests must be received prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, Room 5B180, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on February 14, 1980.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 80-5222 Filed 2-14-80; 11:56 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1414-7]

Fuel Economy Retrofit Devices; Announcement of Fuel Economy Retrofit Evaluation for the "Auto Miser"

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Retrofit Device Evaluation.

SUMMARY: This document announces the conclusions of the EPA evaluation of the "Auto Miser" under the provisions of Section 511 of the Motor Vehicle Information and Cost Savings Act.

FOR FURTHER INFORMATION CONTACT: F. Peter Hutchins, Emission Control Technology Division, Office of Mobile Source Air Pollution Control, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105, 313-668-4340.

BACKGROUND INFORMATION: Section 511(b) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2011(b)) requires that:

(b)(1) Upon application of any manufacturer of a retrofit device of prototype thereof, upon the request of the Federal Trade Commission pursuant to subsection (a), or upon his own motion, the EPA Administrator shall evaluate in accordance with rules prescribed under subsection (d), any retrofit device to determine whether the device increases fuel economy and to determine whether the representations (if any) made with respect to such retrofit devices are accurate.

(c) The EPA Administrator shall publish in the Federal Register summary of the results of all test conducted under this section, together with the Administrator's conclusions as to:

(1) The effect of any retrofit device on fuel economy;

(2) The effect of any such device on emissions of air pollutants; and

(3) Any other information which the Administrator determines to be relevant in evaluating such device.

EPA published final regulations establishing procedures for conducting fuel economy device evaluations on March 23, 1979 [44 FR 17946].

ORIGIN OF REQUEST FOR EVALUATION: On August 16, 1979 the EPA received a request from Auto-Miser International Manufacturing Corporation for evaluation of a fuel saving device termed the "Auto-Miser." An evaluation has been made and the results are described completely in a report entitled: EPA Evaluation of "Auto Miser" Under Section 511 of the Motor Vehicle Information and Cost Savings Act. Copies of this report are available upon request.

SUMMARY OF EVALUATION: The basic conclusion following review of the testing performed by independent laboratories and by Brigham Young University is that the "Auto Miser" reduces CO emissions by 12-40 percent, but does not improve fuel economy. The other constituents in the exhaust, HC and NO_x were not affected by the device. The fuel economy results were the same with and without the "Auto Miser" installed for testing performed according to the Federal Test Procedure and Highway Fuel Economy Tests. While specific numerical fuel-saving claims are not made in the application, several references are made naming the "Auto Miser" as a "fuel saving system." The test data do not substantiate the "fuel saving" capabilities of the "Auto Miser."

Dated: December 11, 1979.

David G. Hawkins,

Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 80-4971 Filed 2-14-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1414-8]

Ironton Coke Corp.; Final Determination

In the matter of the proceedings under Title I, Part C of the Clean Air Act (Act), as amended, 42 U.S.C. 7401 *et seq.*, and the Federal regulations promulgated thereunder at 40 CFR 52.21 (43 FR 26388, June 19, 1978) for Prevention of Significant Deterioration of Air Quality (PSD), to Ironton Coke Corporation (Ironton), Ironton, Ohio.

On September 7, 1978, Ironton submitted an application to the United States Environmental Protection Agency (U.S. EPA), Region V office, for an approval to construct a coke oven battery. The application was submitted pursuant to the regulations for PSD. On March 23, 1979 and April 20, 1979, additional information was submitted.

In June 13, 1979, Ironton was notified that its application was complete and preliminary approval was granted.

On July 11, 1979, a meeting was held at the request of Ironton to discuss the conditions imposed by the U.S. EPA as a part of the preliminary approval of June 13, 1979. As a result of this meeting, U.S. EPA reviewed the comments of Ironton and on August 30, 1979, preliminary approval was granted subject to amended conditions.

On September 7, 1979, U.S. EPA published notice of its decision to grant a preliminary approval to Ironton. No comments or request for a public hearing were received.

After review and analysis of all materials submitted by Ironton, the Company was notified on December 21, 1979, that U.S. EPA had determined that the proposed new construction in Ironton, Ohio would be utilizing the best available control technology and that emissions form the facility will not adversely impact air quality, as required by Section 165 of the Act.

This approval to construct does not relieve Ironton of the responsibility to comply with the control strategy and all local, State and Federal regulations which are part of the applicable State Implementation Plan, as well as all other applicable Federal, State and local requirements.

This determination may now be considered final agency action which is locally applicable under Section 307(b)(1) of the Act and therefore a petition for review may be filed in the U.S. Court of Appeals for the Seventh Circuit by any appropriate party. In accordance with Section 307(b)(1), petitions for review must be filed sixty days from the date of this notice.

For further information contact Eric Cohen, Chief, Compliance Section, Region V, U.S. EPA, 230 South Dearborn Street, Chicago, Illinois 60604. (312) 353-2090.

John McGuire,
Regional Administrator, Region V.

[EPA-5-A-80-9]

Region V, Approval To Construct

In the Matter of Ironton Coke Corporation, Coke Oven Battery, Ironton, Ohio; Proceeding Pursuant to the Clean Air Act, as amended.

Authority

The approval to construct is issued pursuant to the Clean Air Act, as amended, 42 U.S.C. 7401 *et. seq.*, (the Act), and the Federal regulations promulgated thereunder at 40 CFR 52.21 for the Prevention of Significant Deterioration of Air Quality (PSD).

Findings

1. The Ironton Coke Corporation (Ironton) proposes to construct a coke oven battery at 3329 South Third Street, Ironton, Ohio.

2. The area where Ironton proposes to construct is a Class II area as determined pursuant to the Act. This area has been designated attainment for sulfur dioxide (SO_2); and nonattainment for total suspended particulates (TSP), pursuant to Section 107 of the Act.

3. The proposed coke oven battery was determined to be subject to the requirements of 40 CFR 52.21 and the applicable sections of the Act. The proposed source is also subject to a review for TSP under the Emission Offset Interpretative Ruling at 44 FR 3274, January 16, 1979. No air quality review was performed because offsets were obtained by replacing the original coke battery No. 3.

4. Ironton submitted a PSD application to the U.S. Environmental Protection Agency (U.S. EPA) on September 7, 1978. On November 22, 1978, a deficiency letter was sent to Ironton. On March 23, 1979 and April 20, 1979, additional information was submitted. On June 13, 1979, the application was determined to be complete and preliminary approval was issued.

5. On July 11, 1979, a meeting was held at the request of Ironton to discuss the conditions imposed by the U.S. EPA as part of the preliminary approval of June 13, 1979. As a result of this meeting, U.S. EPA reviewed the comments of Ironton and on August 30, 1979, preliminary approval was granted subject to amended conditions.

6. On September 7, 1979, notice was published in the *The Ironton Tribune.* The notice sought written comments from the public on Ironton's application and U.S. EPA's preliminary approval of the proposed construction and operation of the coke oven battery. There were no public comments and no requests for a public hearing.

7. After review of all materials submitted by Ironton, U.S. EPA has determined that emissions from the coke oven battery will be controlled by the application of best available control technology and the lowest available emission rate.

Conditions for Approval

8. The coke oven gas from the new battery shall contain a maximum sulfur content, expressed as hydrogen sulfide (H_2S), of 35.0 grains of H_2S per 100 dscf of coke oven gas produced. Included in the maximum sulfur content are all compounds containing sulfur emitted from the sulfur recovery equipment including the tail gas from the desulfurizer used to process the sulfur compounds removed from coke oven gas.

Condition 8 represents the application of best available control technology as required by Section 165 of the Act.

9. Visible emission limits from the coke battery shall be:

(a) The duration of visible emissions during charging operations shall not exceed a total of 84 seconds for 7 consecutive charges.

(b) At no time shall there be visible emissions from greater than 5.0 percent of the offtake piping.

(c) At no time shall there be visible emissions from greater than 2.0 percent of the charging hole lids.

(d) At no time shall there be visible emissions from greater than 10.0 percent of the coke oven doors (for purposes of this standard the chuck door and pusher side door shall be considered as one door). If at any time the battery is observed to have greater than 10.0 percent visible emissions from its doors, then Ironton must submit corrective measures to U.S. EPA for approval.

10. No emissions of particulate from the waste gas stack shall exceed 0.030 grains/dscf (filterable).

Emissions from pughing operations shall not exceed 0.030 pounds of particulate matter per ton of coke pushed for not less than 90 percent of total emissions during pushing operations. Emissions not captured by or escaping from the pushing control shall not exceed 20 percent opacity at any time.

12. The charging rate shall not exceed 90 tons per hour.

13. The final design specifications and blueprints must be submitted as soon as available.

Conditions 9 through 12 represent the application of lowest achievable emission rate.

14. Ironton Coke Corporation must construct and operate the coke oven battery in accordance with the descriptions presented in their application for approval to construct. Any change must receive the prior written authorization of U.S. EPA.

Approval

15. Approval to construct the coke oven battery is hereby granted to the Ironton Coke Corporation subject to the conditions expressed herein and consistent with the materials and data included in the application filed by the Corporation. Any departure from the conditions of this approval or the terms expressed in the application, must receive the prior written authorization of U.S. EPA.

16. The United States Court of Appeals for the D.C. Circuit has issued a ruling in the case of *Alabama Power Co.* vs. *Douglas M. Costle* (78–1006 and consolidated cases) which has significant impact on the EPA prevention of significant deterioration (PSD) program and approvals issued thereunder. Although the court has stayed its decision pending resolution of petitions for reconsideration, it is possible that the final decision will require modification of the PSD regulations and could affect approvals issued under the existing program. Examples of potential impact areas include the scope of best available control technology (BACT), source applicability, the amount of increment available (baseline definition), and the extent of preconstruction monitoring that a source may be required to perform. The applicant is hereby advised that this approval may be subject to reevaluation as a result of the final court decision and its ultimate effect.

17. This approval to construct does not relieve Ironton of the responsibility to comply with the control strategy and all local, State and Federal regulations which are part of the applicable State Implementation Plan, as well as all other applicable Federal, State and local requirements.

18. This approval is effective immediately. This approval to construct shall become invalid, if construction or expansion is not commenced within 18 months after receipt of this approval or if construction is discontinued for a period of 18 months or more. The Administrator may extend such time period upon a satisfactory showing that an extension is justified. Notification shall be made to U.S. EPA 5 days after construction is commenced.

19. a copy of this approval has been forwarded to Briggs Lawrence County Public Library, 321 South 4th Street, Ironton, Ohio, for public inspection.

Dated: December 21, 1979.

John McGuire,

Regional Administrator.

[FR Doc. 80-4953 Filed 2-14-80; 8:45 am]

BILLING CODE 6560-01-M

[PF-158; FRL 1415-1]

Pesticide Programs; Filing of Pesticide and Feed Additive Petitions

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA or the Agency).

ACTION: Notice of filing.

SUPPLEMENTARY INFORMATION: EPA gives notice that Pennwalt Corp., P.O. Box C, King of Prussia, Pa. 19406, has submitted to EPA the following petitions for consideration.

PP 9F2274. Proposes that 40 CFR 180.371 be amended by establishing tolerances for the combined residues of the fungicide thiophanate-methyl (dimethyl [(1,2-phenylene) bis(iminocarbonothioyl)] bis [carbamate]), its oxygen analogue dimethyl-4,4'-*o*-phenylenebis(allophanate), and its benzimidazole-containing metabolites (calculated as thiophanate-methyl) in or on the following raw agricultural commodities:

Commodity and part(s) per million (ppm)

Almonds, nuts, 0.2 (N); hulls, 1.0.
Apples, pre- and post-harvest, 7.0.
Beans, snap and dry, 2.0; forage and hay, 50.0.
Cattle, liver, 0.5; kidney, 0.2 (N).
Eggs, 0.1 (N).
Meat, fat, and meat byproducts of cattle (excluding liver and kidney), goats, hogs, horses, poultry (excluding liver), and sheep, 0.1 (N).
Milk, 0.1 (N).
Peanuts, meats (hulls removed), 0.2 (N); hulls, 2.0; forage and hay, 15.0.
Pineapple (preplant seed piece treatment only), 0.1 (N).
Poultry, liver, 0.2 (N).
Soybeans, 0.2 (N).
Sugar beets, roots, 0.2 (N); tops, 15.0.
Sugarcane (preplant seed piece treatment only), 0.1 (N).

FAP 9H5241. Proposes that 21 CFR 561 be amended by permitting residues of the fungicide thiophanate-methyl in or on the commodity dried apple pomace with a tolerance limitation of 70.0 ppm.

COMMENTS/INQUIRIES: Comments may be submitted, and inquiries directed, to Product Manager (PM) 21, Mr. Henry Jacoby, Room E–305, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M St., SW, Washington, DC 20460, telephone number 202/755–2562. Written comments should bear a notation indicating the petition number to which the comments pertain. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the Product Manager's office from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

Statutory Authority: Sections 408(d)(1) and 409(b)(5) [21 U.S.C. 346a and 348 respectively] Federal, Drug, and Cosmetic Act.

Dated: February 11, 1980.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 80-4955 Filed 2-14-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1415-4]

Availability of Environmental Impact Statements

AGENCY: Office of Environmental Review (A–104), U.S. Environmental Protection Agency.

PURPOSE: This notice lists the environmental impact statements (EIS's) which have been officially filed with the EPA and distributed to Federal agencies and interested groups, organizations and invididuals for review pursuant to the Council on Environmental Quality's Regulations (40 CFR part 1506.9).

PERIOD COVERED: This notice includes EIS's filed during the week of February 4, 1980 to February 8, 1980.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this notice is calculated from February 15, 1980 and will end on March 31, 1980. The 30-day review period for final EIS's as calculated from February 15, 1980 will end on March 17, 1980.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this notice you should contact the Federal agency which prepared the EIS. This notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Environmental Review, EPA, for further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available with charge from the following sources:

FOR HARD COPY REPRODUCTION: Environmental Law Institute, 1346 Connecticut Avenue, NW, Washington, DC 20036.

FOR HARD COPY REPRODUCTION OR MICROFICHE: Information Resources Press, 2100 M Street, NW, Suite 316, Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Kathi L. Wilson, Office of Environmental Review (A–104), Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, (202) 245–3006.

SUMMARY OF NOTICE: On July 30, 1979, the CEQ regulations became effective pursuant to § 1506.10(A), the 30-day review period for final EIS's received during a given week will now be calculated from Friday of the following week. Therefore, for all final EIS's received during the week of February 4, 1980 to February 8, 1980 the 30-day review period will be calculated from February 15, 1980. The review period will end on March 17, 1980.

Appendix I below sets forth a list of EIS's filed with EPA during the week of February 4, 1980 to February 8, 1980. The Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the State(s) and County(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number, if available, is listed in this notice. Commenting entities on draft EIS's are listed for final EIS's.

Appendix II below sets forth the EIS's which agencies have granted an extended review period or EPA has approved a waiver from the prescribed review period. The appendix II below includes the Federal agency responsible for the EIS, the name, address, and telephone number of the Federal agency contact, the title, state(s) and county(ies) of the EIS. The date EPA announced availability of the EIS in the Federal Register and the newly established date for comments.

Appendix III below sets forth a list of EIS's which have been withdrawn by a Federal agency.

Appendix IV below sets forth a list of EIS retractions concerning previous notices of availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal agency.

Appendix V below sets forth a list of reports or additional supplemental information relating to previously filed EIS's which have been made available to EPA by Federal agencies.

Appendix VI below sets forth official corrections which have been called to EPA's attention.

Dated: February 12, 1980.

William N. Hedeman, Jr.,

Director, Office of Environmental Review (A–104).

Appendix I—EIS's Filed with EPA During the Week of February 4 Through 8, 1980

U.S. Army Corps of Engineers

Contact: Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN–CWR–P, Office of the Chief of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314 (202) 272–0121.

Draft

Asan Village Flood Control Study, Guam, February 4: Proposed is the Asan Village Flood Control Project, located in Asan, Guam. Four alternative plans are presented. Plan 1 consists of a rock-lined channel with highway culvert modification and a one percent flood design. A grass-lined channel with a separate outlet draining the village area is included. Plan 2 differs from plan 1 in that the grass-lined channel traverses the swale area and drains into the Asan River Channel. Plan 3 differs from plan 2 in level of protection, incorporating the standard project flood design instead of the one percent flood design. Plan 4 is the nonstructural alternative including floodproofing and a one percent flood design. (Honolulu District) (EIS Order No. 800086.)

Shore Damages at Grand Marais Harbor, Alger County, Mich., February 4: Proposed is a shore damage mitigation plan for the Grand Marais Harbor on Lake Superior in Alger County, Michigan. The plan will be non-structural and will include: (1) establishment of shoreline regulations and an erosion monitoring program, (2) development of an information program, (3) use of dredge spoil as beach nourishment, and (4) use of erosion mitigation works during future development. The alternatives include: (1) no action, (2) restore bay to pre-project conditions, (3) construct continuous revetment, (4) construct protective beaches, (5) establish sand bypassing program, (6) detached breakwater, (7) construct groin field and (8) headland protection. (Detroit District) (EIS Order No. 800088.)

Final

Inland Route, Alanson Lock and Weir, Emmet County, Mich., February 5: This action involves the operation and maintenance of the Crooked River portion of the Inland Route, Emmet County, Michigan, including dredging, dredge material disposal, and the continued operation and maintenance of the Crook River Lock and Weir at Alanson, Michigan. Since an upland disposal site would be used, a transfer facility would also be required. Dredged material removed from the Crook River would be transferred to trucks at the foot of Snider Road at the Crooked River, and hauled to the disposal site located approximately one mile north on Snider Road, (Detroit District). Comments made by: HEW, FERC, USDA, DOC, DOI, DOT, State and local agencies. (EIS Order No. 800092.)

Ohio River Navigation Project, O/M, several counties, February 7: Proposed is the continuance of the operation and maintenance of twenty locks and dams of the existing Ohio River Navigation Project in the States of Pennsylvania, West Virginia, Ohio, Kentucky, Indiana, and Illinois. Maintenance includes the removal of barriers to navigation, construction and maintenance of various channel regulating structures, and periodic dredging confined largely to the approach channels of the locks and the mouths of tributary streams. Dredge spoil will continue to be disposed of in accordance with existing regulations, either on land or in open water. (Ohio River Division.) Comments made by: USDA, FERC, EPA, HEW, DOI, DOT, State and local agencies, individuals and businesses. (EIS Order No. 800093.)

Draft Supplement

Snyder-Winnebago Complex, Missouri River, Woodbury County, Iowa, February 5: This statement supplements a final EIS, No. 740129, filed January 22, 1974. Proposed is the development of a recreational complex along the Missouri River in Woodbury County, Iowa. The complex would include two oxbow lakes to be known as Snyder and Winnebago. The plan involves three elements: (1) improvement of the lakes, (2) recreational facilities, and (3) a management plan by the State of Iowa. The alternatives include other site locations and no action. (Omaha District.) (EIS Order No. 800091.)

ENVIRONMENTAL PROTECTION AGENCY

Headquarters

Contact: Glenn Passavent (ECTD), Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Mich. 48105, (313) 668–4408.

Draft

1984 and later my heavy duty engines, emissions, regulatory, February 8: Proposed are emission regulations for 1984 and later model year heavy duty engines. The regulations would reduce by at least 90 percent the emitted levels of pollutants from heavy-duty vehicles, both HC and CO, relative to a baseline of uncontrolled emissions. Also considered are requirements that the standards be met on a test procedure which prescribes transient engine operations. The new procedure is designed around an engine test and requires that emission numbers be determined on a useful-work-produced basis. (EIS Order No. 800096.)

Contact: Mr. Richard Wilcox, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Mich. 48105, (313) 668–4390.

Draft

82–83 my high altitude vehicle emission standards, regulatory, January 30: Proposed are 1982 and 1983 model year high-altitude motor vehicle emission standards. The proposed alternative is to require that all new vehicles be capable of modification to meet the high (or low) altitude standards at the altitude at which they are sold. This action would reduce average vehicular emissions in 1987 by 0.6 percent for hydrocarbons and 2.0 percent for carbon monoxide in Denver, Colorado, the high altitude area with the most severe air quality problems. Approximately 20 other locations within the

U.S. would be directly affected by these standards. (EIS Order No. 800079.)

The above EIS should have appeared in the notice published in the Federal Register on Tuesday, February 12, 1980. The comment period began on February 8, 1980 and terminates on March 24, 1980. (See Appendix VI.)

Contact: RTP Library, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, (919) 541–2777.

Draft

Ammonium sulfate manufacture, emission standards, regulatory, February 8: Proposed are emission standards for the manufacture of ammonium sulfate (AS) which apply to the three major segments of the AS industry which include: (1) caprolactam by-product plants, (2) synthetic plants, and (3) coke oven product plants. Emission standards would restrict particulate emissions from as dryers to: 0.150 kilograms per megagram of as production (0.30 pounds per ton), and 15 percent opacity. The control systems under consideration include: (1) venturi scrublers, and (2) fabric filters, (EIS Order No. 800097.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, (202) 755–6300.

Final

Royal Village planned development, Belgrade, Gallatin County, Mont., February 4: Proposed is the issuance of HUD home mortgage insurance for the development of the Royal Village planned development located in Belgrade, Gallatin County, Montana. The development will consist of 1,250 units of single-family, townhouse and mobile home sites. Mortgage insurance has been requested for 110 single-family units, 27 townhouse units, and 126 mobile home units. (HUD–R08–EIS–79–XVIIF.) Comments made by: DOI, VA, EPA, state and local agencies, groups. (EIS Order No. 800098.)

Section 104(H)

The following are community development block grant statements prepared and circulated directly by applicants pursuant to Section 104(H) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local executive. Copies are not available from HUD.

Final

Downtown Stockton redevelopment (UDAG), San Joaquin County, Calif., February 4: Proposed is the issuance of UDAG funding for the redevelopment of an underused industrial area adjacent to the Stockton deepwater shipping channel in the city of Stockton, San Joaquin County, California. The redevelopment will consist of a planned community, mixed-use development including 715 residential units, 344,000 square feet office space and commercial space, a 270-berth marina with public docking facilities, recreation facilities and a clubhouse. The project will be built over an 8-year period. Comments made by: COE, GSA, USA, VA, USDA, FERC, DOI, EPA, state and local agencies, business. (EIS Order No. 800087.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Bldg., Department of Interior, Washington, D.C. 20240, (202) 343–3891.

NATIONAL PARK SERVICE

Draft Supplement

Yosemite National Park general management plan, Tuolumne, Mariposa, and Madera Counties, Calif., February 8: Proposed is a general management plan for Yosemite National Park, within Tuolumne, Mariposa, and Madera Counties, California. Four alternatives are under consideration: (1) provide for resource-related activities and a moderate amount of commercial services, (2) emphasize backcountry experiences and provide only a minimal amount of commercial services, (3) provide opportunities for a large range of recreational and social activities supported by a substantial amount of commercial services in a naturalistic park setting and (4) no action. (DES–80–3.) (EIS Order No. 800094.)

BUREAU OF LAND MANAGEMENT

Final

Snake R. Birds of Prey National Conservation Area, several counties in Idaho, February 8: Proposed is the designation of 515,257 acres of land as the Snake River Birds of Prey National Conservation Area located in Ada, Canyon, Elmore and Owyhee Counties, Idaho. It has also been recommended that these lands be removed from mineral entry under the 1872 Mining Law, that these lands be removed from application under the Desert Land, Carey, and the State of Idaho Admissions Act, and that leases under the Mineral Leasing or Geothermal Stream Act be allowed only as provided for in a land management plan to be developed under the authority of the Federal Land Policy and Management Act of 1976. (FES–80–8.) Comments made by: USDA, UAF, USA, DOI, DOT, EPA, FERC, state and local agencies, groups, individuals, and businesses. (EIS Order No. 800095.)

NAT'L OCEANIC AND ATMOSPHERIC ADMINISTRATION

Draft

Taking of Marine Mammals, Tuna Purse Seining Operation, Regulatory, February 5: The proposed action terminates the current general permit allowing the incidental taking of marine mammals in the tuna fishery in eastern tropical Pacific (ETP) and establishes conditions for the reissuance of a general permit for the remainder of 1980 and 1981. It includes a determination that the stock of northern offshore spotted dolphin is depleted. A revised allowable take schedule for non-prohibited species will be permitted. Proposed regulations state accidental take enforcement policy, add to or modify four gear requirements in existing regulations, and modify observer responsibilities and importation documentation requirements. (EIS Order No. 800089.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street S.W., Washington, D.C. 20590, (202) 426–4357.

Urban Mass Transportation Administration

Draft

North Line Lindbergh/Piedmont Segment, Dekalb and Fulton Counties, Ga., February 4: Proposed is the construction of a rapid rail system by the Metropolitan Atlanta Rapid Transit Authority from Armour Drive Northeast to East Paces Ferry Road in Atlanta, Dekalb and Fulton Counties, Georgia. The length of the alignment is 15,300 feet. The proposed project also includes the consolidation of two previously proposed stations into a single Lindbergh Center station to be located at the Northwest corner of the Lindbergh Drive/Piedmont Road intersection. The Lindbergh center station will include 1560 parking spaces, 14 bus bays, and cover 19 acres. (EIS Order No. 800090.)

Draft Supplement

U.S. 27, Lansing to Ithaca, St. Johns City, Clinton and Gratiot Counties, N.Y., November 9: This statement supplements a draft EIS, #770319, filed 3–10–77. Proposed is a business route for the city of St. Johns, Clinton and Gratiot Counties, Michigan. The facility would begin 1.25 miles east of existing US–27 and extend west to an intersection with existing US–27, then North on US–27 through the city of St. Johns intersecting the proposed US–27 freeway again at the Kinley Road Interchange. The length of the facility varies from 3.5 to 8.5 miles depending on the alternative. (FHWA–MICH–EIS–77–02–DS–2.) (EIS Order No. 791301.)

The above EIS should have appeared with the notice published in the Federal Register on November 19, 1979. The comment period began November 16, 1979 and terminated on 12–31–79. (See appendix VI below)

EIS's Received During the Week of Feb. 4 to 8, 1980

[Statement title index—By State and county]

State	County	Status	Statement title	Accession No.	Date filed	Originating agency No.
California	Madera	Supple	Yosemite National Park General Mgmt. Plan	800094	02-08-80	DOI
	Mariposa	Supple	Yosemite National Park General Mgmt. Plan	800094	02-08-80	DOI
	San Joaquin	Final	Downtown Stockton Redevelopment (UDAG)	800087	02-04-80	HUD
	Tuolumne	Supple	Yosemite National Park General Mgmt. Plan	800094	02-08-80	DOI
Georgia	Dekalb	Draft	North Line Lindbergh/Piedmont Segment	800090	02-04-80	DOT
	Fulton	Draft	North Line Lindbergh/Piedmont Segment	800090	02-04-80	DOT
Guam		Draft	Asan Village Flood Control Study	800085	02-04-80	COE
Idaho	Several	Final	Snake R. Birds of Prey National Conservation Area.	800095	02-08-80	DOI
Iowa	Woodbury	Supple	Snyder-Winnebago Complex, Missouri River (DS-1)	800019	02-05-80	COE
Michigan	Alger	Draft	Shore Damages at Grand Marais Harbor	800088	02-04-80	COE
	Emmet	Final	Inland Route, Alanson Lock and Weir	800092	02-05-80	COE
Montana	Gallatin	Final	Royal Village Planned Development, Belgrade	800096	02-04-80	HUD
New York	Clinton	Supple	US-27, Lansing to Ithaca, St. Johns City	791301	11-09-79	DOT
Regulatory	Gratiot	Draft	Taking of Marine Mammals, Tuna Purse Seining Oper.	800089	02-05-80	DOI
		Draft	1984 and Later MY Heavy Duty Engines, Emissions	800095	02-08-80	EPA
		Draft	Ammonium Sulfate Manufacture, Emission Standards.	800097	02-08-80	EPA
		Draft	82-83 MY High-Altitude Vehicle Emission Standards.	800079	01-30-80	EPA
Several	Several	Final	Ohio River Navigation Project, O/M	800093	02-07-80	COE

Appendix II.—*Extension/Waiver of Review Periods on EIS's Filed With EPA*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Waiver/ extension	Date review terminates
DEPARTMENT OF COMMERCE					
Dr. Sidney R. Galler, Deputy Assistant Secretary, Environmental Affairs, Department of Commerce, Washington, D.C. 20230, (202) 377-4335.	Taking of Marine Mammals, Tuna Purse Seining Operations.	Draft 800089	Feb. 15, 1980 (see Appendix I).	Extension	Apr. 15, 1980.
DEPARTMENT OF AGRICULTURE					
Mr. Barry Flamm, Director, Office of Environmental Quality, Office of the Secretary, U.S. Department of Agriculture, Room 412-A, Admin. Building, Washington, D.C. 20250, (202) 447-3965.	Atlantic and Gulf Coasts of the U.S. Protecting Barrier Islands.	Draft 800036	Jan. 28, 1980	Extension	Apr. 7, 1980.
DEPARTMENT OF TRANSPORTATION					
Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, SW., Washington, D.C. 20590, (202) 426-4357.	Jackson Hole Airport, Boeing 737 Service, Grand Teton NP, Wyo.	Report 791300	Jan. 22, 1980	Extension	Mar. 1, 1980.
DEPARTMENT OF THE NAVY					
Mr. Ed Johnson, Head, Environmental Impact Statement/RDT&E Branch, Office of the Chief of Naval Operations, Department of the Navy, Washington, D.C. 20350, (202) 697-3689.	Atlantic Fleet Weapons Training Facility, VIEQUES.	Draft 800043	Jan. 28, 1980	Extension	Apr. 15, 1980.

Appendix III.—*EIS's Filed With EPA Which Have Been Officially Withdrawn by the Originating Agency*

Federal agency contact	Title of EIS	filing status/accession No.	Date notice of availability published in "Federal Register"	Date of withdrawal
None.				

Appendix IV.—*Notice of Official Retraction*

Federal agency contact	Title of EIS	Status/number	Date notice published in "Federal Register"	Reason for retraction
None.				

Appendix V.—*Availability of Reports/Additional Information Relating to EIS's Previously Filed With EPA*

Federal agency contact	Title of report	Date made available to EPA	Accession No.
None.			

Appendix VI.—*Official Correction*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Correction
U.S. ARMY CORPS OF ENGINEERS				
Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272-0121.	Wilmington Harbor, NE Cape Fear River Navigational Improvement, N.C.	Final 800064	Feb. 6, 1980	Were published with incorrect status. The status is final. The comment period began on February 1, 1980 and terminates on March 10, 1980.
	Mississippi River Additional Harbor Facilities and Improvement, Memphis, Shelby County, Tenn.	Final 800065	Feb. 6, 1980	
DEPARTMENT OF TRANSPORTATION				
Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426-4357.	U.S. 27, Lansing to Ithaca, Clinton and Gratiot Counties, Mich.	Draft Supp. 791301	Feb. 15, 1980 (see Appendix I).	Should have appeared with the notice published November 19, 1979. Comment period began November 16, 1979, and terminated on December 31, 1979.
ENVIRONMENTAL PROTECTION AGENCY				
Mr. Richard Wilcox, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Mich. 48105, (313) 668-4390.	82-83 MY High-Altitude Vehicle Emission Standards.	Draft 800079	Feb. 15, 1980 (see Appendix I).	Should have appeared with the notice published February 12, 1980. Comment period began on February 8, 1980, and terminates on March 24, 1980.

[FR Doc. 80-5047 Filed 2-14-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[BC Docket Nos. 80-43, 80-44; File Nos. BPH-10, 521, BPH-10, 753]

Energy Capital Broadcasting, Inc.; Hearing Designating Order; Designating Applications for Consolidated Hearing on Stated Issues

Adopted: January 30, 1980.

Released: February 12, 1980.

In re applications of Energy Capitol Boardcasting, Inc., Casper, Wyoming, BC Docket No. 80-43, File No. BPH-10, 521, Req: 95.5 MHz, Channel 238, 100 kW (H&V), 1,910 feet; Cynthia Hytrek, Curt E. Kaiser, Jr., Jesse M. Taggart, Jerry Palen, Donald R. Morris, Georgina Guy, D. Keith Spencer, Thomas W. Ruckman, William L. Kallal, Jean Anne Kingrey, and Robert Zimmer, d.b.a. WYOMEDIA, Casper, Wyoming, BC Docket No. 80-44, File No. BPH-10, 753, Req: 95.5 MHz, Channel 238, 100 kW (H&V), 1,910 feet; for construction permit for a New FM Station.

1. The Commission, by its Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned applications, a petition to specify issues filed by Energy Capitol Broadcasting, Inc. (Energy),[1] petitions for leave to amend filed by Wyomedia, and related pleadings.

2. Before proceeding to the mertis of this case, two procedural questions require resolution. First, the Bureau's letter of October 26, 1978 stated that a response "should" be filed within 30 days, but that amendments could be filed as a matter of right until December 27, 1978. Energy protests Wyomedia's failure to file a responsive amendment until after the 30-day period had expired. In opposition Wyomedia states that it preferred to file a single amendment in December, in the belief that no action would be taken on the applications before then. Wyomedia is correct that the language in the Bureau's letter merely encouraged responses within 30 days, and that it was within its rights in filing its amendment on December 27, 1978.

3. Wyomedia has filed five petitions for leave to amend subsequent to December 27. The amendments of February 8, March 28, November 5, and December 27, 1979 reflect the departure of certain partners and the acquisition of their interests by existing partners. These amendments are unopposed. Since these changes will not strengthen Wyomedia's comparative position,[2] require the addition of parties or issues, or disrupt this proceeding, we find that good cause exists for acceptance of the amendments.

4. Wyomedia's petition for leave to amend filed February 27, 1979 presents a more difficult question. As Energy points out in its opposition to the petition, the amendment essentially responds to deficiencies raised in the Bureau's October 26, 1978 letter and to issues Energy requested. However, Wyomedia's opposition to the petition to specify issues indicated that a further amendment was in preparation and would be forthcoming, and it was filed 12 days later. While Wyomedia's tardiness cannot be condoned, the Commission has held that an applicant had good cause for submitting such an amendment with its opposition to a petition to specify issues. *Rose Boardcasting Co.*, 68 FCC 2d 1242, 1245 n. 8, 43 RR 2d 1324 (1978). Wyomedia is not guilty of gross delay, and acceptance of its amendment will not disturb this proceeding. Accordingly, the petition for leave to amend will be granted.

5. Analysis of the financial data submitted by Wyomedia reveals that $90,042 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment down payment	$34,599
Equipment payments with interest	8,693
Miscellaneous	24,000
Operating costs (three months)	22,750
Total	90,042

[1] Deficiencies Energy noted that have been corrected by subsequent amendments are not discussed herein.

[2] None of Wyomedias principals is proposed to be integrated into the day-to-day operation of the station.

Wyomedia plans to finance construction and operation with the following funds: $7,500 in existing capital, $42,500 in new capital, and $150,000 of a $370,000 loan from the Wyoming National Bank, 90% guaranteed by the Small Business Administration. The SBA loan requires the injection of $100,000 free cash into the business before disbursement, of which the applicant allocates $50,000 to this application and $50,000 to its application for a new FM station in Cody, Wyoming. Principal and interest payments on that loan for the first year would be covered by a further loan from the Wyoming National Bank of $68,316.

6. Recent amendments to the Wyomedia application reveal that D. Keith Spencer, Jessie M. Taggart and William L. Kallal have acquired the partnership interests of certain ex-partners. They have not, however, shown their willingness to provide the additional partnership contributions to which those partners were committed. Further, the balance sheets of William L. Kallal and D. Keith Spencer do not show the availability of sufficient net liquid assets to meet enlarged commitments to the applicant. The Commission therefore cannot find that Wyomedia will be able to inject the $100,000 free cash into it enterprise required by SBA. Additionally, the SBA guarantee expired on August 24, 1979. Consequently, the bank loan has not been shown to be available. Moreover, Energy contends in its petition that if Wyomedia is to rely on the SBA bank loan, it cannot also rely on deferred credit from the equipment supplier because the SBA loan would require a first security interest in the equipment and machinery acquired with the loan proceeds. Equipment suppliers normally retain a first lien on the equipment covered by a deferred payment contract. Because Wyomedia has not submitted the pertinent part of the proposal of its equipment supplier, the Commission cannot find that the supplier will make an exception in Wyomedia's favor in this regard. For the above reasons, a financial issue is required.

7. On the other hand, Energy, request for a lack of candor or misrepresentation issue in connection with the SBA loan must be rejected. The law and regulations under which the SBA operates (15 U.S.C. 636(a)(1) and 15 CFR 120.2(a)(2)) restrict such loan guarantees to those situations where the financing is not otherwise available on a reasonable basis. Nonetheless, this is primarily a matter for determination by the SBA itself. Wyomedia has supplied an opinion letter from district counsel for the SBA to the effect that Wyomedia is eligible for an SBA guarantee in that the "partners do not have asset liquidity after the required injection of $100,000." Although Wyomedia did represent in its application that its partners had net worth in excess of $3.5 million (including the assets of some partners who have since relinquished their shares), the two facts are not necessarily inconsistent. The SBA's criteria involve asset *liquidity*, but the partners' net worth is based in large part on nonliquid assets such as homes, ranches and personal property. Energy's contentions that Wyomedia has misrepresented material facts to the SBA or the FCC therefore amount to mere speculation, and are not supported by the affidavit of someone with personal knowledge of specific facts, as required by § 73.3584 of our rules.

8. Energy also seeks an issue relative to alleged deficiencies in Wyomedia's ascertainment effort. Wyomedia has supplied the information requested by the Bureau in all respects save one: while the Bureau suggested a need for the applicant to consult leaders with a broad overview of the problems in Douglas, Wyoming—a community within Wyomedia's proposed service contour—no interviews have been conducted with leaders of that community. However, this in not a substantial omission, given the fact that Wyomedia has interviewed officials of Converse County, in which Douglas is located. Therefore, no issue will be specified.

9. Wyomedia proposes independent programming while Energy proposes to duplicate some of the programming of its commonly owned AM Station KVOC. Therefore, evidence regarding program duplication will be admissible under the standard comparative issue. When duplicated programming is proposed, the showing permitted will be limited to evidence concerning the benefits to be derived from the proposed duplication which would offset its inherent inefficiency. *Jones T. Sudbury*, 8 FCC 2d 360, 10 RR 2d 114 (1967).

10. Except as indicated by the issues specified below, both applicants are qualified to construct and operate as proposed. However, since the the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

11. Accordingly, it is ordered, that, pursuant to section 309(e) of the Communication Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Wyomedia:

(a) The source and availability of additional funds over and above the $7,500 indicated; and

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

2. To determine which of the proposals would, on a comparative basis, better serve the public interest.

3. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

12. It is further ordered, that the petition to specify issues filed by Energy Capitol Broadcasting, Inc., is granted to the extent indicated above, and is denied in all other respects.

13. It is further ordered, that the petitions for leave to amend filed by Wyomedia are granted, and the corresponding amendments are accepted.

14. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

15. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give notice of the hearing (either individually or, if feasible, jointly) within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Richard J. Shiben,

Chief, Broadcast Bureau.

[FR Doc. 80-4969 Filed 2-14-80; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 80-36; File No. BPCT-4833; FCC 80-53]

Texan Broadcasting Co., Inc.; Hearing Designation Order Designating Application for Hearing on Stated Issues

Adopted: January 30, 1980.

Released: February 7, 1980.

In reapplication of Texan Broadcasting Company, Inc., Nacogdoches, Texas, for a construction

permit for a New Commercial Television Station, BC Docket No. 80-36, File No. BPCT-4833.

1. The Commission has before it the above-captioned application of Texan Broadcasting Company, Inc. (Texan) for a construction permit for a new commercial television station to operate on Channel 19, Nacogdoches, Texas.

2. Nacogdoches is the community of license of KSFA and KTBC-FM, both of which are licensed to Texan. Section 73.636(a)(1) of the Commission's rules (47 CFR 73.636(a)(1)) sets out a policy against granting television construction permits to applicants, such as Texan, that directly or indirectly own, operate, or control radio stations licensed to the same communities as their proposed television station. However, because Texan filed its application before September 13, 1979, it is subject to Note 8 to the rule, which provides that applications for UHF television facilities "will be handled on a case-by-case basis in order to determine whether common ownership, operation, or control of the stations in question would be in the public interest." *Notice of Proposed Rule Making in BC Docket 79-233,* 44 FR 55,603 (1979). In support of its application, Texan states only that no Nacogdoches television station providing local service could survive absent operation in conjunction with an existing AM-FM combination; yet, Texan provides no basis for its argument. We note that Texan is the licensee of two of the four local radio stations and that, if granted, it would be the sole local television licensee. Accordingly, an appropriate issue will be designated to determine whether common ownership of the AM and FM stations and the proposed television station would be consistent with the public interest.

3. Texan has failed to comply with the requirements of the *Primer on Ascertainment of Community Problems by Broadcast Applicants,* 27 FCC 2d 650 (1971), as detailed in three deficiency letters to the applicant. From the information before us, it appears that Texan has failed to survey leaders of significant population groups set forth in its demographic study, as required by Question and Answer 13(a) of the *Primer.* For example, although Texan indicates that Blacks comprise 21% of Nacogdoches' population, the applicant has submitted the names of only two individuals who could be characterized as leaders of the Black community. Further, contrary to the requirement of Question and Answer 22 of the *Primer,* Texan has failed to submit the problems and needs of Nacogdoches as determined by its ascertainment surveys. No problems adduced from the applicant's general public survey and an incomplete list of problems adduced from its community leader surveys have been submitted. Finally, the applicant has failed to show which programs will be responsive to which problems and needs. (See Question and Answer 29 of the *Primer.*) Accordingly, a limited ascertainment issue will be specified.

4. With regard to the applicant's technical qualifications, we are unable to determine its effective radiated power absent Texan's vertical plane radiation pattern for its proposed antenna. (Section 73.685(f) of the rules). In addition, without topographic maps of sufficient detail we cannot accurately determine the height above average terrain of Texan's proposed antenna. (Section 73.684(g) of the rules.) Accordingly, appropriate technical issues will be specified.

5. Except as indicated by the issues specified below, the Commission finds Texan Broadcasting Company, Inc. legally, financially, technically, and otherwise qualified to construct and operate as proposed. In view of the foregoing, however, the Commission is unable to make the statutory finding that a grant of the application would serve the public interest, convenience, and necessity and is of the opinion that the application must be designated for hearing on the issues set forth below.

6. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act, as amended, the application of Texan Broadcasting Company, Inc. is designated for hearing at a time and place and before an Administrative Law Judge to be specified in a subsequent Order, upon the following issues:

1. To determine whether common ownership, operation, or control of stations KSFA and KTBC-FM and Texan Broadcasting Company, Inc.'s proposed television station would be in the public interest.

2. To determine whether the proposal of Texan Broadcasting Company, Inc. is in substantial compliance with Questions and Answers 13(a), 22, and 29 of the *Ascertainment Primer,* and if not, to determine the effects thereof upon applicant's qualifications.

3. To determine the vertical plane radiation pattern of applicant's antenna and the antenna radiation center's height above average terrain and whether the applicant is technically qualified to operate as proposed.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, whether a grant of the application would serve the public interest, convenience, and necessity.

7. It is further ordered, that, to avail itself of the opportunity to be heard, the applicant herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

8. It is further ordered, that the applicant herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-4968 Filed 2-14-80; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

Open Committee Meetings

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, March 6, 1980
Thursday, March 13, 1980
Thursday, March 20, 1980
Thursday, March 27, 1980

The meeting will convene at 10 a.m., and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street, NW, Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives of five labor unions holding exclusive bargaining rights for federal blue-collar employees, and representatives of five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the prevailing rate system and other matters pertinent to the establishment of prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management thereon.

These scheduled meetings will convene in open session with both labor

and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would impair to an unacceptable degree the ability of the Committee to reach a consensus on the matters being considered and disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public on the basis of a determination made by the Director of the Office of Personnel Management under the provisions of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) and 5 U.S.C., section 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations thereon, and related activities. These reports are also available to the public, upon written request to the Committee Secretary.

Members of the public are invited to submit material in writing to the Chairman concerning Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Secretary, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street, NW., Washington, D.C. 20415 (202–632–9710).

Jerome H. Ross,

Chairman, Federal Prevailing Rate Advisory Committee.

February 8, 1980.

[FR Doc. 80–4978 Filed 2–14–80; 8:45 am]

BILLING CODE 6325–01–M

FEDERAL RESERVE SYSTEM

Blue Mound Bancshares, Inc.; Formation of Bank Holding Company

Blue Mound Bancshares, Inc., Blue Mound, Illinois, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The State Bank of Blue Mound, Blue Mound, Illinois. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 6, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 8, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80–4926 Filed 2–14–80; 8:45 am]

BILLING CODE 6210–01–M

Iowa Park Bancshares, Inc.; Formation of Bank Holding Co.

Iowa Park Bancshares, Inc., Iowa Park, Texas, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares (less directors' qualifying shares) of The State National Bank of Iowa Park, Iowa Park, Texas. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 11, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 11, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80–4925 Filed 2–14–80; 8:45 am]

BILLING CODE 6210–01–M

Madison Holding Co.; Formation of Bank Holding Company

Madison Holding Company, Winterset, Iowa, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 82.4 percent or more of the voting shares of Union State Bank, Winterset, Iowa. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than March 7, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 8, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80–4927 Filed 2–14–80; 8:45 am]

BILLING CODE 6210–01–M

Oak Park Bancorp, Inc.; Acquisition of Bank

Oak Park Bancorp, Inc., Oak Park, Illinois, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 14.9 percent or more of the voting shares of The Dunham Bank St. Charles, Illinois. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than March 7, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 8, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80–4923 Filed 2–14–80; 8:45 am]

BILLING CODE 6210–01–M

GENERAL SERVICES ADMINISTRATION

[F-80-1]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent, in conjunction with the Administrator of General Services, the consumer interests of the executive agencies of the Federal Government in proceedings before the Oklahoma Corporation Commission involving intrastate telecommunications service rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the Oklahoma Corporation Commission involving the application of the Southwestern Bell Telephone Company for increases in rates for intrastate telecommunication services. The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: February 1, 1980.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 80-4887 Filed 2-14-80; 8:45 am]

BILLING CODE 6820-25-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Assistant Secretary for Education

Data Acquisition Activities

AGENCY: Office of the Assistant Secretary for Education, Department of Health, Education, and Welfare.

ACTION: Notice of Data Acquisition Activities Involving Educational Agencies and Institutions.

SUMMARY: The paperwork control requirements in Section 400A of the General Education Provisions Act, added by Pub. L. 95-561, require public announcement of certain data requests that Federal agencies address to educational agencies and institutions. Federal agencies propose to collect the data described below from educational agencies or institutions during School Year 1980-81. The data acquisition activities that are covered by this Act are subject to review and approval by the Secretary through the Federal Education Data Acquisition Council (FEDAC).

FOR FURTHER INFORMATION CONTACT: Mrs. Elizabeth M. Proctor, FEDAC Staff, 400 Maryland Avenue, SW., Washington, D.C. 20202 Phone (202) 245-1022.

The contact persons listed in conjunction with the individual summaries are the ones to whom specific comments or questions concerning a data acquisition activity should be directed.

SUPPLEMENTARY INFORMATION: Under the Paperwork Control Amendments of 1978, section 400 A of the General Education Provisions Act, the Secretary of Health, Education, and Welfare is responsible for reviewing and approving collection of information and data acquisition activities of all Federal agencies

(1) Whenever the respondents are primarily educational agencies or institutions; and

(2) Whenever the purpose of the activities is to request information needed for the management of, or the formulation of, policy related to Federal education programs or research or evaluation studies related to the implementation of Federal education programs. The Secretary has delegated authority to the Assistant Secretary for Education.

We published interim FEDAC review procedures on August 8, 1979 (44 FR 46535), which are now effective. The Council is considering revisions to these procedures based on the public, Federal agency, and Congressional comments received. Revisions, as necessary, will be made and the procedures will be republished. One requirement is that "no information or data will be requested of any educational agency or institution unless that request has been approved and publicly announced by the February 15 immediately preceding the beginning of the new school year, unless there is an urgent need for this information or a very unusual circumstance exists regarding it."

Data activity plan summaries of proposed data acquisition activities for School Year 1980-81 are being published for comment. Each agency or institution subject to the request for data, its representative organizations, or any member of the public, may comment on the proposed data acquisition activity. Comments should be addressed to the project sponsor listed in item (r) of each of the data activity plan sumamries. Comments should refer to the specific sponsoring agency and form number and they must be received on or before March 17, 1980. After the public comment period ends, each project sponsor must submit copies of the comments and a summary of them to the FEDAC staff for review. In addition to these specific summaries, a composite listing of known data acquisition activities planned for school year 1980-81 will be published by February 15, 1980.

Dated: February 11, 1980.

Peter D. Relic,

Acting Assistant Secretary for Education.

Data Activity Plan Summary

(a) Title of Proposed Activity—Fiscal Operations Report 1979-1980 Award Period (July 1, 1979 through June 30, 1980) and Application to Participate 1981-1982 Award Period (July 1, 1981 through June 30, 1982)—National Direct Student Loan, Supplemental Educational Opportunity Grants, and College Work-Study Programs.

(b) Agency/Bureau/Office—Office of Education—Bureau of Student Financial Assistance—Division of Program Operations.

(c) Agency Form Number—OE Form 646.

(d) Justification—Phases 1 and 2 of the new funding process have been implemented in the award years 1979-80 and 1980-81. Phase 3 of the new funding process recommended by the panel of experts concluded the process to assure that each institution recieves its fair share of the funds available for the 1981-1982 award year funds available for each of the campus-based programs.

(e) Description of Survey Plan—NA.

(f) Tabulation and Publication Plans—NA 1980.

(g) Time Schedule for Data Collection and Publication

(h) Consultation Outside of Agency—Representatives of the National Association of Student Financial Aid Administrators (NASFAA) and the National Association of Colleges and University Business Officers (NACUBO) in conjunction with institutional representatives have reviewed and approved the document.

(i) Estimation of Respondent Reporting Burden

Respondent type	Number	Estimate [1]
Colleges and Universities		
Vocational/Technical	4,500	25
Proprietary Institutions of Postsecondary Education		

[1] Average person-hours per respondent.

(j) Sensitive Questions—NA.

(k) Estimate of Cost to Federal Government—The total direct cost to the federal government (including processing cost and staff personnel) is estimated to be $40,000 per year.

(l) Detailed Justification of How Information Once Collected Will Be Used

Program Management: The relative institutional financial need which will be the basis to compute by formula the amount of funds needed by each institution to operate one or more of the campus-based programs during the 1981–1982 Award Period is determined by the data reported on this form. The data will also be used to assess program effectiveness and accountability of fund expenditures to OE under the authority previously cited. In addition, the data will be used in conjunction with institutional program reviews to assess the administrative capability of the applicant and compliance enforcement.

Evaluation: (1) Data collected will allow a standard measure of relative institutional need culminating in a level of funding for institutions requesting participation in one or more of the programs; (2) Data will also be used to develop a data base sufficiently comprehensive and reliable to drive funding formulas based on verifiable data input; (3) Expenditure data will be used to calculate past utilization of funds awarded; (4) Data regarding collection activities relating to the NDSL Program will be used for the computation of institutional default rates and the identification of poorly administered operations which may require on site monitoring and additional training of institutional personnel.

Research: The data collected will be used for the purposes of (1) evaluation of the new funding process; (2) initiation of a specific procedure which will enable institutions to determine long-range disbursement needs; and (3) development of a nationwide data base to evaluate future funding alternatives.

Condition of Education: (1) summarize and categorize information for the Office of Education and organizations associated with the education community, (2) response to Congressional inquiry; and (3) public dissemination.

(m) Methods of Analysis: N/A.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection.

Legislative Authority for This Activity

A. "Include such other provisions as may be necessary to protect the financial interest of the United States and promote the purposes of this part as are agreed to by the Commissioner and the institution." (Pub. L. 92–318, 20 U.S.C. 1070b–2, Section 131(b), CFR Section 176.23) Supplemental Educational Opportunity Grants Program; "include such other provisions as the Commissioner shall deem necessary or appropriate to carry out the purposes of this part." (Pub. L. 89–329, 42 U.S.C. 2754, Section 444(8) CFR Section 175.29) College Work-Study Program.

B. "Any institution of higher education desiring to receive payments of Federal capital contributions from the apportionment of the State in which it is located for any fiscal year shall make an agreement under Section 463 and shall submit an application therefore to the Commissioner, in accordance with the provisions of this part. The Commissioner shall, from time to time, set dates before which such institutions must file applications under this section." (Pub. L. 92–318, Section 137(b), 20 U.S.C. 1087bb, CFR 144.5) National Direct Student Loan Program; "The Commissioner shall, from time to time, set dates before which institutions in any State must file applications for allocation, to such institutions, of supplemental grant funds from the apportionment to that State for any fiscal year pursuant to subsection (a)(1)." (Pub. L. 92–318, Section 131(b)(1), 20 U.S.C. 1070b–3, CFR 176.5) Supplemental Educational Opportunity Grants Program; "include such other provisions as the Commissioner shall deem necessary or appropriate to carry out the purposes of this part" (Pub. L. 89–329, Section 444(8), 42 U.S.C. 2754, CFR Section 174.5, 6, 7) College Work-Study Program.

(o) Timetable of Dissemination of Collected Data. .

(p) Estimate of the Total Person-Hours and Cost Required to Complete the Request—Average Man Hours per Respondent 25 4,500 (Universe) = 112,500 total person-hours. Estimated total cost—$500,000.

(q) Evidence of Urgent Need or Very Unusual Circumstances Requiring the Data—N/A.

(r) Copy of Exact Data Instrument—A copy of the full plan and the data instrument(s) may be obtained from: Mr. Robert R. Coates OE/BFSA/DPO/CSGB, 400 Maryland Avenue, Room 4621, ROB #3, Washington, D.C. 20202.

(s) Brief Account of Early Involvement and Communications With Respondent Populations—revised report recommended by Student Financial Assistance Study Group, the General Accounting Office and members of financial aid community.

(t) Assurance that Respondents Will Have Sufficient Lead Time to Comply With Request—Data collection forms are mailed to Respondent Population in the Fall of 1980.

Respondent Population is given 30 days to report data from given date.

(u) Specific Justification for Multi-Year Approval—Not applicable.

Data Activity Plan Summary

(a) Title of the Proposed Activity—Needs Assessment Survey for Serving Handicapped Populations.

(b) Name of the Sponsoring Agency/Bureau/Office—U.S. Office of Education, Bureau of Occupational and Adult Education.

(c) Agency Form Number—OE 689, –1; –2; –3.

(d) Justification—Current legislation concerned with handicapped students requires that schools comply with the principles of zero reject, mandatory education placement in the least restrictive program, appropriate education, and procedural due process in relation to vocational education programs. This national, educational priority will not be met, unless vocational instructors have been prepared to work successfully with handicapped students. The purpose of this study is to develop a data base which identifies the professional teaching competencies most urgently needed in order that administrators, teacher educators and teachers can plan appropriate preservice and inservice activities in priority order. In addition to providing the first national data base for identifying training needed by vocational instructors to work with handicapped, the survey report will be distributed to all State departments of vocational education and to vocational teacher educators in order that they can review their current programs and plan for future preservice and inservice teacher training programs.

(e) Description of Survey Plan—Three surveys are to be conducted, all utilizing the unique competencies and knowledges of a discrepancy profile based on those expected of any vocational instructor and on those needed by vocational instructors working with handicapped students. In one survey a proportional, stratified, random sample of 1,500 vocational teachers will be asked to respond. These respondents will be distributed based on the percentage of teachers in each of the seven generic areas recognized in vocational education. In the survey of competencies and knowledges of the vocational education administrators, the sample will not be less than 200. In the survey of competencies and knowledges

of the vocational teacher educators, the sample will not be less than 200. All respondents will be selected on a random procedure basis.

(f) Tabulation and Publication Plans—The data from the three surveys will be analyzed by a computer program which will rank competencies and knowledges in priority order of need and will analyze discrepancies between and among responses from the three surveys. The extent of the need will also be tabulated. Subsequently, a survey report will be written based on the computer analysis. In addition, information will be included as to the limitations of reliability and interpreting nationally and include recommendations for next steps. Ten thousand copies of a dissemination brochure will be widely distributed to appropriate individuals, departments, institutions, and organizations.

(g) Time schedule for data collection and publication—Survey data is expected to be collected beginning on or before October 30, 1980 through December 30, 1980. The dissemination brochure will be distributed beginning in May, 1981. The survey report is expected to be completed by the Government Printing Office by August, 1981.

(h) Consultations outside the agency—The survey instruments have been submitted to the Committee on Evaluation and Information Systems (CEIS) of the CCSSO. The vocational experts consulted included the State personnel development coordinators, one large city director, one department chairman in an approved vocational teacher education institution, one high school instructor, one postsecondary vocational institution instructor, one high school administrator, and the head of a university approved for vocational teacher education certification. The experts in vocational education for the handicapped included: Three State staff responsible for vocational education for the handicapped, three teachers of vocational education for the handicapped, one regional staff specialist, one director of a private research firm, two university professors of special education. In addition two researchers with experience in identifying competencies and knowledges contributed who also had State, local, and institutional experience.

(i) Estimation of Respondent Reporting Burden.

Respondent type	Number	Estimate [1]
Vocational Education teachers, secondary, & post-secondary	1,500	0.5
Vocational Education teacher educators	200	0.5
Vocational Education Administrators	300	0.5

[1] Average person-hours.

(j) Sensitive Questions—No questions of a sensitive or private nature are contained in the instruments. The anonymity of individual responses will be maintained.

(k) Estimate of Cost to Federal Government—The cost is estimated at approximately $125,000 for completing the survey and reporting on the survey.

(l) Detailed Justification of How Information Once Collected Will Be Used—The survey results will be used by USOE staff concerned with vocational education for the handicapped to develop priorities and to plan for meeting the need to train vocational instructors to work with the handicapped students. Data will be used by legislative and excecutive branches of the Federal and State governments to plan for needed personnel development emphases. Teachers educators in vocational education can use the results to review their courses and activities.

(m) Methods of Analysis—The methods of analysis will be devised by the contractor subject to the approval of USOE. Such methods will be reviewed by a panel of experts prior to approval.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection—

"Section 171(a). Funds reserved to the Commissioner * * * shall be used * * * for contracts * * * for

(1) Activities authorized by section 131 (applied research and development in vocational education * * *" (Pub. L. 94-482, Title II, Section 202; 20 U.S.C. 2401).

(o) Timetable for Dissemination of Collected Data—USOE plans to distribute copies of the Survey Report after it is printed by GPO beginning in September, 1981. The Report will also be entered as a document in ERIC and become part of the dissemination process used by the National Center for Research in Vocational Education.

(p) Estimate of the Total Person-Hours and Costs Required To Complete the Request—With a respondent universe of 2,000, the cost for the 1,500 teachers is estimated at .5 of an hour x $15 for a total of $11,250; for 300 administrators, the estimated is $3,750 (.5/h x $25); and for 200 teacher educators, the estimate is $2,000 (.5/h x $20). The total is estimated at $17,000.

(q) Evidence of Any Urgent Need or Very Unusual Circumstance Requiring the Data—Not applicable.

(r) Copy of the Exact Data Instrument—A copy of the survey instrument can be obtained from: Ms. Muriel Shay Tapman, U.S. Office of Education, ROB #3, Rm. 5640, Washington, DC 20202.

(s) Brief Account of Early Involvement and Communication With Respondent Populations—None has occurred.

(t) Assurance That Respondents Will Have Sufficient Lead Time To Comply With Request—Instruments will be furnished respondents at least six weeks before response is due to be returned.

(u) Specific Justification for a Multi-Year Approval—Not applicable.

Data Activity Plan Summary

(a) Title of the Proposed Activity—Instructions for Application for Federal Assistance: Career Education Incentive Act (Pub. L. 95-207), Discretionary Programs.

(b) Name of the Sponsoring Agency/Bureau/Office—U.S. Office of Education, Office of Career Education.

(c) Agency Form Number—OE Form 692.

(d) Justification—In the procedure for awarding Federal grants, some criteria by which an applicant may be judged eligible or ineligible for Federal funds must be devised. An application form serves this function. The data collected in an application form are therefore necessary to program operation. Application information will be used to determine eligibility for grant awards in Career Education discretionary programs.

(e) Description of Survey Plan—Not applicable.

(f) Tabulation and Publication Plans—Not applicable.

(g) Time Schedule for Data Collection and Publication—Not applicable.

(h) Consultations Outside the Agency—Previous grantees were consulted.

(i) Estimation of Respondent Reporting Burden—

Type: State education agencies, local education agencies, colleges and universities, nonprofit organizations.

Number: 15.

Estimated average person-hours per respondent: 40

(j) Sensitive Questions—Not applicable.

(k) Estimate of Cost to Federal Government—$2,960.

(l) Detailed Justification of How Information Once Collected Will Be Used—The information will be used to determine an applicant's eligibility for grant awards, and for determining the

amount of award if applicant is found to be eligible.

(m) Methods of Analysis—Not applicable.

(n) Legislative Authority Specifically Requiring or Allowing the Data Activity—"Sec. 10. (a) From funds reserved under Section 5(a)(2)(A) of this Act, the Commissioner is authorized to make grants directly to State and local educational agencies, institutions of postsecondary education, and other nonprofit agencies and organizations to support projects, including projects of proven effectiveness, to demonstrate the most effective methods and techniques in career education and to develop exemplary career education models particularly projects designed to eliminate bias and stereotyping on account of race, sex, age, economic status, or handicap.

Sec. 11. (a) The Commissioner is authorized to arrange by way of grant, contract, or other arrangement with institutions of higher education, public agencies and nonprofit private organizations for the conduct of postsecondary educational career demonstration projects which—

(1) May have national significance or be of special value in promoting the field of career education in postsecondary education programs,

(2) Have unusual promise of promoting postsecondary career guidance and counseling programs, particularly postsecondary guidance and counseling programs designed to overcome bias and stereotyping on account of race, sex, age, economic status, or handicap, or

(3) Show promise of strengthening career guidance, counseling, placement, and followup services.

(b) The Commissioner shall approve arrangements under subsection (a) of this section if he finds—

(1) That the funds for which assistance is sought will be used for one of the purposes set forth in subsection (a) of this section, and

(2) That effective procedures, including objective measurements, will be adopted for evaluating at least annually the effectiveness of the project * * *."

(Pub. L. 95-207; 20 U.S.C. 2609-10)

(45 CFR 161a.11-23) (FR, p. 60028) (Final Regulations)

Model Program

§ 161a.11 Purposes.

The Commissioner makes awards to eligible applicants to support projects at elementary and secondary levels that demonstrate effective techniques of:

(a) Eliminating or counteracting discrimination, bias and stereotyping based on race, sex, age, national origin, economic status, and handicap as well as eliminating or counteracting discrimination in career awareness, exploration, decisionmaking, and planning;

(b) Promoting and sustaining diverse community and parent collaboration in the delivery of career awareness, exploration, decisionmaking, and planning;

(c) Accommodating handicapped students in regular classrooms to enable them to effectively engage in career awareness, exploration, decisionmaking, and planning.

(Sec. 10(a), 20 U.S.C. 2609)

§ 161a.12 Eligible applicants.

(a) Those eligible to apply for grants for model career education projects are:

(1) State educational agencies;

(2) Local educational agencies;

(3) Institutions of postsecondary education; and

(4) Other non-profit agencies and organizations.

(b) New applications as well as those that have conducted projects of proven effectiveness may apply under this program.

(Sec. 10(a), 20 U.S.C. 2609)

§ 161a.13 Criteria for review of applications.

The Commissioner uses the criteria in § 161a.41 to review applications for model project grants.

(Implements Sec. 10(a), 20 U.S.C. 2609)

§ 161a.14-20 [Reserved]

Postsecondary Career Education Demonstration Program

§ 161a.21 Purposes.

(a) The Commissioner may conduct a postsecondary career education program that supports demonstration projects that:

(1) Promote career education in postsecondary instructional programs;

(2) Promote postsecondary career guidance and counseling programs designed to overcome bias and stereotyping based on race, sex, age, national origin, economic status, or handicap; or

(3) Strengthen career guidance, counseling, placement, and followup services.

(b) Each project assisted under Sec. 11 of the Act must be:

(1) Of national significance; or

(2) Of special value to others; and

(3) Free of bias and stereotyping based on race, sex, age, economic status, and handicap, as well as discrimination.

(c) The Commissioner makes awards for postsecondary career education projects that foster communication and collaboration among—

(1) Similar projects at local, State and Federal levels.

(2) Community and business organizations.

(Sec. 11(a)(1)-(3), 20 U.S.C. 2619)

§ 161a.22 Eligible applicants.

Those eligible to apply for awards are:

(a) Institutions of higher education;

(b) Public agencies; and

(c) Non-profit private organizations.

§ 161a.23 Criteria for review of applications.

(a) The Commissioner uses the criteria in § 161a.41 to review applications for grants.

(Implements Sec. 11, 20 U.S.C. 2610)

(b) The Commissioner does not approve an application unless:

(1) The applicant addresses at least one of the purposes specified in § 161a.21; and

(2) The applicant includes adequate provision for evaluating overall project effectiveness and the extent to which each object is achieved.

(Sec. 11(b), 20 U.S.C. 2610)

(o) Timetable for Dissemination of Collected Data—Data are for Office of Career Education program use. Applications which receive grant awards are available to the public.

(p) Estimate of the Total Person-Hours and Costs Required To Complete the Request—6,000 person-hours, $72,000.

(q) Evidence of Any Urgent Need or Very Unusual Circumstance Requiring the Data—Not applicable.

(r) Copy of the Exact Data Instrument—S. C. High, Jr., Director, Career Education Programs, Room 3108-A, ROB #3, 7th & D Sts., SW., Washington, DC 20202.

(s) Brief Account of Early Involvement and Communication With Respondent Populations—Previous career education grantees were consulted and they found the estimated burden to be a fair estimate.

(t) Assurance That Respondents Will Have Sufficient Lead Time To Comply With Request—A notice is published in the Federal Register prior to the Office of Career Education application deadline each year.

(u) Specific Justification for a Multi-Year Approval—This is a routine administrative form representing a small burden to respondents. It is required by law and regulation.

Data Activity Plan Summary

(a) Title of the Proposed Activity—Nationwide Study of the Distribution, Utilization, and Impact of Research and Development Products in Vocational Education.

(b) Name of the Sponsoring Agency/Bureau/Office—Office of Education, Bureau of Occupational and Adult Education.

(c) Agency Form Number—OE Form 700.

(d) Justification—This study responds to the criticism of vocational education research and development (R&D) by the Committee on Vocational Education Research and Development (COVERD) "* * * that vocational education research and development shares with educational research and development a lack of both demonstrated impact on students and methods for rigorously measuring impact." The purpose of this study is to determine the distribution, use, and impact of research and development products in vocational education.

(e) Description of Survey Plan—This study of R&D products includes products from both federally administered and state administered projects. Products will be selected for study from all research and development products accepted by the ERIC Clearinghouse on Adult, Career, and Vocational Education. Three studies of product dissemination are planned: A study of nationwide product distribution, a study of product use in two States, and a study of the use of highly selected products disseminated nationwide. Two self-report questionnaires will measure product distribution and use. Product impact will be measured in a survey mode and will not require instrumentation.

(f) Tabulation and Publication Plans—Tabulation of responses from the survey instruments for both the distribution and the use components will be processed at the National Center for Research in Vocational Education, The Ohio State University. Summary statistics, such as frequency counts, percentages, means, and standard deviations will be used to illustrate which products had the most distribution and use and which groups benefited the most from R&D. Data summaries of answers to qualitative questions can be linked to funding sources (state or federal), types of projects (research, curriculum, etc.), and other indicators of the value of R&D products, e.g., number of persons using the products.

A technical report will be prepared for the project sponsor. An executive summary of this report will be prepared and disseminated to interested persons, such as policy makers and administrators. The executive summary will highlight major survey findings in a popularized version which will be easy to understand.

(g) Time Schedule for Data Collection and Publication—Data collection will occur in sequence for all three components of this project (distribution, use, and impact). That is, collection of impact data will be collected following the summary of distribution data results. Distribution data will be collected during the fall of 1980 on products accepted by the ERIC Clearinghouse between October 1979 and September 1980. Data on the use of these products will be collected in the winter of 1981. Product impact will be studied using techniques which do not require instrumentation in spring 1981. Reports will follow within six months of data analysis.

(h) Consultations Outside the Agency—Persons representing twenty states have been involved in the design of this study. These have included consultants who are vocational educators and methodologists. Project plans were reviewed by the National Advisory Council to the National Center and the Dissemination and Utilization Technical Panel.

(i) Estimation of Respondent Reporting Burden—The respondent burden is estimated to be 12 minutes for the distribution questionnaire and 15 minutes for the use questionnaire. These estimates represent upper limits of time required to complete each questionnaire. respondents to the distribution questionnaire are likely to be product developers or state education agency (SEA) administrators such as Research Coordinating Unit directors. The developers are likely to be persons in educational agencies at the national, state, and local levels. The use questionnaire will be sent to persons who have received the product. The population of users will be determined by the products selected, but they are expected to be vocational teachers and administrators in local school systems for the most part.

Respondent type	Number	Estimate of average person-hours
Colleges and universities	100	.20
Employees in postsecondary education	800	.25
Local education agencies	1500	.25
Nonprofit organization	38	.20
State education agencies	150	.20
Teachers	1500	.25

(j) Sensitive Questions—There are no sensitive questions in the instruments being submitted. Respondents' names are not on the instruments. Participation in the study is voluntary. No confidentiality problems are anticipated.

(k) Estimate of Cost to Federal Government—The cost of the data collection for the distribution and use components is estimated at $25,183 for the 1980–81 year.

(l) Detailed Justification of How Information Once Collected Will Be Used—The data from this study will be used by policy makers in state and federal governments as a basis for planning (1) research and development projects, and (2) the distribution of products to user groups. The products to be studied have been funded under provisions of the federal vocational education legislation and administered by the U.S. Office of Education or the states. Results from the distribution report will make clear what R&D products are distributed and who received them. For example, target audiences for final reports of research projects may be vastly different from audiences for curriculum materials.

(m) Methods of Analysis—Methods of analysis using summary statistics such as measures of central tendency and dispersion will be used. Cross-tabulation will present descriptive data as the primary mode of analysis.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection.

"Section 171 (a). Funds reserved to the Commission * * * shall be used primarily for contracts * * * for (2) support of a national center for research in vocational education which Center shall . . . (A) conduct applied research and development on problems of national significance in vocational education * * *" (Pub. L. 940482, Title II, Section 202; U.S.C. 2401)

(o) Timetable for Dissemination of Collected Data—A realistic time estimate between data collection and published reports is eight months. Reports will be mailed to the sponsor. Availability of reports will be announced in the *Centergram* and distribution of executive summaries will take place at meetings.

(p) Estimate of the Total Person-Hours and Costs Required To Complete To Request—The total person-hours to respond is estimated to be 1,007 for a total cost estimated to be $10,750.

(q) Evidence of an Urgent Need or Very Unusual Circumstance Requiring the Data—Not applicable.

(r) Copy of the Exact Data Instrument—Copies may be obtained from Dr. Paul Manchak, Bureau of Occupational and Adult Education, U.S.

Office of Education, 7th and D Streets, SW., Washington, D.C. 20202.

(s) Brief Account of Early Involvement and Communications With Respondent Populations—Research Coordinating Unit staff members and State Directors of vocational education attended meetings in 1978 where this study was discussed. Small group sessions facilitated comments and input to the study design. The feasibility of the instruments was tested with select groups of respondents. Several revisions of the instruments have been made following reviews by respondent groups.

(t) Assurance that Respondents will Have Sufficient Lead Time To Comply With Request—The distribution data will be collected in November 1980; the use data will be collected in April 1981; and case studies of product impact will take place in two states during May and June of 1981. Respondents will have adequate time to complete this voluntary request before the end of the school year.

(u) Specific Justification for a Multi-Year Approval—Not applicable.

Data Activity Plan Summary

(a) Title of Proposed Activity—Career Education Program: Financial Status and Performance Reports (Career Education Incentive Act, Pub. L. 95–207, Discretionary Grants).

(b) Agency/Bureau/Office—U.S. Office of Education, Office of Career Education.

(c) Agency Form Number—OE 703.

(d) Justification—This Career Education Discretionary Grant Performance and Financial Status Report form is required by Regulation (45 CFR Part 100a.403 and .432). Also, Sec. 13(a)(1) of the Career Education Incentive Act specifies that the Office of Career Education "shall be the administering agency within the Office of Education for the review of the State plans, applications and reports submitted pursuant to this Act." The information gathered from this form will fulfill recordkeeping and program management requirements and will assist in the assessment of a grantee's success in achieving project goals and compliance with planned project expenditures.

(e) Description of Survey Plan—Not applicable.

(f) Tabulation and Publication Plans—Not applicable.

(g) Time Schedule for Data Collection and Publication—Data will be due 90 days after expiration of the grant award. Data are for program use, not for publication.

(h) Consultation Outside the Agency—Diana Studebaker, Far West Lab. for Educational Research and Development, San Francisco, CA. Alan Moore, Southwest Iowa Learning Resource Center, Red Oak, Iowa.

(i) Estimation of Respondent Reporting Burden:

Type: State education agencies, local education agencies, institutions of higher education, non-profit organizations.

Number: 15.

Estimated average person-hours per respondent: 32.

(j) Sensitive Questions—Not applicable.

(k) Estimate of Cost to Federal Government—$3,334.

(l) Justification of How Information Collected Will Be Used—Program Management: To monitor grantee's compliance with planned project expenditures and to assess grantee's success in achieving project goals.

(m) Methods of Analysis—Only tabulations of descriptive data are to be reported.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection.

"Sec. 13(a)(1) The Office of Career Education created puruant to section 406 of the Education Amendments of 1974 shall be the administering agency within the Office of Education for review of the State plans, applications and reports pursuant to this Act * * *" (95–207; 20 U.S.C. 2612)

"(a) *Form*—Recipients shall use the Standard Financial Status Report prescribed by Attachment H of OMB Circular a-102 (HEW Form 601T) to report the status of funds for all nonconstruction projects * * *

"(c) *Frequency*—For research project grants and contracts, reports shall be submitted annually, and a final report shall be submitted upon completion or termination of Federal support. For all other types of grants and contracts, the Commissioner will prescribe the frequency of the report, considering the size and complexity of the particular program. However, the report will not be required more frequently than quarterly, or less frequently than annually, and a final report is required upon completion or termination of Federal support." (45 CFR Part 100a.403)

"(b) Except as provided in paragraph (a) of this section, grantees shall submit a performance report with each Financial Status Report (or other financial report equivalent thereto) in the frequency established by Subpart P of this part * * * (100a.403)" (45 CFR Part 100a.432)

(o) Timetable for Dissemination of Collected Data—For program use, available to the public on request.

(p) Estimate of the Total Person-Hours and Costs Required to Complete the Request—480 hours, $5,760.

(q) Evidence of Any Urgent Need or Very Unusual Circumstance Requiring the Data.–Not applicable.

(r) Copy of the Exact Data Instrument—S.C. High, Jr., Director, Career Education Programs, Room 3108–A, ROB #3, 7th & D Sts., SW, Washington, D.C. 20202.

(s) Brief Account of Early Involvement and Communications With Respondent Populations—Project Directors from previous Career Education grants were asked their opinions of this proposed form (see names listed in response to (h)).

(t) Assurance That Respondents Will Have Sufficient Lead Time to Comply With Request—Grantee financial status and project performance reports will be due 90 days after expiration of the grant award. This schedule will be stipulated in the grantee's notification of grant award.

(u) Specific Justification for a Multiyear Approval—This is a routine administrative form, representing a small burden to the respondents. This collection of information is required by law and regulation. Therefore, a three year approval is requested.

Data Activity Plan Summary

(a) Title of Proposed Activity—Career Education State Allotment Program: Financial Status and Annual Performance Reports (Career Education Incentive Act, Public L. 95–207).

(b) Name of the Sponsoring Agency/Bureau/Office—U.S. Office of Education, Office of Career Education.

(c) Agency Form Number—OE 704.

(d) Justification—This Career Education State Allotment Performance and Financial Status report form is required by law and regulation (45 CFR 100b.403) and Pub. L. 95–207 Career Education Incentive Act, Section 13(a)(1) and Section 14(a). The information gathered from this form will fulfill recordkeeping and program management requirements of the Office of Career Education, whose primary funded activity is currently administration of this State Allotment Program ($18.7 of the $20 million FY 79 appropriation).

(e) Description of Survey Plan—Not applicable.

(f) Tabulation and Publication Plan—Not applicable.

(g) Time Schedule for Data Collection and Publication—Data are collected from the States on December 31 of each Fiscal Year in accordance with Pub. L. 95–207, Section 124. The Office of Career Education will provide a response to the State 90 days after submittal. There are no publication plans for the data.

(h) Consultation Outside the Agency—Persons contacted outside the Office of Career Education to review the proposed form: Anita Barber, State

Department of Education, Montgomery, Alabama; Paul Bennewitz, Department of Education, Phoenix, Arizona; Niel Carey, State Department of Education, Baltimore, Maryland; and Vivian Williamson, Department of Education, Richmond, Virginia.

(i) Estimation of Respondent Reporting Burden:

1. Type: State educational agencies, and insular areas education agencies.

2. Number: 56.

3. Estimate of Averge person-hours per respondent: 40.

(j) Sensitive Questions—Not applicable.

(k) Estimate of Cost to Federal Government—$11,448.

(l) Justification of How Information Collected Will Be Used—Program Management: To monitor a State's compliance with State Plan objectives and planned expenditures; and Federal requirements under Pub. L. 95–207, and to assess program effectiveness.

(m) Methods of Analysis—Only tabulations of descriptive data are to be used.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection:

"(a) *Form.* State agencies shall use the standard Financial Status Report prescribed by Attachment H of OMB Circular No. A–102 to report the status of funds for all non-construction grant programs * * *." (45 CFR 100b.403)

"Sec. 13(a)(1) The Office of Career Education created pursuant to Section 406 of the Education Amendments of 1974 shall be the administering agency within the Office of Education for the review of the State plans, applications, and reports submitted pursuant to this Act * * *." (Pub. L. 95–207) (20 U.S.C. 2612)

"Sec. 14(a) Unless the Commissioner finds the requirements on this subsection unnecessary, not later than December 31 of each fiscal year each State receiving funds under this Act shall submit to the Commissioner a report evaluating the programs assisted with funds provided under this Act for the preceding fiscal year. Such report shall include—

(1) An analysis of the extent to which the objectives set out in the State Plan submitted pursuant to Section 6 have been fulfilled during that preceding fiscal year;

(2) A description of the extent to which the State and local educational agencies within the State are using State and local resources to implement these objectives and a description of the extent to which funds received under this Act have been used to achieve these objectives; and

(3) A description of the exemplary programs funded within the State, including an analysis of the reasons for their success, and a description of the programs which were not successful within the State, including an analysis of the reasons for their failure."

(Pub. L. 95–207)(20 U.S.C. 2613)

(o) Timetable for Dissemination of Collected Data—Data are for OCE program information and to complete a Commissioner's report to Congressional Committees in 1982. The information is available to the public.

(p) Estimate of the Total Person-Hours and Costs Required To Complete the request—Costs: $26,880; Person-Hours: 2,240.

(q) Evidence of any Urgent Need or Very Unusual Circumstance Requiring the Data—Not applicable.

(r) Copy of the Exact Data Instrument—S. C. High, Jr., Director, Career Education Programs, Office of Career Education, Room 3108–A, ROB#3, 7th & D Sts. SW, Washington, D.C. 20202.

(s) Brief Account of Early Involvement and Communication with Respondent Populations—This proposed form was sent to several State Career Education Officials, soliciting their comments (See names and addresses in response to (h)).

(t) Assurance That Respondents Will Have Sufficient Lead Time to Comply With Request—State performance and financial status reports will be collected yearly on December 31, in accordance with Section 14 of Pub. L. 95–207. States will be notified of this provision.

(u) Specific Justification for a Multi-Year Approval—This is a routine administrative form, representing a small burden to State personnel. It is required by the legislation, an data requirement changes from year to year are not anticipated.

Data Activity Plan Summary

(a) Title of the Proposed Activity: Upward Bound Financial Status and Performance Report.

(b) Name of the Sponsoring Agency/Bureau/Office: U.S. Office of Education, Bureau of Higher and Continuing Education, Division of Student Services and Veterans Programs.

(c) Agency form Number: OE 712.

(d) Justification:

(1) The Higher Education Act of 1965 (Pub. L. 89–329, as amended) authorizes Upward Bound as a program designed to generate the skills and motivation necessary for success in postsecondary education among youths from low income backgrounds with inadequate secondary school preparation.

The Commissioner is authorized to make grants to, and contracts with, institutions of higher education, including institutions with vocational and career education programs; combinations of such institutions; public and private agencies and organizations (including professional and scholarly associations); and in exceptional cases, secondary schools and secondary vocational schools.

In accordance with subparts I and J of OMB Circular A–110 (Uniform Administrative Requirements), certain programmatic information from every Upward Bound project is required on an annual basis. In addition, Standard Form 269 is included in order to report on a project's financial status.

(2) The Financial Status and Performance Report is used almost exclusively by OE project and grants officers in monitoring individual Upward Bound projects. Generally, the Performance Report is used by project officers to monitor program-related activities, while the Financial Status Report is used by grants officers to monitor the financial and business aspects of each grant.

(3) There is no similar data already available in the subject field which could be used for these purposes.

(4) Effort has been made to have the project directors fill out forms that are as brief as possible, but, in order to meet regulations the time involved in completion will be greater than 30 minutes.

(e) Description of Survey Plan.

(1) The respondent to the Financial Status and Performance Report should ordinarily be Upward Bound Project Directors, or occasionally members of the professional staff at a project. (The Project Director must sign, however, certifying that the information is complete and accurate.) in program year 1980–81 an estimated 390 Upward Bound grants will be funded.

(2) Survey design and sampling are not applicable to this form.

(3) Agency or consulting statistician is not applicable to this form.

(4) Computer Sciences Corporation, our current data preparation contractor, is responsible for mailing report forms, logging in and editing reports, keypunching, and compiling data.

CSC is aware of the impact of the Privacy Act of 1974 on the handling of OE data, and is in full compliance with it. Strict confidentiality is observed in the processing and filing of sensitive material, and reproduction of such material is performed according to Industrial Security Manual (ISM) standards in a locked room, with only those persons with appropriate clearance and need-to-know permitted. Requests for information, if any, are referred to OE.

(f) Tabulation and Publication Plans: No information from the Preformance

Report is tabulated or printed.

(g) Time Schedule for Data Collection and Publication: The Upward Board Performance Report is required to be filed annually according to the following schedule:

Report	Form	Period covered	Due date	Projects required to report
Annual performance	1197	Beginning to end of budget year just completed	30 days after end of budget period	Multiyear projects not in final year.
Final performance	1197	Beginning to end of budget period just completed	90 days after end of budget period	Multiyear projects in final year and single-year projects.

There is no publication of the results of this report.

(h) Consultations outside the Agency: None.

(i) Estimation of Respondent reporting burden: It is estimated that 390 Upward Bound projects will be funded for program year 1980–81. An estimated breakdown by respondent type for program year 1980–81 is given below which uses percentage breakdowns that occurred in program year 1979–80.

Respondent type	Number	Estimate of average person-hours
Colleges and universities	358	4
Nonprofit organizations	10	4
Public junior colleges	12	4
Vocational/technical/career post-secondary institutions	10	4

(j) Sensitive questions: None.

(k) Estimate of Cost to Federal Government—It is estimated that the annual cost of this form is about $7,000. This estimate includes printing and mailing cost. In addition manpower expense is estimated to be $1,150.

(l) Detailed Justification of How Information Once Collected Will Be Used—The proposed data acquisition activity will be used: (1) In assessing individual project accomplishments of program goals; (2) in compliance enforcement by determining if grant conditions were met; and (3) in determining accountability of funds.

(m) Methods of Analysis—Information collected from this form is not aggregated.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection—Legislative authority comes from the General Education Provisions Act, Section 434(b)(3)(C) which states:

> In the case of any application for assistance under any applicable program to which paragraph (1) does not apply and with respect to which the Commissioner determines that this section would simplify the administration of an applicable program, each such application shall be submitted to the Commissioner at such time, in such manner, and containing such information as the Commissioner shall prescribe by regulation and, as a precondition for approval, shall—
>
> (C) provide for making such reports as the Commissioner may require to carry out his functions.

Administrative authority comes from Part 100a.720 of Education Division General Administrative Regulations which states:

> "(a) This section applies to the reports required under Subpart I (Financial reporting) and J (Performance reporting) or Part 74 of this title.
>
> (b) A grantee shall submit these reports annually, unless the appropriate official of the Education Division allows less frequent reporting."

(o) Timetable for Dissemination of Collected Data—Information from reports is available in December of each year. Currently there is no dissemination other than in-house distribution among Office of Education Project Officers.

(p) Estimate of the Total Person-Hours and Costs Required to Complete the Request—The estimated average person-hours per respondent is 4 hours. It is estimated that 390 grants will be funded which would require a total of 1,560 person-hours to complete the reports at a total estimated cost of $20,000.

(q) Evidence of Any Urgent Need or Very Unusual Circumstance Requiring the Data—N/A.

(r) Copy of the Exact Data Instrument—The report forms may be obtained from: Arnold H. Silver, Management Information Specialist, ISPSB/Information Systems Section, Education Department, Room 3514, ROB–3, 7th & D Streets, SW., Washington, D.C. 20202.

(s) Brief Account of Early Involvement and Communications With Respondent Populations—A "welcome aboard letter" is mailed to project directors at the beginning of the project year along with copies of the reports that are required to be filed at the end of the project year. The letter indicates the names and telephone numbers of individuals who can answer any questions. Each year workshops are held for project directors in which the report forms are thoroughly discussed.

(t) Assurance That Respondents Will Have Sufficient Lead Time To Comply With Request—Data is collected on a staggered basis depending on project expiration dates and will take place from May thru December. Project directors are sent copies of the reports at the beginning of the project year and are notified when they will be due. Report forms are again sent to all project directors six weeks before they are due.

(u) Specific Justification for a Multi-Year Approval—The report forms have been used successfully in the past. Multi-year approval is justifiable as it would minimize the burden for the project directors to use the same forms throughout the grant.

Data Activity Plan Summary

(a) Title of the Proposed Activity—Standard Format for State Plans Under Title VII–A of the Higher Education Act of 1965, as amended.

(b) Name of the Sponsoring Agency/Bureau/Office—DHEW/OE/Bureau of Higher and Continuing Education/Division of Training and Facilities/Academic Facilities Branch.

(c) Agency Form Number—OE 738.

(d) Justification:

1. By statute, State plans are submitted to the Commissioner so that the Commissioner can determine that the plans are consistent with the specific statutory provisions for making grant awards under Title VII–A.

2. The data will be reviewed by the Office of Education for approval by the Commissioner.

3. The information can only be furnished by the State Commissions. There is no similar data available which can be used.

(e) Description of Survey Plan—Information requested related to: (1) The identification of the State, (2) the legal name and official address of the State Commission, (3) the titles of the principal officers of the State Commission, (4) the staff and administrative services to the State Commission, (5) the formal provisions for consultations with advisory groups or other agencies in the State, (6) the rules of procedure which the State Commission has adopted for conducting its business and reaching official decisions regarding applications submitted under Title VII–A, (7) the closing dates, (8) the procedures for

determining the relative priorities of projects, (9) the procedures for determining the Federal share of projects, (10) the procedures for affording an applicant a fair hearing before the State Commission as to any determination of the State Commission adversely affecting such applicant, (11) the number of days within which an applicant may request such a hearing, (12) the legal title and official address of the officer, who has legal authority to receive and provide for the custody of Federal funds, (13) the officer(s) in the State who will requisition and approve the expenditure of any Federal funds for expenses of the State Commission, (14) the Officer(s) in the State who will certify the payment of any Federal funds for expenses by the State Commission, (15) the separate special account or fund for the Federal funds received by the State for expenses of the State Commission, (16) the accounts and documents supporting expenditures for expenses of the State Commission, (17) the name and address of the agency that will maintain the accounts and documents described above in item (16), (18) the State law or regulation with regard to allocation of expenditures to fiscal year periods where outstanding obligations or encumbrances carry from one fiscal year to another (including, where applicable, definitions, under State practice, of the term "obligation", "encumbrance", "expenditure", and "disbursement"), (19) the extent and frequency of State audits of expenditures by the State agency under the approved State plan, including expenditures of Federal funds, and the responsibility for corrective action regarding exceptions by State auditors, (20) the methods used in determining the costs chargeable to preparation or administration of the State plan, if the expenses of the State Commission in administration of the State plan are mixed with expenses for activities not involved in administration of the State plan, and (21) the name and title of the Chief Officer of the State Commission, certifying that State plan has been adopted.

This information has been furnished by the State Commissions during years of program existence. Non-compliance means that a State could not participate in the program.

(f) Tabulation and Publication Plans—Not applicable.

(g) Time Schedule for Data Collection and Publication:

1. The data must be available and the State plan must be approved by the Commissioner before a State can participate in the program.

2. After data collection, the Commissioner approves a State plan within 30 to 60 days.

3. Early in the program, the design of the form was coordinated with the State Commissions.

(h) Consultations Outside the Agency—This report has been used for a number of years, during the life of the program. The form was first developed with the assistance and cooperation of the State Commissions.

(i) Estimation of Respondent Reporting Burden: Respondent type: State Commissions; Number: 56; Estimate of average person-hours: 2.0.

1. Through years of experience in working with the State Commissions, the Office of Education has estimated that the estimate of average person-hours would be as indicated above.

2. Allowances were made for time needed to gather and compile the data, as well as clerical time needed to complete the form.

3. Not much variation in the reporting burden is expected.

(j) Sensitive Questions—There are no sensitive questions involved.

(k) Estimate of Cost to Federal Government—$3,300.

(l) Detailed Justification of How Information Once Collected Will Be Used—The data is submitted to the Commissioner so that the Commissioner can determine that the State plans are consistent with the specific statutory provisions for making grant awards under Title VII-A.

(m) Methods of Analysis—Only descriptive data regarding the State plan is reported.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection.

"Any State desiring to participate in the grant program authorized by this part for any fiscal year shall submit for that year to the Commissioner through the State Commission a State plan for such participation. Such plan shall be submitted at such time, in such manner, and containing such information as may be necessary to enable the Commissioner to carry out his functions * * *" (Section 704 of Title VII of the Higher Education Act of 1965, as amended by Pub. L. 89-329)

"A new or revised State plan submitted in accordance with Section 704 of the Act shall be submitted on forms or in a format supplied by the Commissioner and shall contain all provisions required by the Commissioner pursuant to Section 704 of the Act and other sections of the regulations in this part, together with such additional organizational and administrative information as the Commissioner may request." (Paragraph 170.17, Part 170 of Title 45 of the Code of Federal Regulations)

(o) Timetable for Dissemination of Collected Data—Not applicable.

(p) Estimate of the Total Person-Hours and Costs Required To Complete the Request—112 person-hours for $1,680.

(q) Evidence of Any Urgent Need or Very Unusual Circumstance Requiring the Data—Not applicable.

(r) Copy of the Exact Data Instrument—Thomas F. McAnallen, Chief, Academic Facilities Branch Division of Training and Facilities, Bureau of Higher and Continuing Education, U.S. Office of Education, 400 Maryland Avenue SW., Washington, D.C. 20202.

(s) Brief Account of Early Involvement and Communications With Respondent Papulations—As soon as final regulations are published (final regulations are delayed because of late Fiscal Year 1980 appropriation), workshops will be held with State Commissions.

(t) Assurance That Respondents Will Have Sufficient Lead Time To Comply With Request—Data collection with take place as soon as the events described above have occurred.

(u) Specific Justification for a Multi-Year Approval—Since the program may be funded, not just for Fiscal Year 1980, but also in Fiscal Year 1981 and beyond, multi-year approval is essential.

Data Activity Plan Summary

(a) Title of the Proposed Activity—Management Evaluation Review for Quality, Adult Education Programs.

(b) Name of the Sponsoring Agency/Bureau/Office—U.S. Office of Education, Bureau of Occupational and Adult Education.

(c) Agency Form Numbers—OE 750, -1, -2, -3, -4, -5.

(d) Justification—The Adult Education Act, as amended, requires the Commissioner to evaluate the effectiveness of the Adult Education State Grant Program. In accord with this provision of the law, questionnaires have been developed to obtain evaluative data on the operation of State Programs.

(e) Description of Survey Plan—Each year, the Adult Education Programs in eleven or twelve different States will be selected for the Management Evaluation Review for Quality. Based on this schedule, in five years each of the 57 State programs will have been assessed for quality. After all State programs have been assessed, the process begins again so that every five years a State can expect to participate in the Management Evaluation Review for Quality.

The MERQ is made up of six questionnaries:

(1) Questionnaire for Coordinators of Adult Education Programs in Local

Education Agencies (Form A: questions on current practice);

(2) Questionnaire for Coordinators of Adult Education Programs in Local Education Agencies (Form A: questions on intended/expected practice);

(3) Questionnaire for Coordinators of Community-based Organizations (questions on current practice);

(4) Questionnaire for State Director and State Staff of the Adult Education Program;

(5) Questionnaire for State Level Policy Making Officials and Advisory Boards (questions on intended practice); and

(6) Program Data Inventory (factual information on state programs; to be completed by State directors).

A representative sample of coordinators in local educational agencies and community based organizations will be surveyed. The sample will be drawn so that it includes rural, small city, big city, and urban programs. If the number of local education agencies and community based organizations which operate adult education programs in the State is 50 or less, questionnaires will be given to all coordinators.

(f) Tabulation and Publication Plans—Data will be compiled into State reports which identify areas of program weakness and areas where there are discrepencies among State and local program personnel regarding the quality of services provided.

(g) Time Schedule for Data Collection and Publication—Each month a different State will participate in the Management Evaluation Review for Quality. Division of Adult Education staff will visit a State for two days during which the MERQ process will be explained, questionnaires will be administered to State personnel, and the sample of local coordinators will be given two weeks to return their questionnaires. It is anticipated that four weeks will be needed for data processing and preparation of reports. A technical assistance team will visit the State for two days in order to present findings and assist in the development of plans to improve quality.

(h) Consultations Outside the Agency—In order to obtain input on the suitability of data and to test the reliability of the questionnaires, data collection instruments will be field tested in two States in February and March of 1980.

(i) Estimation of Respondent Reporting Burden—The estimates of respondent reporting burden are based on experience with similar forms used to evaluate the Iowa Adult Education state Grant Program.

Respondent type	Number	Estimate of average person-hours
Adult education administrators (coordinators in local education agencies)	1,417	.75
Adult education administrators (coordinators in nonprofit organizations)	62	.75
Adult education administrators (State staff)	114	.75
State education agencies	57	.25
Adult education administrators (State Director)	57	.50

The number of respondents represents those to be involved in the MERQ over a five-year period.

(j) Sensitive Questions—The Management Evaluation Review for Quality does not contain any questions of a sensitive nature.

(k) Estimate of Cost to Federal Government—The cost to the Federal Government involves $6,000 for the development of questionnaires, $1,000 for printing forms, $1,500 for processing data, $1,000 for preparing State reports, and $11,800 for technical assistance teams.

(l) Detailed Justification of How Information Once Collected Will Be Used—The Management Evaluation Review for Quality will be used to assess the effectiveness of State program operators. Data will assist in the identification of program strengths and weaknesses. After data is analyzed, a team of experts will present the results to State and local adult education personnel and use the data as a basis for the developement of improved strategies for program operations.

(m) Methods of Analysis—Descriptive data will be tabulated and used to identify discrepencies among and between respondent groups in terms of (1) their perceptions of how the program is supposed to operate in relation to how it is actually operating. An analysis will also be made to determine to what degree selected characteristics of respondents (age, professionalization, location of program, experience, etc.) influences their expectations.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection.

"The Commissioner shall directly, and through grants and contracts with public and private agencies, institutions and organizations, evaluate the effectiveness of programs conducted under section 304 of this Act." (Sec. 309(a)(2) of the Adult Education Act, as amended by Pub. L. 95-561, 20 U.S.C. 1207a).

(o) Timetable For Dissemination of Collected Data—It is estimated that data will be reported to participating States seven weeks after the Management Evaluation Review for Quality is performed.

(p) Estimate of the Total Person-Hours and Costs Required To Complete Request—On an annual basis, it is estimated that 238.50 total person-hours are required at a total cost of approximately $2,862.00. Note that only eleven or twelve States will participate in the MERQ each year. Over the five years it will take to MERQ the 57 adult education State grant programs a total of 1,237.5 person-hours are required at a cost of $14,850.00.

(q) Evidence of Any Urgent Need or Very Unusual Circumstance Requiring the Data—N/A.

(r) Copy of the Exact Data Instrument—A copy of the data instruments may be obtained from Mrs. Sharon A. Jones, U.S. Office of Education, Division of Adult Education, Room 5060, 7th and D Streets SW., Washington, D.C. 20202.

(s) Brief Account of Early Involvement and Communications With Respondent Populations—Respondent groups will be provided an opportunity to comment on the questionnaires during the field test. Comments received will be utilized in the revision of questionnaires.

Additionally, during November and December of 1979, four area workshops were held in which personnel from the 57 Adult Education State Grant Programs were provided an opportunity to comment on the MERQ process.

(t) Assurance That Respondents Will Have Sufficient Lead Time To Comply With Request—Eight weeks in advance of the Management Evaluation Review for Quality a previsit to the State will be made in order to explain the MERQ process, present the schedule of activities, and share copies of the questionnaires. Since the questionnaires deal primarily with respondents' expectations rather than the reporting of figures, eight weeks should provide sufficient lead time for respondents.

(u) Specific Justification for a Multi-Year Approval—Five years are needed to perform a Management Evaluation Review for Quality in each of the 57 Adult Education State Grant Programs. In order to maintain consistency in the data gathered and to complete the study on schedule it is necessary that a multi-year approval be obtained so that the evaluation process will not be interrupted.

Data Activity Plan Summary

(a) Title of the Proposed Activity—Factors Affecting Job Placement.

(b) Name of Sponsoring Agency/Bureau/Office—U.S. Office of

Education, Bureau of Occupational and Adult Education.

(c) Agency Form Number—OE Form 752.

(d) Justification—Pub. L. 94–482 mandates States to evaluate the effectiveness of vocational education programs. Further, the federal legislation is congruent with contemporary philosophic thought in that the chief criterion for evaluating vocational education is the training-related job placement of former postsecondary students. A major problem faced by policy-makers and decision-makers at local, state and federal levels is a lack of information regarding those factors which have the most influence in assuring that former postsecondary students are placed in training-related jobs. Previous research and evaluation focusing on youth transition from school to work indicates that these entrants into the labor force obtain jobs through a complex process. Moreover, this process varies according to one's preparation for this transition. The information from this study will be used by policy-makers and decision-makers at all levels as they attempt to allocate funds and made decisions which will maximize efforts to place former students in training-related jobs. In the preceding year the National Center conducted a similar study concerning secondary vocational education. The findings of that study will be helpful in the conduct of the postsecondary study.

(e) Description of Survey Plan—States will be purposively selected on the basis of quality postsecondary information systems, geographic distribution, and willingness of States to participate. From this pool of States, 5 will be selected. Local postsecondary institutions (LPIs) will be randomly selected from the five States. LPIs will be stratified according to community type, job placement rate and labor market demand. A random sampling strategy will be used in selecting the local postsecondary institutions. The selection of individuals representing the target populations within the LPI will be done using a table of random numbers. Where small numbers (determined by project cost constraints) of the respondent groups exist, all members of that respondent group will be used.

(f) Tabulation and Publication Plans—The information on the returned instruments will be keypunched and verified in October of 1980. Data analyses will occur in the Summer of 1980. The Final Report will be published June 30, 1981 and will include a report of the study findings, conclusions and recommendations.

(g) Time Schedule for Data Collection and Publication:

Begin mailing of questionnaires, July 7, 1980.
Second mailing to non-respondents, July 28, 1980.
End of questionnaire data collection, September 26, 1980.
Analyze data from questionnaires, September 29—December 12, 1980
Draft report, December 15–March 27, 1980.
Draft executive summary, March 30–April 24, 1980.
Conduct quality review of report, April 27–May 15, 1981.
Revise report, May 18–June 12, 1981.
Deliver report to funding agency, June 30, 1981.

(h) Consultations Outside the Agency—Extensive use of consultants with expertise in instrument design, statistical design, student personnel services, postsecondary education, labor relations, economics, educational finance, and vocational education will be used throughout the study. Individuals familiar with postsecondary Programs of vocational education will also be frequently used as consultants. Representatives of the American Association of Junior and Community Colleges and Local Vocational Education Administrators Association will be used as consultants for the study. Representatives of CEIS and state postsecondary agencies will also serve as Consultants.

(i) Estimation of Repondent Reporting Burden.

Respondent type	Number	Estimate of average persons-hours
Employees in postsecondary education	936	0.25
Employers	1,440	0.25
Students in	1,424	0.25
Postsecondary education individuals (former students)	1,424	0.25
Other (advisory committee members)	1,212	0.25

(j) Sensitive Questions—No sensitive questions are to be asked.

(k) Estimate of Cost to Federal Government—$170,168.

(l) Detailed Justification of How Information Once Collected Will Be Used—

The data acquired in the study will assist in the acquisition of new knowledge concerning those factors influencing the placement of former postsecondary students in jobs for which they are trained. For example, if the findings of the study should reveal that the operation of a comprehensive, systematic and school-based placement service enhances the placement of former postsecondary students in jobs for which they are trained, it can be assumed that policy-makers and decision-makers could use this informtion by promoting placement services if they desired to maximize training-related placement rates.

(m) Methods of Analyses—Simple descriptive statistics will be prepared to describe the characteristics of the sample and the major study variables. To show simple relationships between two or more variables, crosstabulations (two variable frequency tables) will be developed. Measures of association will also be used to analyze certain variables. Coefficients of correlation will be used to define the degree of relationship between job placement and program factors. The scattergram technique will be used to provide a definition of form of the relationship, such as linear or curvilinear, along with the degree of association between two variables. To show the joint or cumulative effect of two or more explanatory variables on the dependent variable, job placement rate, techniques such as multiple correlations and multiple regression analysis will be used.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection.

Section 171(a). Funds reserved to the Commissioner * * * shall be used primarily for contracts * * * for (2) support of a national center for research in vocational education which Center shall * * * (A) conduct applied research and development on problems of national significance in vocational education * * * (Pub. L. 94–482, Title II, Section 202; 20 U.S.C. 2401)

(o) Timetable for Dissemination of Collected Data—The study report will be available through the National Center for Research in Vocational Education beginning in July, 1981.

(p) Estimate of Total Person-Hours and Costs Required To Complete the Request—The only costs to the respondents will be the time required to complete the questionnaire. Since the time required to complete a questionnaire is estimated to be fifteen minutes the total time required for all respondents is 1,809 hours. Assuming an individual's time to be worth ten dollars per hour, it will cost $2.50 per individual. The total cost for all respondents will be $16,090.00.

(q) Evidence of Any Urgent Need or Very Unusual Circumstance Requiring the Data—Not applicable.

(r) Copy of the Exact Data Instrument—A listing of the type of data to be collected will be available February 15, 1980. Copies of the exact data instrument will be available July 1, 1980. Inquiries should be directed to Dr. Paul Manchak, Bureau of Occupational

and Adult Education, U.S. Office of Education, 7th and D Streets, SW., Washington, DC 20202.

(s) Brief Account of Early Involvement and Communications With Respondent Populations—None.

(t) Assurance That Respondent Will Have Sufficient Lead Time To Comply With Request—Data collection is planned for July–September, 1980. Respondent burden is only an average of fifteen minutes. Response on the part of respondents is voluntary. The initial contact with respondents will ask the respondents to return the questionnaires within three weeks.

(u) Specific Justification for a Multi-Year Approval—Not applicable.

Data Activity Plan Summary

(a) Title of the Proposed Activity—Development of Entrepreneurship Training Components for Vocational Education—Field Test Form and Questionnaire.

(b) Name of the Sponsoring Agency/Bureau/Office—U.S. Office of Education, Bureau of Occupational and Adult Education.

(c) Agency Form Number—OE Form 754.

(d) Justification—The 1976 Educational Amendments mandate that vocational education programs be accountable, i.e., that they prepare students for job entry and teach them the skills they need to succeed on the job. The traditional orientation of vocational education has been to provide to students those educational experiences that will make them employable. However, the fact that there are 13 million small business owner-managers in this country indicates that a large segment of workers is comprised of entrepreneurs rather than employees. The high failure rate of small retail operations indicates that training in the skills needed to run a business successfully is lacking. Some attempts have been initiated, but they have been fragmented. The purpose of this project is to consolidate what has already been done in the area of entrepreneurship instruction and to augment existing materials as necessary to form a comprehensive entrepreneurship training component suitable for use in the seven major vocational disciplines at the secondary level.

(e) Description of Survey Plan—The Field Test Evaluation Form will have five sections, each designed to collect a different type of information. Section I will ask respondents to provide basic information on biographical characteristics that might account for differences in performance on the field test. Sections II and III will contain cognitive items to assess respondents' knowledge and performance capabilties. These items will be based on the most significant desired module outcomes. In Section IV, a set of affective items will be included to determine respondents' desire to participate in important activities performed by an entrepreneur. Section V will contain items that will help identify module segments and features that were especially strong or weak, unusual experiences that may have influenced previously measured outcomes, suggestions for revisions or additions, and so forth.

The End-of-the-Module Questionnaire will include brief scales on which participants indicate their reactions to the content and presentation of each module. An opportunity will also be provided to record improvement suggestions and describe personally valuable learning. The final page of this instrument will collect information from participants on the amount of time necessary to complete the module and external resources used.

(f) Tabulation and Publication Plans—Contractor staff will receive and verify all field test data and perform statistical analyses to compare the performance of participant versus comparison groups. Field test results will be published in the final report of the entrepreneurship project. The final report will be submitted to the Education Resources Information Center (ERIC) for possible inclusion in Research in Education. The results of the field test will also be submitted to the Joint Dissemination Review Panel (JDRP). If nationwide dissemination is approved by the JDRP, the contractor will begin dissemination of the entrepreneurship modules.

(g) Time Schedule for Data Collection and Publication—The field test of the entrepreneurship modules will be conducted from September, 1980 through February, 1981. The final report of the entire entrepreneurship project will be completed in September, 1981.

(h) Consultation Outside the Agency—Consultations will be held with representatives of the National Institute of Education, the National Center for Educational Statistics, the American Vocational Association, the National Vocational Guidance Association, the American Personnel and Guidance Association, the National Center for Research in Vocational Education, and the National Advisory Council on Vocational Education.

(i) Estimation of Respondent Reporting Burden.

Respondent type	Number	Estimate of average person-hours
Teachers, elementary/secondary	24	40
Students, public elementary/secondary	864	5

(j) Sensitive questions—No questions seeking personally sensitive information are asked in the forms.

(k) Estimate of Cost to Federal Government—The estimated cost for the entire enterpreneurship project is $425,778. The estimated portion of this cost for developing and administering the field test instruments and analyzing the resulting data is $60,000.

(l) Detailed Justification of How Information Once Collected Will Be Used—The objectives of the entrepreneurship field test to improve the component modules, making them more functional and useful to differing student groups, and to determine a practical and usable format for packaging the component modules. An analysis of the data collected will include such items as a description of the field test, participants, impact on vocational curriculum and students, functional application, curriculum duplication, utilization, student receptiveness, and applicability to the 35 occupational areas. The data will then be used as the basis for revising the 36 curriculum modules, if necessary, in view of the tabulation, analysis, and interpretation of the data.

(m) Methods of Analysis—Statistical analyses will be performed to compare the performance of participant versus comparison groups. Data will be presented by site and will also be aggregated for each module across the sites where they were utilized. It may also prove useful to display pre- and post-test results according to the number of modules each participant completes. Frequencies, cross-tabulations, and t-tests for differences between participant and nonparticipant mean test scores will be calculated.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection.

Funds reserved to the Commissioner under Section 103 for programs under this part shall be used * * * for contracts * * * for—(1) activities authorized by sections * * * 133 * * * (curriculum development), if such activities are deemed to be of national significance by the Commissioner * * *" (Section 171(a)(1) of the Vocational Education Act of 1968, as amended by Pub. L. 94-482, 20 U.S.C. 2401)

(o) Timetable for Dissemination of Collected Data—Preliminary field test

results will be available to users by March 31, 1981.

(p) Estimate of the Total Person-Hours and Costs Required To Complete the Request—The estimated total person-hours to complete the request is 5,280. Total cost for school personnel is estimated to be $22,500.

(q) Evidence of Any Urgent Need or Very Unusual Circumstance Requiring the Data—Not applicable.

(r) Copy of the Exact Data Instrument—Copies of the exact data instrument are not yet available but will be available on or about April 30, 1980. At that time, a Federal Register announcement will inform the public of the instruments' availability and where the instrument can be obtained.

(s) Brief Account of Early Involvement and Communications with Respondent Populations—There are two ways in which there will be early involvement with the respondent populations. First, in February, 1980, contractor staff will conduct unstructured telephone interviews with a sample of State and local supervisors of vocational education and local class room instructors who have used or are currently using existing entrepreneurship materials at the secondary level to obtain their reactions to the materials and their recommendations for improving them. They will also interview a sample of vocational instructors who have had no previous experience with entrepreneurship training materials.

(t) Assurance That Respondent Will Have Sufficient Lead Time To Comply With Request—Data collection is planned to be conducted from September, 1980 to February, 1981. The process of identifying potential field test sites is taking place in January, 1980. This should give local institutions adequate time to prepare for the data collection that will take place during the next school year.

(u) Specific Justification for a Multi-Year Approval—Not applicable.

Data Activity Plan Summary

(a) Title of the Proposed Activity—Development of Competency Measures for Vocational Skill Areas.

(b) Name of the Sponsoring Agency/bureau/office—U.S. Office of Education, Bureau of Occupational and Adult Education.

(c) Agency Form Number—OE Form 755.

(d) Justification—The occupational competency measures to be developed in this project are a direct response to the needs expressed by State Directors of vocational education for better measures of the job-related competencies acquired by graduates of secondary and postsecondary vocational education programs. These measures will be available to State and local education agencies, postsecondary institutions, and individual teachers and administrators for evaluating and improving their vocational education programs and for informing students, parents, and prospective employers about the progress made by students in acquiring specific occupational competencies.

(e) Description of Survey Plan—The survey will be in two parts, a National Field Test to be based on students and National Validation Study to be based on new employees. The principal purpose of the national field test is to provide item analysis on the test items in the tryout form, so that there will be appropriate empirical data that will help in developing the final form. Additionally, the field testing will be used to provide a preliminary indication of test reliability and, to the extent feasible, some evidence of test validity. In the National Study, six Regional Coordinators will provide nominations for reviewers of each occupational test. In addition, two experts will be selected for each occupational test from among the nominations proposed by the project's National Subject Matter Panel. The local San Francisco Bay Area occupation specialist who worked on the development of the test will round out the expert review panel, making nine reviewers for each occupational test. The judges will be asked to assess content related to such areas of job performance as operations, related technical information, trade theory, and general knowledge such as safety procedures, etc. The primary purpose of the analyses of the content validations data will be to determine the extent to which particular test parts assess given job dimensions and the extent to which the expert judges agree with respect to this match.

(f) Tabulation and Publication Plans—For Field Test Data, a summary of the item analysis data will be provided in the final report. The reliability data for the tryout forms and estimates of the corresponding values for the final forms will also be included in the final report, as will whatever validity data against course grades are available. For Validation Study Data, date on the validity of each test will be available by month 31 of the project and will be presented to the participants in the national information workshop shortly thereafter. The final report is scheduled for preparation between August and December, 1982. Information on test validity will also be incorporation in the final report for all 14 occupations.

(g) Time Schedule for Data Collection and Publication—The four cycles of data collection and test revision for the National Field Test will take place between September, 1980, and September, 1981. The National Validation Study will take place between February, 1981, and March, 1982. The Final Report will be available after August, 1982.

(h) Consultations Outside the Agency—In developing the tests, local subject matter specialists were consulted extensively. After the tests were drafted, the items were sent to a designated educator-reviewer, an acknowledged subject-matter expert for the occupation, and a reviewer representing industry or the appropriate union. On the basis of the reviews, the necessary revisions in the items were made. The expert review panel for each test consists of six employer expert judges, two judges nominated by the National Subject Matter Panel, and one judge who has been involved with individual test item construction. In total, nine experts have performed the content validity evaluation of each occupation.

(i) Estimation of Respondent Burden.

Respondent type	Number	Estimate of average person-hours
Students, public elementary/secondary	200	4.5
Students, nonpublic elementary/secondary	50	4.5
Teachers, elementary/secondary	14	2.0
Employees in postsecondary education	14	2.0

(j) Sensitive Question—No question seeking personally sensitive information are to be included in the instruments.

(k) Estimation of Costs to Federal Government—The estimated cost to the Federal government for the project is $841,344.

(l) Detailed Justification of How Information Once Collected Will Be Used—The data collected during the National Field Test of the tryout forms will provide essential information on the contribution of each item to the overall test objective and will ensure that the tests do not discriminate on the basis of sex, age, or racial or ethnic category and that they will not discriminate against the handicapped. The data from the National Validation will show to what extent the tests measure job knowledge, skills, attitudes, and other personal characteristics important to job success and, further, will provide evidence on

the extent to which performance on each test is related to success on the job.

(m) Methods of Analysis—The methods of analysis are too lengthy to be published as a part of this Notice. A copy of the procedure will be provided to those requesting a copy of the instruments.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection.

Funds reserved to the Commissioner under Section 103 for programs under this part shall be used * * * for contracts * * * for—(1) activities authorized by sections * * * 133 * * * (curriculum development), if such activities are deemed to be of national significance by the Commissioner * * *. (Section 171(a)(1) of the Vocational Education Act of 1968, as amended by Pub. L. 94-482, 20 U.S.C. 2401).

(o) Timetable for Dissemination of Collected Data—The data from the test validation will be available to State Directors of Vocational Education and to other prospective users at the project national workshop, scheduled for the spring of 1982.

(p) Estimate of Total Respondent Hours and Dollar-Costs to Respondents—For student respondents, there will be a total of 2,025 respondent hours. No cost is involved.

The test reviewers will be paid a fee for their services.

(q) Evidence of Urgent Need or Very Unusual Circumstances Requiring the Data—Not applicable.

(r) Copy of the Exact Data Instrument—Copies of the exact data instrument can be obtained from: Dr. Jack A. Wilson, Room 5018, ROB No. 3, U.S. Office of Education, 400 Maryland Ave., SW., Washington, DC 20202.

(s) Brief Account of Early Involvement and Communications With Respondent Population—Members of the Policy Council span the entire range of constituents to be served by the project, including State and local directors of vocational education; national and state advisory councils on vocational education; business, industry, and unions; postsecondary vocational education administration; State government employment development; and vocational education teachers in secondary and post-secondary institutions. The Subject Matter Panel contains representatives from the major organizations concerned with vocational education, such as the American Vocational Association, the American Association of Community and Junior Colleges, the National Association of Trade and Technical Schools, the American Technical Education Association, and the National Business Education Association.

(t) Assurances That Respondents Will Have sufficient Time To Comply With Request—A schedule has been developed to assure ample lead time for potential respondents.

(u) Specific Justification for a Multi-Year Approval—The national field testing and the test validation both consist of several cycles, each cycle involving several tests, so that burden on the cooperating agencies is reduced. Specifically, the data collection activities will extend from September, 1980, through March, 1982. Accordingly, a multi-year approval is critical for the efficient operation of the project and for minimizing the burden on respondents.

Data Activity Plan Summary

(a) Title of the Proposed Activity—Site Visit Phase, Financial Conditions Project.

(b) Name of the Sponsoring Agency/Bureau/Office—Office of Education, Office of Evaluation and Dissemination, Postsecondary Programs Division.

(c) Agency Form Number—OE 764.

(d) Justification:

The site visits are used to validate the assessment of financial conditions derived from using a financial conditions workbook. This workbook will be completed using the Higher Education General Information and Higher Education Panel surveys and other publicly available documents.

The site visits at postsecondary institutions will help determine the appropriateness of using publicly available records to assess the financial condition of postsecondary institutions.

In addition, we will determine the impact of financial conditions on the institution, what type of assistance may be helpful, and the effect of enrollment decline and rising costs.

(e) Description of Survey Plan.

1. 30 institutions.

2. Stratified—layered sample.

(a) The schools chosen for the site visits will usually have both HEGIS and HEP data. A few schools may be chosen with HEGIS data only when HEP underrepresents some of the strata.

(b) Stratified on control, type, size, financial condition, student characteristics, and location.

3. Institutional administrators are to be interviewed.

(f) Tabulation and Publication Plan—Final Report, April 1981; Technical Report, April 1981.

(g) Time Schedule for Data Collection and Publication—Site visits in July and August, 1980.

(h) Consultations Outside the Agency—None.

(i) Estimation of Respondent Reporting Burden.

Respondent Type	Number	Estimate of Average Person-hours
Business officer	30	3
President, dean or provost	30	2
Trustee, dean or provost	30	1
Director of institutional research or assistant business manager	30	1

(j) Sensitive questions—None.

(k) Estimate of cost of Federal Government—$288,820 for project—$50,000 for data collection activities.

(l) Detailed Justification of How Information Once Collected Will Be Used. Evaluation—

(a) Describe the effect of financial condition on postsecondary schools.

(1) On access to postsecondary students

(2) Quality of the service offered to students

(3) Breadth of programs offered to students

(b) Discuss potential policy implications.

(m) Methods of Analysis—Case study validation of financial condition indicators calculated from HEGIS and HEP data sources.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection—Planning and evaluation activities are authorized under the General Education Provisions Act which states in part: "* * * the Secretary shall transmit to (appropriate Congressional committees) an annual evaluation report which evaluates the effectiveness of applicable programs * * * such report shall * * * contain information on progress being made * * * describe the cost and benefits of the applicable program * * * identify which sectors of the public receive the benefits of such program * * *" (20 U.S.C. 1226C.)

(o) Timetable for Dissemination of Collected Data—Final Report sent to member institutions after delivery and approval of final report.

(p) Estimate of the Total Person-Hours and Cost Required to Complete the Request—About 7 hours to sit for the interview. Cost per site visit is estimated as 3 hours at $25 and 4 hours at $20 for $155.

(q) Evidence of Any Urgent Need or Very Unusual Circumstance Requiring the Data—None.

(r) Copy of the Exact Data Instrument—Final Instrument available at Office of Evaluation and Dissemination. Call Jim Maxwell at (202) 245-7884.

(s) Brief Account of Early Involvement and Communications With Respondent Populations—Announcements have

been made via ACE and NACUBO newsletters.

(t) Assurance That Respondents Will Have Sufficient Lead Time To Comply With Request—July and August 1980—set up visit in June, a month in advance of the visit.

(u) Specific Justification for a Multi-Year Approval—None, not multi-year.

Data Activity Plan Summary

(a) Title of the Proposed Activity—Quality Control Surveys of Student Financial Aid Programs.

(b) Name of the Sponsoring Agency/Bureau/Office—Office of Education/Bureau of Student Financial Assistance/Division of Quality Assurance

(c) Agency Form Number—OE 765.

(d) Justification—The Bureau of Student Financial Assistance provides aid to approximately 3 million students attending over 7,000 different educational institutions. the major programs delivering this aid are the Basic Educational Opportunity Grant, College Work-Study, National Direct Student Loan, Supplemental Educational Opportunity Grant and Guaranteed Student Loan programs. These programs are diverse and complex, and problems relating to the delivery of services to participants occur from time to time. However, the Bureau's means of early detection of potential or actual problems are presently limited. For example, a massive processing backlog of the Basic Grant applications was discovered at a very late stage during the 1978–79 award year, and thus required the implementation of extensive emergency procedures. We therefore believe that there is an urgent need to establish a quality control mechanism to allow for routine estimations of service delivery in the field. We propose to establish not a long-term study, but a series of abbreviated surveys designed to provide immediate feedback to Bureau management. If problems are surfaced, further, in-depth review will be conducted and corrective action taken. This in turn will provide for more effective management of the Bureau-administered programs.

(e) Description of Survey Plan—The survey plan encompasses two universes:

(1) A universe of approximately 7,000 educational institutions which are participating in the five major financial aid programs sponsored by the Bureau (listed above); and

(2) A universe of approximately 13,000 lending institutions which participate in the Guaranteed Student Loan program.

We intend to collect data from a selected sample of both universes by means of telephone surveys which will take no more than thirty minutes per respondent per survey. The surveys will occur every two months during the period April 1980—December 1981. Two sets of survey questions will be designed to elicit feedback from the educational and lending institution respondents regarding activities being undertaken by the Bureau at the time of the interview. No more than four questions will be asked during any particular survey.

The samples selected for participation in these surveys will not be statistically valid due to the limited nature of the project. Rather, judgemental samples of 20 educational and 20 lending institutions which are willing to participate will be chosen. Criteria such as size, type and control (educational institutions) and type and number and value of loans made (lending institutions) will be used. The same selected samples wil be used for each set of surveys so that we can alleviate repetitive introductions, develop a working relationship with the respondents, and ensure a high response rate within a short period of time.

(f) Tabulation and Publication Plans—An analysis of each survey and recommendations will be forwarded to appropriate program managers by means of memoranda at the conclusion of each survey. No formal report will be issued.

(g) Time Schedule for Data Collection and Publication—Data will be collected every two months during the period April, 1980 through December, 1981 (i.e., eleven surveys). For each survey, two sets of questions will be chosen (one each for educational and lending institution respondents) and a short training session for interviewers will be held to ensure the questions and probing tactics are reliably consistent. Telephone interviewing will then commence and, once completed, data analysis will take place. The results and recommendations will then be forwarded to program managers. Activities relating to each survey should be completed within approximately ten working days.

(h) Consultation Outside the Agency—None.

(i) Estimation of Respondent Reporting burden.

Respondent type	Number	Average person-hours/respondent/survey	Number of surveys (4/80–12/81)	Total burden/respondent (hours)
Financial aid officers..	20	½	11	5½
Lending Institutions.....	20	½	11	5½

(j) Sensitive Questions—None.

(k) Estimate of Cost to Federal Government—Each survey will require approximately 40-person-hours to conduct (this includes the time required for the development of questions, training of interviewers interviewing, tabulation of results, and preparation of memo to program managers). The estimated cost is $427 ($280 for salary; $137 for overhead and $10 for other expenses) per survey. The total cost to the Federal Government to conduct the eleven proposed surveys is $4,700.

(l) Detailed Justification of How Information Once Collected Will Be Used—The collected data will be used for program management purposes. It will provide program managers with routine estimations of their service delivery. Also, by highlighting potential or actual problems, it will give program managers an awareness of areas requiring additional, in-depth review to determine the extent of the problems and what corrective action is necessary.

(m) Methods of Anaylsis—The analysis will be a tabulation of the descriptive data provided by the respondents.

(n) Legislative Authority Specifically Requiring or allowing the Data Collection.

"Sec. 401. (a) It is the purpose of this part, to assist in making available the benefits of postsecondary education * * * (b) The Commissioner shall * * * carry out programs to achieve the purposes of this part." Higher Education Act of 1965 (20 U.S.C. 1070 Pub. L. 92–318) as amended.

(o) Timetable for Dissemination of Collected Data.—Analysis of the data and resulting recommendations will be forwarded to appropriate program managers by means of memoranda approximately ten working days after the initiation of each survey.

(p) Estimate of the Total Person-Hours and Costs Required to Complete the Request.—Each survey will require not more than thirty minutes of each respondent's time. It is estimated that the total respondents' cost will be $140 per survey and $1,540 total for the eleven surveys.

(q) Evidence of Any Urgent Need or Very Unusual Circumstance Requiring the Data.—No applicable.

(r) Copy of the Exact Data Instrument.—Interviews will take place over the telephone. Questions will reflect the Bureau's current activities at the time of the interviews and will be of the following type:

1. Are you experiencing problems in receiving material (e.g., applications, Federal regulations)?

2. Is the material you are receiving timely?

3. Is the material clear? Comprehensive?

4. Are you experiencing problems in the Bureau's processing of items submitted by you (e.g., applications for funds, Basic Grant Validation Rosters, claims on defaulted Guaranteed Student Loans)?

5. Are students experiencing problems in having their applications for financial aid processed?

6. Are funds arriving promptly, and in the correct amounts?

7. Is the Bureau-sponsored training meeting your needs?

8. Are you experiencing problems completing required reports (e.g., Guarantee Agency Quarterly Reports, Fiscal Operations Report, etc.)?

(s) Brief Account of Early Involvement and Communications With Respondent Populations.—Once the survey plan has been proposed, educational and lending institutions will be informed of the scope and purpose of the surveys by means of an article in the *BSFA Bulletin*. In addition, the selected institutions will be contacted and requested to participate.

(t) Assurance That Respondents Will Have Sufficient Lead Time To Comply With Request.—Data collection will take place every two months during the period April 1980 through December 1981. The respondents will not be asked to submit data requiring prior tabulation, and therefore will not require lead-time to prepare for the interviews.

(u) Specific Justification for Multi-Year Approval.—Not applicable at this time.

Data Activity Plan Summary

(a) Title of Proposed Activity—Title VII Basic Program Profile.

(b) Agency/Bureau/Office—Office of Bilingual Education, USOE.

(c) Agency Form Number—OE 770.

(d) Justification

A. Supporting Statement for New Form Part C of Title VII of the Education Amendments of 1978 mandates the Assistant Secretary for Education to coordinate research activities of the Education Division in order to "develop a national research program for bilingual education." The "Title VII Basic Program Profile" is part of C-2, *Development and Installation of a Title VII Program Data System* as documented in the Proposed Research Plan for Bilingual Education, July 1979, Education Division, D.H.E.W.

Data similar to the projected data is available only in part. It does not exist in as comprehensive and succinct a format as that proposed; consequently, it is not presently possible to request and retrieve it in the format proposed nor in the short periods of time which would be possible if the information existed as proposed.

(e) Description of Survey Plan:

(1) All Title VII Basic Program Grantees (BPG) will be surveyed by the National Clearinghouse for Bilingual Education.

(2) BPG's will be mailed the survey. Non-Respondents will be telephoned to request completion of the survey.

(f) Tabulation and Publication Plans—N/A.

(g) Time Schedule for Data Collection and Publication—(1) Data will be collected 30 days after all Basic Program grants are negotiated by Contracts. Upon completion of this task, they will be entered into the Clearinghouse Information System. Data collection is scheduled for the Fall '80.

(h) Consultations Outside the Agency—N/A.

(i) Estimation of Respondent Reporting Burden: Respondent type: local education Agencies; Number: 552 Average person hours: one half-hour.

(j) Sensitive Questions—All questions to be asked are factual in nature and in no way request new or private information. Respondents will be informed that the information is needed so as to compile program descriptions in concise formats.

(k) Estimate of Cost to Federal Government—The National Clearinghouse for Bilingual Education, funded by USOE funds, estimates a minimum cost of $15,000.00 and a maximum of $30,000.00 for printing, mailing, phone follow-up, formating of data, and integration into its information retrieval system. This task will become part of their information gathering and dissemination objectives. As such, costs will be borne out of operating expenses.

(l) Justification of How Information Will Be Used:

a. *Program Management:* The proposed data requisition activity is designed to collect information which the Office of Bilingual Education (OBE) needs in order to get a comprehensive look at funded Basic Program. It will provide factual information about the program staff development and evaluation components which is currently not compiled by OBE nor any other Federal agency. Since the information will be collected after contract negotiations, it will be correct and complete. Finally, it will assist the Office of Bilingual Education in making reports to the Congress and to the Department of Education about the general nature of Title VII Basic Programs.

b. *General Purpose:* The collected information will be available to the public via the National Clearing-house for Bilingual Education. It will assist the public in its efforts to learn about the types of Title VII basic programs in the field, staff development characteristics, and evaluation characteristics.

c. *Evaluation and Research:* No evaluative objectives are planned for the collected information. The use of the collected data will be limited to survey research, e.g., it will be possible to use the collected information to draw descriptive conclusions about Title VII Basic Programs.

(m) Methods of Analysis—No tests or analyses are proposed for these data. Data will be collected, computerized, and integrated into the information retrieval system. Tabulations of descriptive data will be periodically reported by OBE.

(n) Legislative Authority Allowing the Data Collection—Part C of the Title VII of the Education Amendments of 1978 to the Bilingual Education Act of 1975 mandates the Assistant Secretary for Education to coordinate reserch activities of the Education Division in order "to develop a national research program for bilingual education." In response to this mandate, a *Part C Research Agenda* has been developed. It includes a part C-2, "Development and Installation of a Title VII Program Data System". The proposed "Title VII Basic Program Profile" is part of this system. (Sec. 742(a)(1-3). Title VII of the Elementary and Secondary Education Act, as amended by Pub. L. 95-561, 20 U.S.C. 3221).

(o) Timetable for Data Dissemination—Data will be available to users approximately 30 days after it is collected (20 extra days will be allowed for non-respondents in first cycle to respond). The Clearinghouse will announce the availability of the data in its newsletter (*Forum*) and will respond as it normally does, to information requests. Data analyses will be conducted by respective users.

*The information system which the Clearinghouse uses, parallels the ERIC system.

(p) Estimate of Total person Hours and Costs to Respondents—The "Title VII Basic Program Profile" will require approximately one-half hour to complete and will cost the respondents approximately $10.00 (prepaid return envelopes will be included).

(q) Evidence of Urgent Need—N/A.

(r) Copy of Data Instrument and Instructions—Copies of the instrument and instrucitons may be obtained from the Office of Bilingual Education. Contact G.N. Garcia, 202–447–9228 to order.

(s) Early Involvement and Communication With Respondent Populations—Information about the proposed objective has been disseminated via several avenues. The *Part C Research Agenda* has been widely distributed. It included Study C–2 of which this objective is part. The Clearinghouse newsletter, *Forum* has included articles, a summary and a status report of current Part C studies status. Finally, Title VII grantees were briefed on the Agenda during the Management Institute for Title VII project directors held in Washington D.C. in November, 1979.

(t) Respondents Lead Time—Data will be collected 30 days after the complete Basic Programs slate has been approved and negotiated. Because the month of this occurrence is subject to change, it is not possible to predict. But data will be collected during the 80–81 shool year. The *Forum* will announce the mailing, including a rationale for the survey.

(u) Multi-Year Approval—The proposed *Program Profile* represents a minimal burden to respondents. Moreover, a multi-year approval will allow users, including the Office of Bilingual Education (OBE), to chart patterns in Basic programs, and thus be in a good position to make projections about program growth or modification. Finally, a multi-year use of the *Profile* will allow time for the Clearinghouse and the OBE to make experienced modifications in the data collection instrument and data collection procedures.

Data Activity Plan Summary

(a) Title of the Proposed Activity—Field Test of Materials to Assist Teachers in Developing Student Basic Skills Through Vocational Education.

(b) Name of the Sponsoring Agency/Bureau/Office—Bureau of Occupational and Adult Education, USOE.

(c) Agency Form Number—OE Form 772.

(d) Justification.

The instruments for which approval is sought are to be used to gather data during the field test task of a materials development project. The purpose of the project is to develop a Teacher's Guide and a Resource Guide to provide vocational education teachers with information about available basic skills curricula, instructional and assessment materials, and appropriate instructional techniques. Vocational education teachers can use these materials, if desired, to improve their students' basic skills competencies while they teach technical skill competencies. The conduct of the field test and a report of field test findings are required by the project contract.

Once prototype versions of these guides have been developed, they will undergo a formative evaluation by being field tested by a sample of vocational education teachers. The purpose of the field test is to gather information which will be used by the product developers to improve the Teacher's Guide and the Resource Guide, and to provide initial information for product validation. It is anticipated that the field test will also provide information which may be useful later in the dissemination of the guides. This information will be gathered from the users of the prototype guides in a variety of implementation contexts as well as from reviewers of the materials.

Such formative evaluation requires the reporting of findings that lead to materials revision and improvement. The data to be collected must accurately and reliably reflect user perceptions of the materials. Thus, data must be gathered from the users, i.e., vocational education teachers, and this data must reflect their experience with the materials in a real-world setting. However, the focus of the field test is materials evaluation and not the evaluation of teacher or student performance.

(e) Description of Survey Plan.

There are four major groups from whom data will be collected. *Teachers* consist of secondary vocational education teachers. They will be the primary users of the guides during the field test. Therefore, they will be the primary sources of information about the usability, effectiveness and generalizability of the materials. Current plans call for selecting field test sites in five states (probably California, Georgia, Minnesota, Illinois, and New York). A "site" is a local district or school with a vocational education program. Sites will be selected by project staff in consultation with state and local administrators and teachers. Sites will be selected which represent a broad range of instruction in vocational educational areas, which represent a varying geographic and population mix, which are committed to basic skill instruction, and which indicate a willingness to participate in data collection. Sites have not yet been selected. However, it is planned that there will be approximately six sites in each of the five states. An average of about eight teachers per site is assumed. Thus, it is estimated that data will be collected from about 240 teachers.

Administrators, the second group, include any state or local vocational education administrator who is associated with the use of the materials in a site but who does not actually use them in the classroom. Review by such persons will assure that the materials represent current thinking in vocational education, reflect local and state priorities, and are practical from an administrative point of view. There will be about 30 persons in this group.

Technical reviewers, the third group, will be selected for their experience with basic skills or vocational education, or their experience in materials development. The group comprises adjunct staff, faculty advisors, and an advisory committee associated with the project. About 25 persons will be in this group.

Field Coordinators, the fourth group, will be a major source of data through their work with teachers at participating sites and their observations of materials usage. The four Field Coordinators are employed by the project.

The field test is scheduled to run from September 1-December 15, 1980. The total data collection process can be viewed as occurring in four stages. Certain information is collected during each stage.

In the *site selection* stage, the Field Coordinators and other project staff work with state and LEA officials to recruit sites. Both Coordinators and staff maintain logs of the site selection activities and of the factors which influence a site's decision to participate, or not participate, in the field test. Once a site is selected, the Field Coordinator conducts an *orientation session* for teachers and administrators from that site. This is the second stage. At this orientation, the Coordinator explains the purpose of the field test, the types of data to be collected, data collection instruments and methods, and how data is to be used for materials improvement. At these sessions, participating teachers and administrators complete forms which gather demographic information about them (e.g., vocational area experience, teaching experience, training in basic skills teaching). The forms also require that teachers and administrators rate their own skills in teaching basic skills and that they

indicate their attitudes regarding the practicality and desirability of combining basic skills instruction with vocational education. Teachers will also be asked to provide basic demographic information on their classes, such as composition by sex and race, presence of students with special needs, etc. No information will be asked regarding specific students, and specific students will not be identified. As part of the orientation session, the Field Coordinator will give the participating teachers guidelines for writing marginal notations in the Teacher's Guide and the Resource Guide during the teachers' use of these materials.

The *materials usage* stage occurs during the scheduled period for the field test, i.e., the fall of 1980. During materials usage, the Field Coordinator keeps a record of work with LEAs and any technical assistance provided to them. Other project staff also provide such information as when their work brings them into contact with participating teachers and administrators. The Field Coordinator gathers demographic information about the school district as a whole during this time.

During the *site close-out* stage, at the end of the field test period, the Field Coordinator administers a product evaluation questionnaire to assess reactions of participating teachers and administrators to the materials and to gather their recommendations for materials improvement. The participants will also complete a post-materials-use form of the attitude and skills questionnaire. Field Coordinators will collect copies of the field test materials with teacher comments written on them and replace these with clean copies for participants to use in the future.

In summary, during the field test period, teachers, administrators and technical reviewers will review the materials, complete a product evaluation questionnaire, and be interviewed for their reactions to the materials and recommendations for materials improvement.

(f) Tabluation and Publication Plans. The field test report is due to be submitted to the contacting agency on February 1, 1981, six weeks after the end of the field test. This is intended primarily as an internal document for use by materials developers. However, information from it may be incorporated into a report of the materials development process which will be distributed publicly at some later date. Such formative materials evaluation requires the reporting of findings that can be easily used and reported in a timely fashion to the materials developers. No great sophistication is necessary in design and data analysis. For many items on the form, simple tabulation of the frequency and percentage of persons/respondents selecting teh responses will suffice. Means and standard deviations will be computed for items with scaled responses (e.g., a four-point scale where strongly agree=4, agree=3, disagree=2, and strongly disagree=1). Fill-in or completion type items will be examined, compiled, and summarized to present major categories of participant comments. Data will be tabulated for sites and for respondent groups as a whole. Data will also be cross-tabulated by variables such as position, experience, region of country, area of vocational specialization, etc.

The only statistical tests to be conducted will involve those items which ask teachers and administrators to rate their own skills in teaching basic skills and their attitudes regarding the practicality and desirability of combining basic skills instruction with vocational education. It is hypothesized that, after using the materials, educators will perceive themselves as being more skilled in teaching basic skills and will perceive as more practical and desirable, efforts to combine basic skills instruction with vocational education. An analysis of variance, or other appropriate statistical techniques, will be used to test this hypothesis.

(g) Time Schedule for Data Collection and Publication—This project began on October 1, 1979, and is scheduled to end on September 30, 1981. Collection of data related to the field test will start with the site selection process in the spring and summer of 1980. Participating teachers will actually use the materials during the field test period from September 1 to December 15, 1980. Data collection will conclude on or about December 15, 1980. The field test report is deliverable six weeks later, on February 1, 1981.

(h) Consultations Outside the Agency—Consultation will be in accord with the terms specified in our proposal.

(i) Estimation of Respondent Reporting Burden—Response burdens for completion of instruments by teachers and administrators are given below. This includes only the time needed to complete field test instruments, and does not include the time which a teacher or administrator might use in actually trying out the Teacher's Guide and the Resource Guide. No time estimate has been included for the reviewer of Field Coordinator groups (mentioned in *e* above) since they are, directly or indirectly, employees of the project.

Respondent type	Number (estimated)	Estimate of average person-hours per response
Teachers, secondary vocational	240	.75
School administrators and supervisors	30	.75

(j) Sensitive questions—None of the instruments contain sensitive questions.

(k) Estimate of Cost to Federal Government—Not applicable.

(l) Detailed Justification of How Information Once Collected Will Be Used. As stated previously, the purpose of this project is to develop a Teacher's Guide and a Resource Guide to provide vocational education teachers with information they can use to incorporate basic skills instruction into the curricula of vocational education. The purpose of the field test is to gather information which will be used by the product developers to improve prototype versions of the guides, and to gather initial information for product validation.

The focus of the field test is on *materials evaluation* and not on personal evaluations of teachers, administrators, or students. The major product evaluation criteria are the usability, effectiveness, and generalizability of the materials. Within each of these broad criteria, the evaluation seeks to deal with specific issues of concern. Within the general criterion of usability, the major issues are the clarity of the materials, their flexibility or adaptability, their ease of use, the level of resources which are needed to use them, their acceptability to teachers and administrators, and problems encountered in integrating them with the present curriculum. Within the general criterion of effectiveness, the major issues are the accuracy and appropriateness of the materials' content, what training or experience is needed to use the materials, changes in teachers' self-perceived skills and attitudes, the influence of pupil characteristics on materials use, whether users perceive the materials as being valuable and attractive, and the extent to which the materials are free of bias towards various minority groups. The variability of materials' effectiveness with respect to region of the country, vocational education area, site characteristics, and other factors is an issue here, too. Within the general criterion of generalizability, the major issues of concern are the interest which potential users display in using the materials,

whether users perceive the costs of the materials as being reasonable, differences in usage patterns among sites, districts, and states, and whether the materials give adequate guidance in planning and conducting basic skills instruction for students with special needs.

Each issue of concern is assessed by at least one item on at least one of the instruments to be used in the field test. For most issues, there are several items, spread over one or more of the instruments. Use of such multiple observations increases the reliability and the validity of the data gathered. By combining item responses, the product developers can pinpoint exactly what changes need to be made in the guides.

(m) Methods of Analysis—Methods of analysis have already been outlined in paragraph *f* above. They are repeated here for completeness. For many items on the forms, simple tabulations of the frequency and percentage of persons/respondents selecting the responses will suffice. Means and standard deviations will be computed for items with scaled responses (e.g., a four-point scale where strongly agree=4, agree=3, disagree=2 and strongly disagree=1). Fill-in or completion type items will be examined, compiled, and summarized to present major categories of participant comments. Data will be tabulated for sites, and for respondent groups as a whole. Data will also be cross-tabulated by variables such as position, experience, region of country, area of vocational specialization, etc.

The only statistical tests to be conducted will involve those items which ask teachers and administrators to rate their own skills in teaching basic skills and their attitudes regarding the practicality and desirability of combining basic skills instruction with vocational education. It is hypothesized that, after using the materials, they will perceive themselves as being more skilled in teaching basic skills, and will perceive as more practical and desirable, efforts to combine basic skills instruction with vocational education. An analysis of variance or other appropriate statistical technique will be used to test this hypothesis.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection.

"Funds reserved to the Commissioner * * * shall be used * * * for contracts * * * for—(1) activities authorized by sections * * * 133 (curriculum development in vocational education * * *" (Sec. 171(a) of the Vocational Education Act as amended by Pub. L. 94-482, Title II, Section 202; 20 U.S.C. 2401).

(o) Timetable for Dissemination of Collected Data—Data collected during site selection and the early part of the field test will be tabulated and analyzed while the rest of the field test is going on. Thus, initial results, in draft form will be available to project staff and advisors by middle or late September, 1980. The complete body of data will be analyzed following the end of the field test at the sites on December 15, 1980. Results will be available to product developers in the form of draft copies of the tables in mid- or late January, 1981. A final report on the field test will be available on February 1, 1981, for distribution to project staff, the project monitor and funding agency, and other interested persons. Some more public distribution of results may be available at a later date, perhaps as a part of a larger document on the total materials development process.

(p) Estimate of Total Person-Hours and Costs Required To Complete the Request. The following estimates are based on the response burden estimates given in paragraph *i* above.

For teachers, it is assumed that approximately 240 teachers will participate, that each teacher will require an average of .50 to 1.5 hours to complete the instruments, and that each teacher is paid an average of $11.00 per hour. It is, therefore, estimated that a total of 120–360 hours of teacher time till be required. It is also estimated that this time has a total value of $1,320–$3,960.

For administrators, it is assumed that 30 administrators will participate, that each administrator will require an average of .50–1.5 hours to complete the instruments, and that each administrator is paid an average of $15.00 per hour. It is, therefore, estimated that a total of 15–45 hours of administrator time will be required. It is also estimated that this time has a total value of $225–675.

Time will be the major source of expense to the participants. The project budget will bear the other costs such as materials, printing, etc. However, the above estimates do not include the time which teachers may spend in an orientation session or in using the materials in the classroom. The above estimates deal only with the time needed to complete these instruments.

(q) Evidence of Any Urgent Need or Very Unusual Circumstance Requiring the Data—Not applicable.

(r) Copy of the Exact Data Instruments—Copies of the instruments are not yet available. They will be available June 15, 1980. A notice will be published in the Federal Register announcing their availability. Copies may be obtained by writing Dr. John J. Bowers, Research Associate, Cornell Institute for Occupational Education, College of Agriculture and Life Sciences, Cornell University, Stone Hall, Ithaca, New York 14853.

(s) Brief Account of Early Involvement and Communication With Respondent Populations—Securing field test sites will take place in three steps. First, State Directors of Vocational Education will be contacted for nominations of sites. Second, local vocational education directors will be contacted regarding their willingness to participate. Third, participating teachers and administrators will be given an orientation session regarding the details of participation prior to use of the field test materials. All field test communications will take place through field test Coordination.

(t) Assurance That Respondents Will Have Sufficient Lead Time To Comply With Request—Data collection will take place during the months from September to December, 1980. All instruments require only the immediate reaction of the respondent at the time the instruments are administered. No "lead time" is required for any instrument.

(u) Specific Justification for Multi-Year Approval—Data collection will take place only during the period of the field test. The field test is a one-time occurence. Thus, no multi-year approval is sought.

Data Activity Plan Summary

(a) Title of Proposed Activity—An Impact Survey of the Handicapped Children's Early Education Program (HCEEP).

(b) Agency/Bureau/Office—U.S. Office of Education/Bureau of Education for the Handicapped.

(c) Agency Form Number—OE Form 775.

(d) Justification: (1) One major purpose of the Handicapped Children's Early Education Program (HCEEP) projects is to obtain funding for the continuation of the direct services components of a model subsequent to the completion of their three year demonstration grants. This activity provides for determining which projects have obtained continuation funding and how such projects have obtained this funding.

(2) A second major purpose of the HCEEP projects is dissemination and replication. This activity will provide information relative to the impact dissemination of materials and the replication of the model by others.

(e) Description of Survey Plan—Each of the HCEEP projects funded during the last 10 years will be contacted by letter and phone to respond to a questionnaire. Subsequent to the

collection of the information, a small sample of projects will be site visited to verify the information collected.

(f) Tabulation and Publication Plans—The information obtained will be tabulated by type(s) and age range(s) of handicapped child served, type of agency, and year of funding. This information will be developed for a specific report to Congress on the 10 years of funding this program; additional reports will be developed concerning (1) seed money program planning; (2) characteristics of effective programs; and (3) characteristics of replication of models. These publications will be developed consistent with agency policy.

(g) Time Schedule for Data Collection and Publication—The time frame for data collection and publication is July 1, 1980 through December 31, 1980 with publications scheduled for completion by March 31, 1981.

(h) Consultations Outside the Agency—Not applicable.

(i) Estimation of Respondent Reporting Burden.

Respondent type	Number	Estimate of average person-hours
Local Education Agencies	105	2
State Education Agencies	10	2
Colleges and Universities	100	2
Non-Profit Organizations	95	2
Other State Agencies	10	2
Other (Hospitals, etc.)	30	2

(j) Sensitive Questions—There are no questions of a sensitive nature contained in the survey form.

(k) Estimate of Cost to Federal Government—$90,000.

(l) Justification of How Information Once Collected Will Be Used: Program Management: The information will provide for the assessment of HCEEP program effectiveness in the areas of obtaining continuation funding and dissemination/replication of model components. The information will provide information which can provide a detailed statement of past efforts and results which will assist in guiding future efforts.

Evaluation: This survey is evaluative only in the sense that it will be examining the HCEEP objectives in the areas of continuation funding (subsequent to the completion of Federal funding by up to seven years) and in the areas of dissemination and replication of the model.

Research: This survey will provide information for this area in terms of portraying the effectiveness of a discretionary seed money program over a 10 year period.

General Purposes: This information may assist other discretionary programs in determining critical variables for the implementation of seed money programs in their areas.

(m) Methods of Analysis—Descriptive statistics for each variable will be generated, including frequency counts, means, medians, and measures of variation. the data will be analyzed along the dimensions of age and type of handicap, type of agency, year of funding, and state.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection.

"The Commissioner is authorized to arrange by contract, or otherwise * * * for the development and carrying out * * * of experiemental preschool and early education programs for handicapped children." (Pub. L. 91-230, Part C, Section 623; 20 U.S.C. 1432; 45 CFR 121d)

(o) Timetable for Dissemination of Collected Data—The data from this survey will be disseminated on or about May 31, 1981 in the form of a Federal publication which will be available on request.

(p) Estimate of Total Person-Hours and Costs Required To Complete the Request—Total Person Hours: 700; Cost: $14,000.

(q) Evidence of Urgent Need—Not applicable.

(r) Copy of the Exact Data Instrument—A copy of the exact data instrument may be obtained from: Lonnie Stewart, Project Officer, Early Childhood Section, Program Development Branch, Bureau of Education for the Handicapped, Donohoe Building, Room 3130, 400 Maryland Avenue SW., Washington, D.C. 20202.

(s) Involvement and Communications With Respondent Populations—Not applicable.

(t) Assurance That Respondents Will Have Sufficient Lead Time To Comply With Request—At least one preliminary contact will precede the comletion of the questionnaire. Additional contacts will be made as necessary to provide for the completion of the questionnaire.

(u) Justification for Multi-Year Approval—Not applicable.

Data Activity Plan Summary

(a) Title of the Proposed Activity—Request for Institutional Eligibility Under the Higher Education Act of 1965, as Amended.

(b) Name of the Sponsoring Agency/Bureau/Office—U.S. Office of Education, Bureau of Higher and Continuing Education, Division of Eligibility and Agency Evaluation, Institutional Eligibility Branch.

(c) Agency Form Number—OE Form 1059.

(d) Justification—Under the Higher Education Act of 1965, as Amended, the Commissioner of Education must determine which postsecondary institutions are eligible to receive Federal funds for the institution or for its students. Over 25 programs are funded under this Act, and it involves the staffs of 31 branches in three separate bureaus of the Office of Education. An institution can be declared eligible only if it meets the various criteria contained in the statutes and regulations. OE Form 1059 is used by the Commissioner to help him determine which, if any, of the appropriate definitions are met by an applicant postsecondary institution. An institution only has to complete Form 1059 once, since the form includes the five basic eligibility requirements which almost all institutions must meet. The requirements include: (1) Admission requirements, (2) legal authorization to operate by the State, (3) length of program, or degree granted, (4) form of control: public, nonprofit or proprietary; and (5) accredited status.

(e) Description of Survey Plan—An institution requests the OE 1059 in order to be declared eligible to apply for participation in the Higher Education Act of 1965, as Amended.

(f) Tabulation and Publication Plans—Not applicable.

(g) Time Schedule for Data Collection and Publication—Institutions complete the OE Form 1059 as needed in order to obtain or to maintain benefits under the Higher Education Act of 1965, as Amended.

(h) Consultations Outside the Agency—Not applicable.

(i) Estimation of Respondent Reporting Burden: Respondent type: Colleges and universities, nonpublic junior colleges, public junior colleges, vocational/technical/career, and postsecondary institutions; Number: 1,000; Estimate of average person-hours: 1 hour.

(j) Sensitive Questions—None.

(k) Estimate of Cost to Federal Government—Not applicable—this is an application form.

(l) Detailed Justification of How Information Once Collected Will Be Used Program Management—The data requested on OE Form 1059 will continue to be used to determine eligibility of institutions of postsecondary education to participate in programs authorized by the Higher Education Act of 1965, as Amended. Depending on the conditions which the institution meets, it will be determined

to be eligible to receive funds for itself or for its students under one or more applicable Office of Education programs.

(m) Method of Analysis—Not applicable.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection.

Higher Education Act of 1965, as Amended (Pub. L. 89-329) Section 435(b)—institution of higher education under the Guaranteed Student Loan Program.

Section 1201(a)—institution of higher education under all other programs.

Section 491(b)(3)—proprietary institutions of higher education under all Title IV programs.

Section 443(b)—area vocational school under the College Work-Study Program.

Section 435(c)—vocational school under the Guaranteed Student Loan Program.

Section 497A(d)—public postsecondary vocational education institution *under* all Title IV programs of the Act.

45 CFR 177.1—flight school under the Guaranteed Student Loan Program.

Section 302(a)—developing institution under the Title III Program.

Section 302(c)—junior or community college under Title III.

Section 1018—community college under Title X.

Section 1201(1)—school or department of divinity under all except Title IV programs.

45 CFR 144.2, 176.2, 177.1, 190.2—program offered by correspondence under Title IV programs.

45 CFR 131.2—branch of an institution of higher education under Title I.

(o) Timetable for Dissemination of Collected Data—Not applicable.

(p) Estimate of the total Person—Hours and Costs Required to Complete the Request—Total Person—Hours—1,000; Total Costs Required—$7,000.

(q) Evidence of any Urgent Need or Very Unusual Circumstance Requiring the Data—Not applicable.

(r) Copy of the Exact Data Instrument—Copies of exact data instrument may be obtained from: Mr. Joseph M. Hardman, Chief, College Eligibility Section, Division of Eligibility and Agency Evaluation, Bureau of Higher and Continuing Education, U.S. Office of Education, Washington, D.C. 20202, or Mrs. Voncille M. McDonald, Acting Chief, Occupational School Eligibility Section, Institutional Eligibility Branch, Division of Eligibility and Agency Evaluation, Bureau of Higher and Continuing Education, U.S. Office of Education, Washington, D.C. 20202.

(s) Brief Account of Early Involvement and Communications with Respondent Populations—Not applicable.

(t) Assurance that Respondents will have sufficient Lead Time to Comply with Request—Institutions that wish to benefit from the program authorized under the Higher Education Act of 1965, as Amended, complete OE Form 1059 once. Eligibility for the programs is then determined. The form is also used to renew basic information about an eligible institution.

(u) Specific Justification for a Multi-Year Approval—The OE-1059 is a routine administrative form that is used to determine the eligibility of institutions of postsecondary education to participate in the programs authorized by the Higher Education Act of 1965, as Amended. An institution is able to be determined eligible to participate in 26 programs on the basis of the data requested on the form. The form is completed once by an institution unless the Office of Education wants to renew basic information. The form represents a minimal burden for institutions, since it requires approximately 60 minutes for completion on the average. OE Form 1059 has been successfully used by the Institutional Eligibility Branch to determine the eligibility status of institutions of postsecondary education.

Data Activity Plan Summary

(a) Title of Proposed Activity—Application Summary Report for Federal Grants Under Title VII-A of the Higher Education Act.

(b) Name of the Sponsoring Agency/Bureau/Office—DHEW/OE/Bureau of Higher and Continuing Education/Division of Training and Facilities/Academic Facilities Branch.

(c) Agency Form Number—OE 1118.

(d) Justification:

1. Under Title VII-A of the Higher Education Act of 1965, as amended, State Commissions must approve and recommend to the Commissioner applications covering eligible projects, and to certify to the Commissioner the Federal share of the development cost of the projects involved.

2. The information contained in the report enables the Commissioner to perform his function of funding projects as recommended by the State Commissions.

(e) Description of Survey Plan:

1. Information sufficient to identify the State, the closing date for receipt of applications and the application category. Also a list of applications received and processed showing: (1) Date of receipt by State Commission, (2) priority number, (3) name of institution, (4) eligible project development cost, and (5) recommended Federal share.

2. The report is required, in order that the Commissioner may consider recommended projects for funding.

(f) Tabulation and Publication Plans—Grant awards are made before the end of the fiscal year.

(g) Time Schedule for Data Collection and Publication:

1. The report must be submitted after the consideration of applications as of each closing date, either twice or three times a year, but no later than June 30 of each year.

2. The grant awards are made after the reports are received by the State Commission, but no later than the end of the fiscal year.

(h) Consultations Outside the Agency—N/A, since only the basic required information is requested. The information is readily available to the State Commission when the review of applications has been completed. The report has been used on and off for fifteen years, during the existence of the program. The form was first developed with the assistance and cooperation of the State Commissions.

(i) Estimation of Respondent Reporting Burden: Respondent Type; State Commissions: Number 56, estimate of average person-hours, 1.5.

1. The estimate of the average person-hours is based on the knowledge gained by the Office of Education through years of working with the State Commissions.

2. In making the estmate, allowances were made for time needed to gather and compile the data.

3. Not much variation is expected in the reporting burden.

(j) Sensitive Questions—There are no sensitive questions involved.

(k) Estimate of Cost to Federal Government—N/A.

(l) Detailed Justification of How Information Once Collected Will Be Used—The information will be used as a basis by the Office of Education for funding projects, as recommended by the State Commission.

(m) Methods of Analysis—Only tabulations of descriptive data are reported.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection.

Section 704 of Title VII of the Higher Education Act of 1965, as amended, stipulates that State Commissions must approve and recommended to the Commissioner, in order of priority, applications covering eligible projects, and certify to the Commissioner the Federal share of the development cost of the projects involved.

Section 170.14(f), Part 170 of Title 45 of the Code of Federal Regulations provides that:

Promptly upon completing its consideration of applications as of each closing date * * * each State Commission will forward to the Commissioner: (1) A current project report, on forms supplied by the Commissioner * * * listing each application received * * * and the priority and the Federal share determined according to the State plan for each project considered * * *.

(o) Timetable for Dissemination of Collected Data—The information is used only by the Office of Education.

(p) Estimate of the Total Person-Hours and Costs Required to Complete the Request—84 person-hours for $1,680.

(q) Evidence of Any Urgent Need or Very Unusual Circumstance Requiring the Data—Since an appropriation became available late in Fiscal Year 1980, approval of the form is urgently needed.

(r) Copy of the Exact Data Instrument—Thomas F. McAnallen, Chief, Academic Facilities Branch, Division of Training and Facilities, Bureau of Higher and Continuing Education, U.S. Office of Education/DHEW, 400 Maryland Avenue, SW., Washington, D.C. 20202.

(s) Brief Account of Early Involvement and Communications With Respondent Populations—Through years of experience, State Commissions are aware that the forms must be submitted in connection with the recommendation and approval of applications, when an appropriation is available.

(t) Assurance That Respondents Will Have Sufficient Lead Time to Comply With Request—The data is submitted when the State Commissions complete the consideration of the applications for each closing date, but no later than June 30 of each fiscal year. Accordingly, sufficient lead time is available.

(u) Specific Justification for a Multi-Year Approval—There is the possibility that grant awards will be made not only in Fiscal Year 1980, but also in Fiscal Year 1981 and beyond. Accordingly, a multi-year approval is needed.

Data Activity Plan Summary

A. Title of Proposed Activity—Cooperative Education Program Application Form: Academic year 1981–82.

B. Name of Sponsoring Agency/Bureau/Office—U.S. Office of Education/Bureau of Higher and Continuing Education/Division of Training and Facilities.

C. Agency Form Number—OE–1193.

D. Justification:

1. The authorizing legislation for the Cooperative Education Program is Title VIII of the Higher Education Act of 1965, as amended. The purpose of the discretionary grant program is to enrich the quality and scope of postsecondary education through educationally related work experiences which afford students an opportuniy to earn funds needed for their education, while enabling them to become better prepared to achieve their educational and career objectives.

Pursuant to Sections 801 and 802 of the legislation the Commissioner is authorized to make grants to institutions of higher education, or to combinations of such institutions for the planning, establishment, expansion, or carrying out by such institutions of programs of cooperative education.

Pursuant to Sections 801 and 803 of the legislation the Commissioner is authorized to make grants to or contracts with institutions of higher education, combinations of such institutions, and public or private nonprofit agencies or organizations for: (a) The training of persons in the planning, establishment, administration or coordination of programs of cooperative education; (b) projects demonstrating or exploring the feasibility or value of innovative methods of cooperative education; and (c) research into methods of improving, developing, or promoting the use of cooperative education programs in institutions of higher education.

2. To implement the intent of the legislation, the application is mailed to all eligible institutions of higher education. In 1979, 606 institutions submitted proposals requesting Title VIII grant funds. Of that number 286 applicants were approved for funding.

3. No similar data are collected anywhere.

E. Description of Survey Plan—Not applicable.

F. Tabulation and Publication Plans—Not applicable.

G. Time Schedule for Data Collection and Publication—Not applicable.

H. Consultations Outside the Agency—The proposed form was discussed with the Director of Research (an authority in the cooperative education field), Northeastern University and the Director of the Cooperative Education Program at the University of South Florida, who is also a former president of the National Cooperative Education Association. There were no unresolved problems.

I. Estimation of Respondent Reporting Burden.

Basis: Estimated number of total applicants—600; estimated number of new applicants (included in total figure)—110; estimated preparation time for new applicants—20 hours; estimated number of previous applicants—490; estimated preparation time for previous applicants—8 hours. Total preparation time: new applicants, 2,200 hours, previous applicants, 3,920 hours, total, 6,120.

Total hours divided by number of applicants=10.2 (average number of hours required).

Estimated Number of Respondents by Type:

Respondent type	Number	Estimate of average person-hours
Colleges & Universities	350	10.2×350=3,570.0
Nonpublic Junior Colleges	222	10.2×225=2,624.4
Public Junior Colleges	25	10.2×25=255.0
Organizations other than Schools or Education Agencies	3	10.2×1=30.6
Total		6,120.0

J. Sensitive Questions—Not applicable.

K. Estimate of Cost to Federal Government—Not applicable.

L. Detailed Justification of How Information once Collected will be Used—Applications submitted by eligible institutions and organizations requesting Title VIII Cooperative Education Program funds will be reviewed and evaluated for the awarding of grants authorized under the legislation.

M. Methods of Analysis—Not applicable.

N. Legislative Authority Specifically Requiring or Allowing the Data Collection—The program legislation authorizes funds to be appropriated "to enable the Commissioner to make grants pursuant to Section 802 to institutions of higher education, or to combination of such institutions, for the planning, establishment, expansion, or carrying out by such institutions or combinations of programs of cooperative education." (Title VIII of the Higher Education Act of 1965, as amended.) The legislation also authorizes funds to be appropriated "to enable the Commissioner to make training, demonstration, or research grants or contracts pursuant to Section 803." (Title VIII, Higher Education Act of 1965, as amended.)

O. Timetable for Dissemination of Collected Data—Grant awards are expected to be announced in June, 1981.

P. Estimate of the Total Person-Hours and Costs Required To Complete the request.

Total Hours=600 Applicants×10.2 hours=6,120 hours.

Costs: For each applicant: Professional 9 hours at $10.00 per hour=$90.00; secretarial 1.2 hours at $4.00 per hour=$4.80; total, $94.80. For

all applicants: $94.80×600 applicants=$5,688.

Q. Evidence of Urgent Need or Very Unusual Circumstances Requiring the Data—Not applicable.

R. Copy of Exact Data Instrument—Copies of the application form are available for public review and comment by contacting: Program Manager, Cooperative Education Branch, Room 3053, ROB#3, Division of Training and Facilities, Bureau of Higher and Continuing Education, U.S. Office of Education, Washington, D.C. 20202.

S. Brief Account of Early Involvement and Communications With Respondent Populations—The proposed form was discussed at meetings held with the Director of Research, Northeastern University and the Director of Cooperative Education, University of South Florida.

T. Assurance that Respondents Will Have Sufficient Lead Time to Comply With Request—It is expected that applications will be due in the Office of Education about mid-January 1981. Application will be mailed to all eligible applicants in October or November, 1980, allowing the required 60-day period for proposal preparation.

U. Specific Justification for a Multi-Year Approval—Not applicable. The current application expires August, 1983.

Data Activity Plan Summary

(a) Title of the Proposed Activity—Report on Current Upward Bound Student.

(b) Name of the Sponsoring Agency/Bureau/Office—U.S. Office of Education, Bureau of Higher and Continuing Education, Division of Student Services and Veterans Programs.

(c) Agency Form Number—OE 1196.

(d) Justification:

(1) The Higher Education Act of 1965 (Pub L. 89-329, as amended) proposes:

* * * programs, to be known as "Upward Bound", (A) which are designed to generate skills and motivation necessary for success in education beyond high school and (B) in which enrollees from low-income backgrounds and with inadequate secondary school preparation participate on a substantially full-time basis during all or part of the program;

(h) It is the intention of the Congress to encourage, whenever feasible, the development of individualized programs for disadvantaged students assisted under this subpart.

Regulations for the Upward Bound Program are contained in 45 CFR Part 155, published May 24, 1977.

Further, the GAO Report to the Congress on the problems of the Upward Bound Program (dated March 7, 1974) recommended that we:

* * * develop guidelines requiring projects to (1) perform and document comprehensive need assessment on all students, including their motivation levels * * *

* * * improve the Upward Bound management information system so program managers are provided with the data needed in developing, planning and evaluating the Upward Bound Program. The system should provide program managers the data needed to (1) assess the specific educational needs of students, (2) identify the major problems that must be dealt with, (3) devise specific strategy for overcoming these problems, (4) implement an education program responsive to student's needs, (5) measure progress made toward meeting stated goals, and (6) assess the effectiveness of the program and each project * * *

* * * strengthen the monitoring program to ensure that all projects operate in accordance with national intent and that the stated objectives of the projects are realistic and are being accomplished within the expected time frame.

* * * ensure that projects select students in accordance with the selection guidelines and document the basis used.

* * * identify students who do not meet academic risk and income criteria, so officials can take more timely corrective action.

(2) In accordance with Upward Bound Program's legislative and administrative requirements, OE Form 1196 supports two major functions—a project monitoring effort and the determination of Project and Program effectiveness. It is the primary intake instrument that verifies participant eligibility, assures project compliance with specific laws being administered, and provides limited demographic data that will permit further tracking and retention data for those participants who are successful in entering postsecondary programs. The needs assessment variables are used to relate the project services and support activities provided clients to individual postsecondary successes.

Data from these reports is also used by the Office of Education to respond to various ad hoc inquiries concerning the program, its participants, and its achievements.

(3) There is no similar data already available in the subject field which could be used for these purposes.

(e) Description of Survey Plan.

(1) The respondents to the Report on Current Upward Bound Student are ordinarily Upward Bound Project Directors or occasionally members of the professional staff at a project. (The Project Director must sign, however, certifying that the information is complete and accurate). An estimated 390 Upward Bound projects will receive grants in the program year 1980-81 and will be required to respond to this form.

These reports are filled out on a flow basis as each student enters the program, and are submitted to a data collection contractor for edit, keypunch and computer input. Data collection is by mail, with completed forms normally mailed directly to the contractor.

(2) The data collected from OE Form 1196 is handled by a data collection contractor, Computer Sciences Corporation, whose responsibilities include:

(1) Data acquisition, edit, and preparation.

(2) Computer input and update.

(3) Maintenance of associative project and school files.

(4) Miscellaneous requirements (e.g. periodic checks with projects for data corrections and updates)

CSC is aware of the impact of the Privacy Act of 1974 on the handling of OE data, and is in full compliance with it. Strict confidentiality is observed in the processing and filing of sensitive material, and reproduction of such material is performed according to Industrial Security Manual (ISM) standards in a locked room, with only those persons with appropriate clearance and need-to-know permitted. Requests for information, if any, are referred to OE.

(f) Tabulation and Publication Plans—The information collected from the 1196 Report on Current Upward Bound Student is used in conjunction with that which is collected from the two other individual student data reports, OE Forms 1197 and 1225. The data from these forms is entered into the Upward Bound Information System, which in turn provides data summarizations, statistical reports and student rosters. It is noted that this form is used more as a programmatic record-keeping device than as a true survey document, and thus does not fit neatly into the requirement for a statement of tabulation and publication plans.

(g) Time Schedule for Data Collection and Publication—These forms are returned by project directors on a flow basis.

(h) Consultations Outside the Agency—None.

(i) Estimation of Respondent Reporting Burden—It is estimated that 390 Upward Bound projects will be funded for program year 1980-81. An estimated breakdown by respondent type for program year 1980-81 is given below which uses percentage breakdowns that occurred in program year 1979-80.

Respondent type	Number	Estimate of average person-hours
Colleges and universities	58	.1
Nonprofit organizations	10	.1
Public junior colleges	12	.1
Vocational/technical/career postsecondary institutions	10	.1

(j) Sensitive Questions—The OE Form 1196 collects information on individual students. This information is protected under the Privacy Act of 1974. The type of data includes:

Name and social security number,
Family income,
High school grade point average,
Information relating to educational status.

Full acknowledgement of the responsibility involved in collecting this information has been made and a formal policy established. It is now official policy to include in all guidelines, manuals and other pertinent program documents the following statement:

Information or records relating to individual students or group(s) of students who are participating or have participated in Upward Bound projects shall not be disclosed to any person, group, agency or organization without the express permission of the Director, Division of Student Services and Veterans Programs, U.S. Office of Education. When a project or contract terminates, all Upward Bound Records in possession of the project or contractor shall be disposed of only by the authority of and in accordance with procedures approved by the Director, Division of Student Services and Veterans Programs.

(k) Estimate of Cost to Federal Government—It is estimated that the annual cost of this form is about $50,000. This estimate includes printing and mailing costs, as well as expenses associated with data handling—edit, keypunch and computer input. In addition manpower expense is estimated to be $2,300.

(l) Detailed Justification of How Information Once Collected Will be Used—Program Management: The report serves two major functions: (1) The monitoring of a grantee's performance in terms of the law, the regulations, and an individual grant's terms and conditions; and (2) the evaluation of the effectiveness of individual projects as well as the effectiveness of the Upward Bound program as a whole.

(m) Method of Analysis—Data is summarized by project, state, and by national totals. Proposed methods of analysis include: Correlations, tests of significance, and analysis of variance.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection—Legislative authority comes from the General Education Provisions Act, Section 434(b)(3)(C) which states:

In the case of any application for assistance under any applicable program to which paragraph (1) does not apply and with respect to which the Commissioner determines that this section would simplify the administration of an applicable program, each such application shall be submitted to the Commissioner at such time, in such manner, and containing such information as the Commissioner shall prescribe by regulation and, as a precondition for approval, shall—

(C) provide for making such reports as the Commissioner may require to carry out his functions.

(o) Timetable for Dissemination of Collected Data—The Upward Bound Project Profile, which draws upon data from the 1196, 1197, and 1225 forms, serves as a data base for information on students assisted. The report, which is availabe in August, is used for in-house purposes and is sent to project directors. Information is disseminated from it as data is requested.

(p) Estimate of the Total Person-Hours and Costs Required to Complete the Request—It is estimated that 390 grants will be funded and that each project would require an average of 4 hours to complete the reports. A total of 1,560 person-hours would be needed to complete the reports at a total estimated cost of $8,500.

(q) Evidence of Any Urgent Need or Very Unusual Circumstance Requiring the Data—N/A.

(r) Copy of the Exact Data Instrument—The report forms may be obtained from: Arnold H. Silver, Management Information Specialist, ISPSB/Information Systems Section, Education Department, Room 3514, ROB-3, 7th & D Streets, SW., Washington, D.C. 20202.

(s) Brief Account of Early Involvement and Communications With Respondent Populations—A "welcome aboard letter" is mailed to project directors at the beginning of the project year along with copies of the reports that are required to be filed at the end of the project year. The letter indicates the names and telephone numbers of individuals who can answer any questions. Each year workshops are held for project directors in which the report forms are thoroughly discussed.

(t) Assurance That Respondents Will Have Sufficient Lead Time To Comply With Request—Since data is gathered on a flow basis as students enter the program there is not one specified due date.

(u) Specific Justification for a Multi-Year Approval—The report forms have been used successfully in the past. Multi-year approval is justifiable as it would minimize the burden for the project directors to use the same forms throughout the grant.

Data Activity Plan Summary

(a) Title of the Proposed Activity—Report on Former Upward Bound Student.

(b) Name of the Sponsoring Agency/Bureau/Office—U.S. Office of Education, Bureau of Higher and Continuing Education, Division of Student Services and Veterans Programs.

(c) Agency Form Number—OE 1197.

(d) Justification:

(1) The Higher Education Act of 1965 (Pub. L. 89-329, as amended) authorizes Upward Bound as a program designed to generate the skills and postsecondary education among youths from low income backgrounds with inadequate secondary school preparation. The program acts to remedy inadequate academic preparation and motivation in the secondary school, thus increasing the student's potential for acceptance and success in postsecondary school.

The Commissioner is authorized to make grants to, and contracts with, institutions of higher education, including institutions with vocational and career education programs; combinations of such institutions; public and private agencies and organizations (including professional and scholarly associations); and in exceptional cases, secondary schools and secondary vocational schools.

Regulations for the Upward Bound program are contained in 45 CFR 155, published May 24, 1977.

(2) The data collected from this form provides significant, quantifiable measures of program success. These measures of program success include, but are not limited to, high school graduation rates of UB students and rates of entry into postsecondary school. The data summarizations, which are comprised from data collected from OE Forms 1196, 1197, and 1225 can be assembled on a project as well as a program basis. They can then be used to estimate a particular project's performance, as well as to measure general program success.

Besides program and project management functions and performance measurements, these data summarizations provide information used in program accountability, program evaluation and any other area where some type of assessment of Upward Bound program activities is required. Data from these reports is also used by the Office of Education to respond to various ad hoc inquiries concerning the

program, its participants, and its achievements.

(3) There is no similar data already available in the subject field which can be used for these purposes.

(e) Description of Survey Plan.

(1) The respondents to the Report on Former Upward Bound Student are ordinarily Upward Bound Project Directors or occasionally members of the professional staff at a project. (The Project Director must sign, however, certifying that the information is complete and accurate.) An estimated 390 Upward Bound projects will receive grants in the program year 1980–81 and will be required to respond to this form.

These reports are filled out on a flow basis as each student leaves the program, and are submitted to a data collection contractor for edit, keypunch and computer input. Data collection is by mail, with completed forms normally mailed directly to the contractors.

(2) The data collected from OE Form 1197 is handled by a data collection contractor, Computer Sciences Corporation, whose responsibilities include:

(1) Data acquisition, edit, and preparation.

(2) Computer input and update.

(3) Maintenance of associative project and school files.

(4) Miscellaneous requirements (e.g. periodic checks with projects for data corrections and updates).

CSC is aware of the impact of the Privacy Act of 1974 on the handling of OE data, and is in full compliance with it. Strict confidentiality is observed in the processing and filing of sensitive material, and reproduction of such material is performed according to Industrial Security Manual (ISM) standards in a locked room, with only those persons with appropriate clearance and need-to-know permitted. Requests for information, if any, are referred to OE.

(f) Tabulation and Publication Plans—The information collected from the 1197 Report on Current Upward Bound Student is used in conjunction with that which is collected from the two other individual student data reports, OE Forms 1196 and 1225. The data from these forms is entered into the Upward Bound Information System, which in turn provides data summarizations, statistical reports and student rosters.

It is noted that this form is used more as a programmatic recordkeeping device than as a true survey document, and thus does not fit neatly into the requirement for a statement of tabulation and publication plans.

(g) Time Schedule for Data Collection and Publication—these forms are returned by project directors on a flow basis.

(h) Consultations Outside the Agency—None.

(i) Estimation of Respondent Reporting Burden—It is estimated that 390 Upward Bound projects will be funded for program year 1980–81. An estimated breakdown by respondent type for program year 1980–81 is given below which uses percentage breakdowns that occurred in program year 1979–80:

Respondent type	Number	Estimate of average person-hours
Colleges and universities	358	.4
Nonprofit organizations	10	.1
Public junior colleges	12	.1
Vocational/technical/career postsecondary institutions	10	.1

(j) Sensitive Questions—The OE Form 1197 collects information on individual students. This information is protected under the Privacy Act of 1974. The type of data includes:

—Name.

—Scholastic Aptitude and American College Testing Service examination scores.

—Information relating to educational status.

Full acknowledgement of the responsibility involved in collecting this information has been made and a formal policy established. It is now official policy to include in all guidelines, manuals and other pertinent program documents the following statement:

"Information or records relating to individual students or group(s) of students who are participating or have participated in Upward Bound projects shall not be disclosed to any person, group, agency or organization without the express permission of the Director, Division of Student Services and Veterans Programs, U.S. Office of Education. When a project or contract terminates, all Upward Bound Records in possession of the project or contractor shall be disposed of only by the authority of and in accordance with procedures approved by the Director, Division of Student Services and Veterans Programs."

(k) Estimate of Cost to Federal Government—It is estimated that the annual cost of this form is about $50,000. This estimate includes printing and mailing costs, as well as expenses associated with data handling—edit, keypunch and computer input. In addition manpower expense is estimated to be $2,300.

(l) Detailed Justification of How Information Once Collected Will Be Used—Program Management: The OE Form 1197 is used in evaluating the effectiveness of individual projects as well as the effectiveness of the Upward Bound program as a whole. The data provides significant quantifiable measures of program success. The data summarizations, which draw upon data from this form, provide information used in program accountability, program evaluation and any other area where some type of assessment of Upward Bound program activities is required.

(m) Method of Analysis—Data is summarized by project, state, and by national totals. Proposed methods of analysis include: Correlations, tests of significance, and analysis of variance.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection—Legislative authority comes from the General Education Provisions Act, Section 434(b)(3)(C) which states:

In the case of any application for assistance under any applicable program to which paragraph (1) does not apply and with respect to which the Commissioner determines that this section would simplify the administration of an applicable program, each such application shall be submitted to the Commissioner at such time, in such manner, and containing such information as the Commissioner shall prescribe by regulation and, as a precondition for approval, shall—

(C) provide for making such reports as the Commissioner may require to carry out his functions.

(o) Timetable for Dissemination of Collected Data—The Upward Bound Project Profile, which draws upon data from the 1196, 1197, and 1225 forms, serves as a data base for information on students assisted. The report, which is available in August, is used for in-house purposes and is sent to project directors. Information is disseminated from it as data is requested.

(p) Estimate of the Total Person-Hours and Costs Required To Complete the Request—It is estimated that 390 grants will be funded and that each project would require an average of 4 hours to complete the reports. A total of 1,500 person-hours would be needed to complete the reports at a total estimated cost of $8,500.

(q) Evidence of Any Urgent Need or Very Unusual Circumstance Requiring the Data—N/A.

(r) Copy of the Exact Data Instrument—The report forms may be obtained from: Arnold H. Silver, Management Information Specialist, ISPSB/Information Systems Section, Education Department, Room 3514, ROB-3, 7th & D Streets, SW. Washington, D.C. 20202.

(s) Brief Account of Early Involvement and Communications With Respondent Populations—A "welcome aboard

letter" is mailed to project directors at the beginning of the project year along with copies of the reports that are required to be filed at the end of the project year. The letter indicates the names and telephone numbers of individuals who can answer any questions. Each year workshops are held for project directors in which the report forms are thoroughly discussed.

(t) Assurance That Respondents Will Have Sufficient Lead Time To Comply With Request—Since data is gathered on a flow basis as students enter the program there is not one specified due date.

(u) Specific Justification for a Multi-Year Approval—The report forms have been used successfully in the past. Multi-year approval is justifiable as it would minimize the burden for the project directors to use the same forms throughout the grant.

Date Activity Plan Summary

(a) Title of the Proposed Activity—Report on College Retention of Former Upward Bound Students.

(b) Name of the Sponsoring Agency/Bureau/Office—U.S. Office of Education, Bureau of Higher and Continuing Education, Division of Student Services and Veterans Programs.

(c) Agency Form Number—OE 1225.

(d) Justification:

(1) The Higher Education Act of 1965 (Pub. L. 89-329, as amended) authorizes Upward Bound as a preparatory program designed to generate the skills and motivation necessary for success in postsecondary education among youths from low income backgrounds with inadequate secondary school preparation. The program acts to remedy inadequate academic preparation and motivation in the secondary school, thus increasing the student's potential for acceptance and success in a postsecondary enrollment. The Commissioner is authorized to make grants to and contracts with: Institutions of higher education, including institutions with vocational and career education programs; combinations of such institutions; public and private agencies and organizations (including professional and scholarly associations); and, in exceptional cases, secondary schools and secondary vocational schools.

Regulations for the Upward Bound program are contained in 45 CFR Part 155, published May 24, 1977.

(2) The OE Form 1225 is used within the Upward Bound information system to confirm enrollment and retention of former Upward Bound students in institutions of higher education. This form is sent annually to the 1,800 college registrars where Upward Bound students are reported to be enrolled. While participation in this survey is voluntary, 1,765 of the 1,786 registrars (or 98.8%) responded to the most recent survey.

The data summarizations, which are comprised from data collected from OE Forms 1225, 1196, and 1197, can be assembled on a project as well as a program basis. They can then be used to estimate a particular project's performance, as well as to measure general program success.

Besides program and project management functions and performance measurements, these data summarizations provide information used in program accountability, program evaluation and any other area where some type of assessment of Upward Bound program activities is required.

Data from these reports is also used by the Office of Education to repond to various ad hoc inquiries concerning the program, its participants, and its achievements.

(3) There is no similar data already available in the subject field which can be used for these purposes.

(e) Description of Survey Plan:

(1) The respondents to the OE 1225 are college registrars where Upward Bound students are reported to be enrolled. There are approximately 1800 college registrars that receive this request.

(2) The data collected from OE Form 1225 is handled by a data collection contractor, Computer Sciences Corporation, whose responsibilities include:

(a) Data acquisition and preparation.

(b) Computer input and update.

(c) Maintenance of associative project and school files. CSC is aware of the impact of the Privacy Act of 1974 on the handling of OE data, and is in full compliance with it. Strict confidentiality is observed in the processing and filing of sensitive material, and reproduction of such material is performed according to Industrial Security Manual (ISM) standards in a locked room, with only those persons with appropriate clearance and need-to-know permitted. Request for information, if any, are referred to OE.

(f) Tabulation and Publication Plans—The information collected from the OE 1225 Form is used in conjunction with that which is collected from the two other individual student data reports, OE Forms 1196 and 1197. The data from these forms is entered into the Upward Bound Information System, which in turn provides data summarizations, statistical reports, and student rosters.

It is noted that this form is used more as a programmatic recordkeeping device that as a true survey document, and thus does not fit neatly into the requirement for a statement of tabulation and publication plans.

(g) Time Schedule for Data Collection and Publication—Data from this report is collected annually and is due on March 14.

(h) Consultations Outside the Agency—None.

(i) Estimation of Respondent Reporting Burden—The OE Form 1225 is sent annually to the approximately 1800 college registrars where Upward Bound students are reported to be enrolled: Respondent type: Colleges and universities; Number, 1800; estimate of average person-hours, .25.

(j) Sensitive Questions. The OE Form 1225 collects information on individual students. This information is protected under the Privacy Act of 1974. The type of data includes:

Name and social security number,

Information relating to educational status,

Full acknowledgement of the responsibility involved in collecting this information has been made and a formal policy established. It is now official policy to include in all guidelines, manuals and other pertinent program documents the following statement:

Information or records relating to individual students or group(s) of students who are participating or have participated in Upward Bound projects shall not be disclosed to any person, group, agency or organization without the express permission of the Director, Division of Student Services and Veterans Programs, U.S. Office of Education. When a project or contract terminates, all Upward Bound Records in possession of the project or contractor shall be disposed of only by the authority of and in accordance with procedures approved by the Director, Division of Student Services and Veterans Programs.

(k) Estimate of Cost to Federal Government—It is estimated that the annual cost of this form is about $12,000. This estimate includes printing and mailing costs, as well as expenses associated with data handling—edit, keypunch, and computer input and output. In addition manpower expense is estimated to be $1,150.

(l) Detailed Justification of How Information Once Collected Will Be Used—Program Management: The OE Form 1225 is used in measuring project accomplishments, assessing program effectiveness, and in obtaining information on college admission and retention of former Upward Bound students. This form also provides a data base from which to respond to

Congressional, Office of Management and Budget, Department of Health, Education, and Welfare, and other requests for program information.

(m) Method of Analysis—The data from the OE Form 1225 is used in conjunction with OE Forms 1196 and 1197 in updating the student records. The summarizations of the student records are aggregated by project, state, and nationally. Proposed methods of analysis of the summarization include: Correlations, tests of significance, and analysis of variance.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection—Legislative authority comes form the General Education Provisions Act, Section 434(b)(3)(C) which states:

> In the case of any application for assistance under any applicable program to which paragraph (1) does not apply and with respect to which the Commissioner determines that this section would simplify the administration of an applicable program, each such application shall be submitted to the Commissioner at such time, in such manner, and containing such information as the Commissioner shall prescribe by regulation and, as a precondition for approval, shall—* * *
>
> (C) provide for making such reports as the Commissioner may require to carry out his functions.

(o) Timetable for Dissemination of Collected Data—The Upward Bound Project Profile, which draws upon data from the 1225, 1196, and 1197 forms, serves as a data base for information on students assisted. The report which is available in August of each year is used for in-house purposes and is sent to project directors. Information is disseminated from it as data is requested.

(p) Estimate of the Total Person-Hours and Costs Required To Complete the Request—An estimated 1,800 college registrars will be responding to this form which requires approximately .25 hours to complete. This would indicate that a total of 450 person-hours is required to complete the reports at a total estimated cost of $2,000.

(q) Evidence of Any Urgent Need or Very Unusual Circumstance Requiring the Data—N/A.

(r) Copy of the Exact Data Instrument—The report forms may be obtained from: Arnold H. Silver, Management Information Specialist, ISPSB/Information Systems Section, Education Department, Room 3514, ROB-3, 7th & D Streets, SW., Washington, D.C. 20202.

(s) Brief Account of Early Involvement and Communications With Respondent Populations—The only communication with the college registrats is a cover letter mailed by the Office of Education along with the survey form in February. However, most universities are aware of the form from prior years.

(t) Assurance that Respondents Will Have Sufficient Lead Time To Comply With Request—The OE Form 1225 is mailed to college registrars on February 15 and is due on March 14. Since the form requires only 15 minutes to complete, there is sufficient lead time.

(u) Specific Justification for a Multi-Year Approval—The report forms have been used successfully in the past. Multi-year approval is justifiable as it would minimize the burden for the college registrars to use the same forms throughout the grant.

Data Activity Plan Summary

(a) Title of the Proposed Activity—Procedure for Qualification under Three-Institutional-Certification Method (as an alternative to accreditation); Transfer Credit Letter.

(b) Name of the Sponsoring Agency/Bureau/Office—U.S. Office of Education, Division of Eligibility and Agency Evaluation, Institutional Eligibility Branch.

(c) Agency Form Number—OE Form 1261.

(d) Justification—Section 1201(a) of the Higher Education Act of 1965, as amended (Pub. L. 89-329) provides that an institution that is not accredited may be eligible to participate in the programs authorized under the Act if it * * * "(A) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or (B) is an institution whose credits are accepted on transfer by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited."

(e) Description of Survey Plan—The Transfer Credit Letter is requested by unaccredited institutions of higher education as an alternative to satisfying the accreditation element of eligibility in defining an "institution of higher education" for purposes of participating in programs established under the Higher Education Act of 1965, as amended.

(f) Tabulation and Publication Plans—Not applicable.

(g) Time Schedule for Data Collection and Publication—Institutions request the Transfer Credit Letter, as needed, throughout the year. Data are not published.

(h) Consultations Outside the Agency—Not applicable because the legislation specifies the requirements.

(i) Estimation of Respondent Reporting Burden. Respondent type: Colleges and universities, nonpublic junior colleges, public junior colleges, vocational/technical/career postsecondary institutions; Number, 300; estimate of average person-hours, ¼ hour.

(j) Sensitive Questions—None.

(k) Estimate of Cost to Federal Government—Not applicable—this is an application form.

(l) Detailed Justification of How Information Once Collected Will be Used—Program Management use—The information is used as a reference to determine if the institution should be declared eligible to apply for participation in programs authorized by the Higher Education Act of 1965, as amended.

(m) Methods of Analysis—Not applicable.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection—Section 1201(a) of the Higher Education Act of 1965, as amended (Pub. L. 89-329) (see item D).

(o) Timetable for Dissemination of Collected Data—Not applicable.

(p) Estimate of the Total Person-Hours and Costs Required to Complete the Request—Total Person Hours, 75; Totals, 525.

(q) Evidence of any Urgent Need or Very Unusual Circumstance Requiring the Data—Not applicable.

(r) Copy of the Exact Data Instrument—Copies of the exact data instrument may be obtained from: Mr. Joseph M. Hardman, Chief, College Eligibility Section, Institutional Eligibility Branch, Division of Eligibility and Agency Evaluation, 400 Maryland Ave., SW, Washington, D.C. 20202.

(s) Brief Account of Early Involvement and Communications with Respondent Populations—Not applicable.

(t) Assurance that Respondents will have Sufficient Lead Time to Comply with Request—Institutions request the Transfer Credit Letter at their convenience.

(u) Specific Justification for a Multi-Year Approval—The Transfer Credit Letter is specifically required by Section 1201(a) of the Higher Education Act of 1965, as amended (Pub. L. 89-329). It is a routine procedure used by a small number of institutions that are unaccredited. It has been successfully

used in the past as an alternative to accreditation for unaccredited institutions to participate in programs authorized by the Higher Education Act of 1965, as amended in the past as an alternative to accreditation for unaccredited institutions to participate in programs authorized by the Higher Education Act of 1965, as amended.

Data Activity Plan Summary

(a) Title of the Proposed Activity—Report of the Treasurer: Land-Grant and Morrill-Nelson funds.

(b) Name of the Sponsoring Agency/Bureau/Office—DHEW/OE/Bureau of Higher and Continuing Education/Division of Training and Facilities/Community Service and Continuing Education Branch.

(c) Agency Form Number—OE 1275.

(d) Justification—Required by Statute (Second Morrill Act, Pub. L. 59-242, 20 U.S.C. 322-328).

(e) Description of Survey Plan—N/A (Recordkeeping requirement).

(f) Tabulation and Publication Plans—N/A (Recordkeeping requirement).

(g) Time Schedule for Data Collection and Publication—Collected February—Published June.

(h) Consultations Outside the Agency—Representatives of land-grant institutions.

(i) Estimation of Respondent Reporting Burden. Respondent: Land-grant colleges & universities; Number, 72; estimate of averge person-hours, 8.

(j) Sensitive Questions—None.

(k) Estimate of Cost to Federal Government—$3,000.

(l) Detailed Justification of How Information Once Collected Will Be Used—Program Management: Reviewed for compliance with statute.

(m) Methods of Analysis—Tabulations of descriptive data at institutional level.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection.

Treasurers shall be required to report to the Secretary of Agriculture and to the Secretary of Health, Education, and Welfare a detailed statement of the amount so received and of its disbursement" (Second Morrill Act, 20 U.S.C. 324)

(o) Timetable for Dissemination of Collected Data— Data available 9/80. Tabulations sent to land-grant presidents.

(p) Estimate of the Total Person-Hours and Cost Required to Complete the Request—576 person-hours, $10,800 total cost.

(q) Evidence of any Urgent Need or Very Unusual Circumstance Requiring the Data—None.

(r) Copy of the Exact Data Instrument—John E. Donahue, Community Service and Continuing Education Program, Division of Training and Facilities, Bureau of Higher and Continuing Education, U.S. Office of Education/DHEW, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

(s) Brief Account of Early Involvement and Communications With Respondent Populations—None.

(t) Assurance That Respondents Will Have Sufficient Lead Time To Comply With Request—Report forms generally sent to respondents one month after the end of the Fiscal Year to be covered. This reporting requirement has been in effect for decades. Respondents are well aware of it.

(u) Specific Justification for a Multi-Year Approval—This is a statutorily required, routine, administrative form. Data are collected yearly.

Data Activity Plan Summary

(a) Title of Proposed Activity—Application for State Student Incentive Grant Program (annual request for State's share of SSIG formula—grant funds).

(b) Agency/Bureau/Office—Office of Education/Bureau of Student Financial Assistance/Division of Policy and Program Development/States Program Branch/State Student Incentive Grant Program.

(c) Agency Form Number—OE 1288.

(d) Justification—This is the annual application for SSIG funds required by Sec. 415 of Title IV, Higher Education Act of 1965 (HEA). This application form has been used since 1975 with only minor editorial changes. The form has been formally cleared through December 1979, covering 1980 funds for use in the 1980-81 academic year. The currently cleared form was mailed to States in December 1979 for a January 15, 1980 closing date.

(e) Description of Survey Plan—This is not a survey. It is an application for formula—grant funds. The form will have to be adapted to conform with new legislative requirements.

(f) Tabulation and Publication Plans—Not applicable.

(g) Time Schedule for Data Collection and Publication—The application form is mailed to officially designated State agencies in December of each year for a January closing date.

(h) Consultations Outside the Agency—Representatives of the National Association of State Scholarships and Grant Programs participated in development of the original form and in subsequent updates.

(i) Estimation of Respondent Reporting Burden:

Respondent type	Number	Estimate of average person-hours per response
State Scholarship or grant agency in each State.	50 States and 7 territories.	3

(j) Sensitive Questions—None.

(k) Estimate of Cost to Federal government—The total direct cost to the Federal government is estimated to be $50,000. This includes staff time in processing forms submitted by States in recording and analyzing data.

(l) Detailed Justification of How Information Once Collected Will Be Used—Information will be used to determine State eligibility for allotments and for various budget and policy decisions by the agency.

(m) Methods of Analysis—Not applicable.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection.

"A State which desires to obtain a payment under this subpart for any fiscal year shall submit an application therefor through the State agency administering its program of student grants, at such time or times, and containing such information as may be required by, or pursuant to, regulation for the purpose of enabling the Commissioner to make the determinations required under this subpart." (Sec. 415C(a), Title IV of the higher Education Act of 1965, as added by Pub. L. 92-318 and amended by Pub. L. 94-482, Pub. L. 95-43, Pub. L. 95-566, and Pub. L. 96-96.)

(o) Timetable for Dissemination of Collected Data—Awards are mailed to States in February or March following receipt of applications.

(p) Estimate of Total Person-Hours and Costs Required To Complete the Request—Person-hours—171 (3 hours for each agency, State and territory) Dollars—$18,000 (est), absorbed by State agencies.

(q) Evidence of Any Urgent Need or Very Unusual Circumstance Requiring the Data—N/A; application is required by Federal statute.

(r) Copy of the Exact Instrument—A copy of the application may be obtained from: Mrs. Lanora G. Smith Acting Chief, S.S.I.G., Room 4004, ROB#3, U.S. Office of Education Washington, D.C. 20202.

(s) Brief Account of Early Involvement and Communications With Respondent Populations—State officials from the National Association of State Scholarship and Grant Programs participated in the original design of the form and have always been consulted about annual updates.

(t) Assurance That Respondents Will Have Sufficient Lead Time To Comply

With Request—Forms are always mailed to participating State agencies more than a month before announced closing dates.

(u) Specific Justification for a Multi-Year Approval—Multi-year approval requested in 1978 was denied beyond December 1979, because pending legislation will require changes in the form. Multi-year approval not requested at this time.

Data Activity Plan Summary

(a) Title of Proposed Activity—*Financial Status and Performance Reports—State Student Incentive Grant Program* (annual fiscal and performance reports from States and territories participating in the State Student Incentive Grant Program.

(b) Agency/Bureau/Office—Office of Education/Bureau of Student Financial Assistance/Division of Policy and Program Development/State Program Branch/State Student Incentive Grant.

(c) Agency Form Numbers—OE1288-1.

(d) Justification—This form has been used since 1975 with only minor editorial changes to update or condense. The report fulfills the statutory requirement in Sec. 415C(b)(6) of the Higher Education Act of 1965 (HEA).

(e) Description of Survey Plan—The current performance report includes data on initial and continuation student awards by size and type of institution, and whether less-than-full-time students are eligibile. The current fiscal report is the Standard Form 269.

(f) Tabulation and Publication Plans—The data will be used in the annual report of BSFA programs and as a basis for various budget and policy decisions.

(g) Time Schedule for Data Collection and Publication—Data are collected annually, at the end of October, covering performance for the previous academic year, including summer term.

(h) Consultations Outside the Agency—The original form was developed in consultation with representatives from the National Association of State Scholarships and Grant Programs, and they have been consulted on any revision through the years.

(i) Estimation of Respondent Reporting Burden:

Respondent type	Number	Estimate of average Person-hours per response
The designated or Grant Agency in each State.	50 States and 7 territories.	3

(j) Sensitive Questions—None.

(k) Estimate of Cost to Federal Government—The total direct cost to the Federal government is estimated to be $50,000. This includes staff time in processing forms submitted by States and in recording and analyzing data.

(l) Detailed Justification of How Information Once Collected Will Be Used—Data from individual States are used to determine the nature of program accomplishments and to provide fiscal information. Data summaries are analyzed and used for various budget and policy decisions by the agency and to assist States in program improvement.

(m) Methods of Analysis—Data will be recorded manually and analyzed by program staff.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection.

"From a State's allotment under this subpart for any fiscal year the Commissioner is authorized to make payments to such State for paying 50 per centum of the amount of student grants pursuant to a State program which—

(6) provides (A) for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the State agency under this subpart, and (B) for the making of such reports, in such form and containing such information, as may be reasonably necessary to enable the Commissioner to perform his functions under this subpart." (Sec. 415C (b)(6) Title IV of the Higher Education Act of 1965, as added by Pub. L. 92-318 and amended by Pub. L. 94-482, Pub. L. 95-43, Pub. L. 95-566, and Pub. L. 96-96.)

(o) Timetable for Dissemination of Collected Data—Data from individual States are used throughout the year as a basis for monitoring and program improvement efforts. Summaries of data are analyzed to determine trends and as a basis of budget and policy decisions.

(p) Estimate of the Total Person-Hours and Costs Required To Complete the Request—Person-Hours—171 (3 hours for each agency, State and territory) Dollars—$18,000 (est), absorbed by State agencies.

(q) Evidence of Any Urgent Need or Very Unusual Circumstance Requiring the Data—The report is required by statute. The Office of Education needs the data for program evaluation and to assist States in their program activities.

(r) Copy of the Exact Data Instrument—A copy of the full plan and the data instruments may be obtained from: Mrs. Lanora G. Smith, Acing Chief, S.S.I.G., Room 4004, ROB#3, U.S. Office of Education, Washington, D.C. 20202.

(s) Brief account of Early Involvement and Communications With Respondent Populations—State officials from the National Association of State Scholarship and Grant Programs participated in the original design of the form and have always been consulted about updates.

(t) Assurance That Respondents Will Have Sufficient Lead Time To Comply With Request—Forms are mailed to participating State agencies in August for reports due after the end of September (by October 31).

(u) Specific Justification for a Multi-Year Approval—Multi-year approval is not requested at this time. It is anticipated that new authorizing legislation will require revision.

Data Activity Plan Summary

(a) Title of the Proposed Activity—Certification as to use of Federally assisted Facilities under Title VII, HEA.

(b) Name of the Sponsoring Agency/Bureau/Office—DHEW/OE/Bureau of Higher and Continuing Education, Division of Training and Facilities, Academic Facilities Branch.

(c) Agency Form Number—OE Form 1308.

(d) Justification:

1. The information is necessary for the Office of Education to determine whether or not an institution is meeting its facilities space utilization requirements for projects funded under Title VII of the Higher Education Act of 1965, as amended.

2. The information will be used only by Office of Education program to determine that statutory requirements relating to facilities use, are being met.

3. There is no similar data available which can be used for this purpose.

(e) Description of Survey Plan:

1. To gather information related to: (1) The name of the institution, (2) the project number(s), (3) description of the facilities, (4) the utilization of the facilities, (5) the maintenance of the facilities, (6) the equipment in the facilities, (7) insurance coverage, and (8) certification as to the correctness of the statements.

2. The form has been used for several years without any problems. Accordingly, there is no plan for a pretest. If an institution fails to respond, OE, in order to meet its obligation in administering the Title VII program, would need to obtain the information in some other manner, such as through an on-site visit.

(f) Tabulation and Publication Plans—N/A.

(g) Time Schedule for Data Collection and Publication.

1. The form is used on a selective basis, as determined by the Office of Education. It is used at least once every five years, but no more often than once

every year, during the 20 year period of Federal interest.

2. There are no published results. The information is used only by the Office of Education.

(h) Consultations Outside the Agency.

1. No one outside the Agency was consulted since only basic, minimum information, necessary to ascertain that statutory requirements ar met, is being requested.

2. The information is readily available at the institutions.

(i) Estimation of Respondent Reporting Burden: Respondent Type Colleges & Universities: Number 1,800; Estimate of Average Person-Hours ½.

1. Through several years of experience by OE in working with respondents preparing the information, OE has determined the estimated average person-hour to be ½ hour.

2. Normally, not much time is needed to gather and compile the data.

3. The reporting burden does not vary to any extent, unless ineligible space utilization is involved. In that case, additional information is required.

(j) Sensitive Questions—Only basic questions relating to space utilization are involved. Thus, there are no sensitive questions.

(k) Estimate of Cost to Federal Government—$2,000.

(l) Detailed Justification of How Information Once Collected Will Be Used—The information is used to ascertain whether or not an institution is using Title VII supported facilities in accordance with the statutory requirements during the period of Federal interest.

(m) Methods of Analysis—Only descriptive data concerning facilities space utilization as provided for in the form.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection.

"If within twenty years after completion of construction of an academic facility which has been constructed in part with a grant or grants under part A or B of this title—

1. The applicant (or its successor in title or possession) ceases or fails to be a public or nonprofit institution, or

2. The facility ceases to be used as an academic facility, or the facility is used as a facility excluded from the term 'academic facility', unless the Secretary determines that there is good cause for releasing the institution from its obligation the United States shall be entitled to recover from such applicant (or successor) an amount which bears to the then value of the facility (or so much thereof as constituted an approved project or projects) the same ratio as the amount of such Federal grant or grants bore to the development cost of the facility financed with the aid of such grant or grants."

(Sec. 781(b) of Title VII of the Higher Education Act of 1965, as amended by Pub. L. 89-329, (20 U.S.C. 1132e)).

(o) Timetable for Dissemination of Collected Data—The information is used only by the Office of Education. There is no dissemination of collected data.

(p) Estimate of the Total Person-Hours and Costs Required To Complete the Request—$2,700 for 900 person-hours.

(q) Evidence of Any Urgent Need or Very Unusual Circumstance Requiring the Data—N/A, since the forms are used by the Office of Education on a selective basis.

(r) Copy of the Exact Data Instrument—Thomas F. McAnallen, Chief, Academic Facilities Branch, Division of Training and Facilities, Bureau of Higher and Continuing Education, U.S. Office of Education/ DHEW, 400 Maryland Avenue, SW., Washington, D.C. 20202.

(s) Brief Account of Early Involvement and Communication With Respondent Populations—Continuous contacts, over a period of years, have been made with respondents who are asked to prepare the information.

(t) Assurance That Respondents Will Have Sufficient Lead Time to Comply With Request—N/A, since respondents are selected on a random basis.

(u) Specific Justification for a Multi-Year Approval—There is a 20 year period of Federal interest. Accordingly, a multi-year approval is a must.

Data Activity Plan Summary

(a) Title of Proposed Activity—Application for Vocational Education Programs.

(b) Name of Sponsoring Agency/ Bureau/Office—U.S. Office of Education, Bureau of Occupational and Adult Education.

(c) Agency Form Number—OE Form 3176.

(d) Justification—The Vocational Education Act of 1963, as amended by the Education Amendments of 1976, authorizes the Commissioner to administer discretionary grant programs in vocational education. Since more applications are received than can be funded, respondents are requested to describe the proposed program in accordance with specific evaluation criteria. The application is the standard OMB A-102/A-110 appplication form. The only changes that have been made are to remove unneeded items and to key the narrative to evaluation criteria.

(e) Description of Survey Plan—Not applicable.

(f) Tabulation and Publication Plans—Not applicable.

(g) Time Schedule for Data Collection and Publication—Closing dates for submission of grant applications will be published in the Federal Register.

(h) Consultations Outside the Agency—The form will be coodinated with the Committee on Evaluation and Information Systems of the Council of Chief State School Officers.

(i) Estimation of Respondent Reporting Burden.

Respondent type	Number	Estimate of average person-hours
Colleges and universities	60	20
Local education agencies	10	20
State institutions	5	20
Nonprofit organizations	35	20
Other (Indian tribes and tribal organizations)	90	20

(j) Sensitive Questions—No sensitive questions appear in the application.

(k) Estimate of Cost to Federal Government—The entire application process for vocational education grant programs costs the Federal Government approximately $95,000 in salaries for federal employees as well as payments to non-federal field readers.

(l) Detailed Justification of How Information Once Collected Will Be Used—The data provided in the application will be used to determine both eligibility and the amount of the award.

(m) Methods of Analysis—Not applicable.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection.

74.124 * * * The Application for Federal assistance (nonconstruction programs) form prescribed by attachment M of OMB Circular No. A-102 shall be used by governments in applying for any grant . . . 74.127 * * * Nongovernmental organizations shall use application forms and instructions prescribed by the granting agency * * * (Chapter 45, *Code of Federal Regulations*, Part 74).

(o) Timetable for Dissemination of Collected Data—Not applicable.

(p) Estimate of the Total Person-Hours and Costs Required To Complete the Request—The total number of person-hours necessary to submit the applications is 4,000 hours, and the total costs are $40,000.

(q) Evidence of Any Urgent Need or Very Unusual Circumstance Requiring the Data—Not applicable.

(r) Copy of the Exact Data Instrument—A copy of the data instrument may be obtained from Dr. Doris V. Gunderson, Chief, Demonstration Branch, ROB #3, Room 5026, 7th and D Streets, SW, Washington, D.C. 20202 (202) 245-2614.

(s) Brief Account of Early Involvement and Communications With Respondent Populations—None.

(t) Assurance That Respondents Will Have Sufficient Lead Time To Comply With Request—USOE policy is to allow at least 60 days for the preparation of grant applications.

(u) Specific Justification for a Multi-Year Approval—Approval is requested through September, 1982. This is the period for which the Vocational Education Act is authorized.

Data Activity Plan Summary

(a) Title of the Proposed Activity—Application for School Assistance in Federally Affected Areas; and Instructions to Applicants.

(b) Name of the Sponsoring Agency/Bureau/Office—Office of Education, Bureau of Elementary and Secondary Education, State and Local Education Programs, Division of School Assistance in Federally Affected Areas, Maintenance and Operations Branch.

(c) Agency Form Number—OE FORM 4019 (RSF-1).

(d) Justification: Title I of Pub. L. 81-874 authorizes the payment of funds to eligible school districts in federally affected areas which apply for Federal assistance for current operating expenses.

The Act provides that specific groups or specific categories of federally connected pupils are entitled to receive varying percentages of the rate of payment, i.e., Local Contribution Rate. (There are some 16 separately identified categories of pupils). Five (5) basic tables are used to report pupils claimed. Automatic data processing assists in the placement of pupils claimed in the appropriate federal-connected category. One, or all, tables may be used depending upon the number and types of federally connected children in the school district.

(e) Description of Survey Plans—The information requested is for the purpose of processing applications for Federal funding under Sections 2, 3, and 4 of Pub. L. 81-874, as amended.

(f) Tabulation and Publication Plans—Some of the information contained in the application form will be published in the Commissioner's Annual Report to the Congress on the Administration of Pub. L. 874 and 815.

(g) Time Schedule for Data Collection—The application must be filed with the Commissioner on or before January 31, of the fiscal year for which the local educational agency is applying for assistance.

(h) Consultation Outside the Agency—No other agencies have been consulted with respect to the application. Revisions required by Acts of Congress dictate the type of information required to fulfill the intent of the law.

(i) Estimation of Respondent Reporting Burden.

Respondence type	Number	Estimate of average person-hours
Local Education Agencies	5,000	12

(j) Sensitive Questions—Not applicable.

(k) Estimate of Cost to Federal Government—Approximately $1.8 million. This estimate is based upon S&E salary projections for the Maintenance and Operations Branch and supporting groups within the division.

(l) Detailed Justification of How Information Once Collected Will Be Used—*Program Management:* The Federal property and membership data which is supplied by the local education agencies is used to determine if the basic eligibility requirements are met and to determine the payments due the applicant agencies.

(m) Methods of Analysis—Not Applicable.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection.

Sec. 5(a) Any local educational agency desiring to receive payments to which it is entitled for any fiscal year under sections 2, 3, or 4 shall submit an application therefor through the State educational agency of the State in which such agency is located to the Commissioner. Such applications shall be submitted at such time, in such form, and containing such information as the Commissioner may reasonably require to determine whether such agency is entitled to a payment under any of such sections and the amount of such payment.

(20 U.S.C. 240(a))

Pub. L. 81-874, as Amended—United States Code 20 U.S.C. 240—45 CFR 115.10—Federal Register V.40, 4/8/75, P 16034

(o) Timetable for Dissemination of Collected Data—Payments, based upon the data collected, are made by June 30 of the year in which application is made. Some of the data collected is published in the Commissioner's Annual Report to the Congress which is generally published a year after the data collection.

(p) Estimate of the Total Person-Hours and Costs Required to Complete the Request—A total of 60,000 manhours is estimated, based upon approximately 5,000 applicants, with an average of 12 hours each required to complete an application. A total cost to the applicants of $300,000 is estimated.

(q) Evidence of Any Urgent Need or Very Unusual Circumstances Requiring the Data—N/A.

(r) Copy of the Exact Data Instrument—*Contact:* William L. Stormer, Director, School Assistance in Federally Affected Areas, Room 2107, 400 Maryland Avenue, S.W. Washington, D.C. 20202.

(s) Brief Account of Early Involvement and Communications With Respondent Organizations—The respondent organizations (local educational agencies) have been applying for financial assistance under the provisions of Pub. L. 81-874 for 30 years. and the majority of LEAs applying for Pub. L. 81-874 benefits are continuing applicants with whom year-round communication is maintained. All interested LEAs have the opportunity to attend annual State meetings where the program and method of application is explained by Office of Education staff members.

(t) Assurance That Respondents Will Have Sufficient Lead Time To Comply With Request—The applicant local education agencies must file their applications by January 31 of the fiscal year for assistance is sought. The forms are supplied in sufficient time to meet this deadline date.

(u) Specific Justification for a Multi-Year Approval—Pub. L. 81-874 was enacted in 1950 and has been administered continuously since that time. The applicant local educational agencies must file OE-4019 (RSF-1) in order to receive payments.

Data Activity Plan Summary

(a) Title of the Proposed Activity—Annual report by an LEA on any contract awarded for construction of a new school building between July 1 and June 30 and the SEA report of minimum school requirements for school construction.

(b) Name of the sponsoring Agency/Bureau/Office—U.S. Office of Education, Bureau of Elementary and Secondary Education.

(c) Agency Form Number—OE-4038, OE-4038-1.

(d) Justification—Data is used to assist the Commissioner in determining the State average per pupil cost of constructing minimum school facilities. The per pupil cost, along with other factors, is used to arrive at a cost of constructing minimum school facilities in a school district which has submitted an application for assistance under Pub. L. 81-815.

(e) Description of Survey Plan—See item (a).

(f) Tabulation and Publication Plans—Data is not published.

(g) Time Schedule for Data Collection and Publication—Data is collected each year during the fall.

(h) Consultations Outside the Agency—None.

(i) Estimation of Respondent Reporting Burden.

Respondent type	Number	Estimate of average person-hours
LEA	300	1
SEA	50	1

(j) Sensitive Questions—None.

(k) Estimate of Cost to Federal Government—$2,500.

(l) Detailed Justification of How Information Once Collected Will Be Used—*Program Management:* Data used in determining amount of grant award.

(m) Methods of Analysis—NA.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection.

The average per pupil cost of constructing minimum school facilities in the State in which the school district of a local educational agency is situated shall be determined by the Commissioner of Education in the basis of the contract cost per square foot under contracts for the construction of school facilities * * * (Pub. L. 81-815, Sec. 15(6)) (20 U.S.C. 645)

(o) Timetable for Dissemination of Collected Data—Data is not disseminated.

(p) Estimate of the total Person-Hours and Cost Required to Complete the Request—350 person-hours, $3,500.

(q) Evidence of any Urgent Need or Very Unusual Circumstance Requiring the Data—NA.

(r) Copy of the Exact Data Instrument is Available from—William W. Chase, Room 2069, FOB-6, 400 Maryland Avenue, SW., Washington, D.C. 20202.

(s) Brief Account of Early Involvement and Communications With Respondent Populations—Same forms have been used for many years.

(t) Assurance That Respondents Will Have Suffcient Lead Time To Comply With Request—Forms are sent out annually and are to be returned within 90 days.

(u) Specific Justification for a Multi-Year Approval. Legislative authorization for program extends through September 30, 1983—Data collected annually in the fall.

Data Activity Plan Summary

(a) Title of Proposed Activity—Annual Survey of Neglected and Delinquent Children Living in Institutions.

(b) Name of Sponsoring Agency/Bureau/Office—Office of Education, Bureau of Elementary and Secondary Education, Division of Education for the Disadvantaged.

(c) Agency Form Number—OE Form 4376, OE Form 4376-1.

(d) Justification—The Title I statute, Pub. L. 95-561, requires the use of the data on neglected and delinquent children in the formula for distributing the Title I appropriation. For purposes of local educational agency grants, Sec. 111(c) of Title I requires that the number of children aged 5 to 17, inclusive, living in local institutions for neglected or delinquent children be counted in the formula. For purposes of grants for State agencies directly responsible for providing free public education for neglected and delinquent children, Sec. 151(b) of Title I requires the use of average daily attendance data in schools for children in State-operated or supported institutions for neglected and delinquent children.

(e) Description of Survey Plan—Annual surveys will be conducted by the State educational agencies to identify all eligible institutions and to report the October caseload of children aged 5 to 17 inclusive, living in local institutions, and the average daily attendance in school of the children in State-operated or supported institutions.

(f) Tabulation and Publication Plans—The data will be submitted in tabulation form by each State educational agency. National tabulations will be made but there are no plans for publication of these data.

(g) Time Schedule for Data Collection and Publication—The request by USOE to the State Departments of Education will be made in September 1980 and the data will be due by December 15, 1980.

(h) Consultations Outside the Agency—A National conference on the Title I, Neglected and Delinquent Program will be held in May 1980 with the State departments of education and the State agencies responsible for providing education for neglected and delinquent children. Plans for the annual survey will be discussed during this conference.

(i) Estimation of Respondent Reporting Burden: Respondent type; State education agencies; Number: 52; estimate of average person-hours, 50.

(j) Sensitive Questions—None.

(k) Estimate of Cost to Federal Government—$1,500.

(l) Detailed Justification of How Information Once Collected Will Be Used—*Program Management:* Data will be submitted to the National Center for Educational Statistics for use in the formula in determining Title I grants.

(m) Methods of Analysis—A statistical analysis will be made to determine accuracy of the totals for each State.

(n) Legislative Authority Specifically Requiring or allowing the Data Collection.

* * * The Secretary shall determine the number of such children and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of October of the preceding fiscal year * * * (Sec 111(c)(2)(B) of the Elementary and Secondary Education Act, as amended by Pub. L. 95-561, 20 U.S.C. 2711)

* * * The grant which such an agency shall be eligible to receive shall be * * * multiplied by the number of such children in average daily attendance, as determined by the Commissioner, at schools for such children * * * (Sec. 151(b) of the Elementary and Secondary Education Act, as amended by Pub. L. 95-561, 20 U.S.C. 2781.)

(o) Timetable for Dissemination of Collected Data—Data will be available by December 30, 1980. Dissemination of the data will be to the National Center for Education Statistics only.

(p) Estimate of the Total Person-Hours and Costs Required To Complete the Request—An average of 50 person-hours will be required for each State (2,600 total) educational agency at an estimated cost of $52,000 total.

(q) Evidence of Any Urgent Need or Very Unusual Circumstances Requiring the Data—None.

(r) Copy of the Exact Data Instrument—Copies of the data instrument may be obtained from Carolyn E. Horner, U.S. Office of Education, 7th & D Sts., SW., ROB 3, Room 3642, Washington, D.C. 20202.

(s) Brief Account of Early Involvement and Communications With Respondent Populations—The annual survey of the children in institutions for neglected and delinquent children has been conducted by the State Title I Coordinator in the State departments of education since Fiscal Year 1967.

(t) Assurance That Respondents Will Have Sufficient Lead Time To Comply With Request—Data collection is planned for October 1980, since this is the month required by law. The data must be available in the USOE by December 30, 1980, in order that school year 1981-82 allocations may be announced in March 1981, which is the latest date which Congress feels allocations should be announced, so that school districts will have time to plan for the coming school year.

(u) Specific Justification for a Multi-Year Approval—It is requested that this

form be approved for use through Fiscal Year 1984, since the current authorization of the statute requiring the use of these data may be applicable through September 30, 1984. This is a routine survey which has been conducted annually since 1967, and the data are abolutely necessary since they represent a part of the formula required for determining grants.

Data Activity Plan Summary

(a) Title of Proposed Activity—Student Application Package for Foreign Language and Area Studies Fellowship:

1. OE Form 7608—The Basic Student Application.
2. OE Form 7617—Oath and Information.
3. OE Form 7610—The Name Card.

(b) Agency/Bureau/Office—U.S. Office of Education/Bureau of Higher and Continuing Education/Division of International Education.

(c) Agency Form Number—OE 7608, 7617 and 7610 (see item a).

(d) Justification—Quotas of fellowship are assigned to those programs and centers which have successfully competed for quotas of fellowships, it essentially an individual grant program where the responsibility for the selection of students for fellowships has been mandated to the Commissioner of Education or to his delegated representative (20 U.S.C. 511). The role of the university in the selection process is to nominate students for awards. Both the university and U.S.O.E. use the student application to (a) determine basic student eligibility and (b) evaluate students in accordance with published criteria, as specified in the Federal Register, May 23, 1977.

(e) Description of Survey Plan—N/A.

(f) Tabulation and Publication Plans—N/A.

(g) Time Schedule for Data Collection and Publication—Forms distributed annually in winter and due back in Spring. This summary pertains to the winter of 1981 and annually thereafter.

(h) Consultant Outside the Agency—None.

(i) Estimation of Respondent Reporting Burden. Respondent type; students; Number: 1,000; estimate average person-hours, 1 hour.

(j) Sensitive Questions—A portion of OE Form 7617 is considered "sensitive" but is mandatory by law (see 1001(f) of the National Defense Education Act) Appropriate safeguards are being taken to protect the privacy of the respondents.

(k) Estimate of Cost to Federal Governments—N/A.

(l) Detailed Information on How Information Once Collected Will Be Used—Program Management: The information on the forms will attest to the individual applicant's statutory eligibility and determine his relative competitiveness to other applicants.

(m) Methods of Analysis—N/A.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection.

This information is required from all fellowships applicants under Title VI, Section 601(b) of the National Defense Education Act of 1958, as amended, in order to assure that recipients will be available upon completion of their training for teaching or other service of a public nature. No fellowship will be awarded unless the application is completed and filed according to the law and regulations (20 U.S.C. 511).

(b) The Secretary is also authorized to pay stipends to individuals undergoing advanced training in any center or under any program receiving Federal financial assistance under this title, including allowances for dependents and for travel for research and study here and abroad, but only upon reasonable assurance that the recipients of such stipends will, on completion of their training, be available for teaching service in an institution of higher education or elementary or secondary school, or such other service of a public nature as may be permitted in the regulations of the Secretary.

The information supplied is also used to determine whether or not an award will be made and is reviewed by officials involved in the selection process. The form is also maintained in a system of records to track awardees in terms of administration of the fellowships.

(o) Timetable for Dissemination of Collected Data—N/A.

(p) Estimate of the Total Person Hours and Costs Required to Complete the Request—Total person hours—1,000, dollar costs—$1,000. Students are considered to contribute only their time. Estimate $1,000 for respondent institutions' administrative costs.

(q) Evidence of Any Urgent Need or Very Unusual Circumstance Requiring the Data—N/A.

(r) Copy of the Exact Data Instrument Available from: Dr. Richard Thompson, Division of International Education, Room 3923, ROB-3, U.S. Office of Education, Washington, D.C. 20202.

(s) Brief Account of Early Involvement and Communications With Respondent Populations—In past years, the interaction of the submission process provided the feedback which led to the present version of the form.

(t) Assurance That Respondents Will Have Sufficient Time To Comply With Request—Student applications are usually mailed to participating institutions in April each year and are expected back in our hands in about two months.

(u) Specific Justifications for Multi-Year Approval—Application form used each year and therefore it is appropriate to obtain multi-year clearance.

Data Activity Plan Summary

(a) Title of Proposed Activity—FY-1981 Financial/Performance Report for Part B of the Education of the Handicapped Act, as amended by Pub. L. 94-142 and Pub. L. 89-313.

(b) Agency/Bureau/Office—U.S. Office of Education/Bureau of Education for the Handicapped/Division of Assistance to States.

(c) Agency Form Number—OE 9039.

(d) Justification:

(1) Financial and performance reports are required as a stipulation of receiving grant funds, according to Part 100b, Subparts P and Q of the General Education Provisions Act. OE Form 9039 also meets the requirements of the Education Division General Administrative Requirements (EDGAR). The specific types of data asked for in the Financial/Performance reports for the Pub. L. 94-142 and Pub. L. 89-313 grant programs are included to satisfy the requirements outlined in the statutes and regulations. The performance data for Pub. L. 94-142 is needed in order to prepare the annual report to Congress (SEE item o). The Pub. L. 89-313 performance data is required by § 116b.10 of the program regulations. (2) State educational agencies collect this data and forward it to BEH and the OE Division of Finance, where it is compiled and analyzed. The OE Finance Division compares the financial data with the entitlements issued to program applicants. BEH compiles, analyzes and extrapolates financial and performance information needed for the annual report to Congress (See Item o). (3) This data is required for program management and meets specific requirements in program statute and regulations. States do not prepare or submit such data for any other purpose, or through any other mechanism. (4) These financial/performance reports are one important means of monitoring and tracking the States' use and expenditure of Pub. L. 94-142 and Pub. L. 89-313 funds amounting to approximately $1 billion. The magnitude of the funding level and the diversity of uses of the funds require thorough accounting by the BEH. The volume of relevant data cannot be summarized and reported within the time limitation of 30 minutes.

(e) Description of Survey Plan—Not applicable.

(f) Tabulation and Publication Plans—Data collected via these financial and performance reports is put onto computer tape, compiled, analyzed and published as an annual report. The data collected on these forms is required by statute so that an annual report can be compiled for Congress for the purpose of describing the progress being made toward the provision of a free appropriate public education. The Congressional report is, in part, a compilation and analysis of the data collected from each program applicant.

(g) Time Schedule for Data Collection and Publication—(1) Data is aggregated by State educational agencies at the end of the fiscal year, (September 30), although it may be collected throughout the fiscal year. It is due in BEH on January 1. The data is compiled and prepared as an annual report to Congress for the following January. (2) There is a 12 month time lag between the time the data is collected and the publication of the results.

(h) Consultations Outside the Agency—The FY-1981 financial and performance report forms for Pub. L. 94-142 and Pub. L. 89-313 have been reviewed by the Committee on Evaluation and Information Systems (CEIS).

(i) Estimation of Respondent Reporting Burden: Type of respondent; State education agencies; Number: 58; estimate of average person-hours, 8.

(j) Sensitive Questions—There are no questions of a sensitive nature in these financial/performance reporting forms.

(k) Estimate of Cost to Federal Government—BEH-$5000.

(l) Detailed Justification of How Information Once Collected Will Be Used—Program Management: This report basically provides accountability for funds generated by the SEA's application for participation in the grant program under Part B of the Education of the Handicapped Act, as amended by Pub. L. 94-142 and Pub. L. 89-313. Performance data provides an indication of program effectiveness. The performance data also becomes an integral part of the Bureau's annual report to Congress on the general condition of special education. These reports are required in the Act. Interim financial and performance report will be submitted for 1981 funds and final reports will be submitted for FY-1980 funds. (Pub. L. 94-142, Section 618)

(m) Methods of Analysis—Data is aggregated at the State level. The data is then verified by BEH staff. Next, data is compiled and analyzed (e.g., comparative analysis).

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection.

(1) * * * each State agency shall report outlays and program income on the same accounting basis * * * the report will not be required more frequently than quarterly or less frequently than annually * * * (45 CFR 100b.43)

(2) * * * State agencies shall submit a performance report with each Financial Status Report (or other financial report equivalent thereto) * * * (45 CFR 100b.432)

(3) * * * Not later than one hundred twenty days after the close of each fiscal year, the Commissioner shall transmit to the appropriate committee of each House of Congress a report on the progress being made toward the provision of free appropriate public education to all handicapped children, including a detailed description all evaluation activities conducted * * * Pub. L. 94-142 Section 618(d)

(o) Timetable for Dissemination of Collected Data—Data should be available in January, 1983. The data will be reprepared as a report and mailed to program applicants. The report will contain:

(s) Brief Account of Early Involvement and Communication With Respondent Populations—These forms were presented to the BEH Task Force of CEIS for approval on January 22, 1980.

(t) Assurance That Respondents Will Have Sufficient Lead Time To Comply With Request—This data will be collected in January 1982. The states are already (FY 1980) collecting the data required on the FY 1981 reporting forms. They have systems in place for collecting this data and, since the financial and performance reports are required as a stipulation for receiving grant funds, states routinely collect this data.

(u) Specific Justification for a Multi-Year Approval—This is a routine administrative form and is authorized by legislative authority. (See item d and item n above).

The use of this form is necessary to meet regulatory reporting requirements and must be submitted as a condition of continued funding. A multi-year approval is being requested.

Data Activity Plan Summary

(a) Title of Proposed Activity—Report of Handicapped Children Receiving Special Education and Related Services.

(b) Agency/Bureau/Office—U.S. Office of Education/Bureau of Education for the Handicapped/Division of Assistance to States.

(c) Agency Form Number—OE 9058.

(d) Justification:

(1) Pub. L. 94-142 provides entitlements to States for special education and related services. States receive an entitlement based upon a formula set forth in the statute (See Item n). Essentially, the formula is based upon a count of children receiving special education and related services on December 1. OE Form 9058 is the instrument which meets the necessary requirements for a count of handicapped children.

(2) Data is used by the National Center for Education Statistics to compute grant amounts for those eligible to receive a grant under Part B, Education for All Handicapped Children Act.

(3) This is a one time, unduplicated count and is not available from any other source.

(4) The data provided is an aggregation of data from local educational agencies and required by Federal statute for the determination of state entitlements. The requirements cannot be altered or modified even though the respondent burden exceeds 0.5 hours.

(e) Description of Survey Plan:

(1) The respondent group is State Educational Agencies from the 50 States, Puerto Rico, the Bureau of Indian Affairs and the Outlying Territories.

(2) No survey plan is required. The OE 9058 must be submitted by all states and territories participating in Part B, Education for All Handicapped Children Act.

(3) There is no survey form; therefore the enrollment of an agency statistician was not required.

(f) Tabulation and Publication Plans—Data is tabulated on computer and verified by the National Center for Education Statistics. These totals are available upon request and published each January in the Bureau of Education for the Handicapped's (BEH) annual report to Congress.

(g) Time Schedule for Data Collection and Publication:

(1) Data is collected on December 1 and is due to BEH by the following February. Revisions are accepted until April 1. The data is compiled by July 1 and published in the annual report to Congress the following January.

(2) There is a 13 month time lag between the time of data collection and the publication of results.

(h) Consultations Outside the Agency—OE Form 9058 has been reviewed and endorsed by the Committee on Evaluation and Information Systems of the CCSSO.

(i) Estimation of Respondent Burden: Respondent type: State Education Agencies; Number: 58; Estimate of average person-hours: 1.

(j) Sensitive Questions—There are no questions of a sensitive nature

contained in this statistical reporting form.

(k) Estimate of Cost to Federal Government—BEH, $600.

(l) Detailed Justification of How Information Once Collected Will Be Used—Program Management: This data is used to determine the amount of a State's Pub. L. 94–142 grant award.

(m) Methods of Analysis—Data is aggregated at the State level. Data is verified by BEH staff and is forwarded to the National Center for Education Statistics to be used as one factor in the Part B, Education for All Handicapped Children Act funding formula.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection.

Section 611(a)(1) of Pub. L. 94–142 states: Except as provided in paragraph (3) and in section 619, the maximum amount of the grant to which a state is entitled under this part for any fiscal year shall be equal to "(A) the number of handicapped children aged three to twenty-one, inclusive, in such state who are receiving special education and related services; * * *" (iii) 20 per centum, for the fiscal year ending September 30, of the average per pupil expenditure in public elementary-secondary schools in the United States: * * *" (3) The number of handicapped children receiving special education and related services in any fiscal year shall be equal to the average of the number of such children receiving special education and related services on October 1 and February 1 of the fiscal year preceding the fiscal year for which the determination is made.

This was amended by Pub. L. 95–561 as follows:

Section 611(a)(3) of the Education of the Handicapped Act is amended by striking out "the average of the", and by striking out "October 1 and February 1" and inserting in lieu thereof "December 1".

(b) The amendments made by subsection (a) of this section shall take effect with respect to determinations made in fiscal year 1979 and thereafter.

(o) Timetable for Dissemination of Collected Data—Data is available upon request as of July 1. A summary of the data is available in the annual report to Congress published the following January.

(p) Estimate the Total Person-Hours and Costs Required To Complete the Request.—(1) Person hours: 58, (2) Cost: $600.

(q) Evidence of Any Urgent Need or Very Unusual Circumstances Requiring the Data—Not applicable.

(r) Copy of the Exact Data Instrument—This report form is available from: William Tyrrell, Bureau of Education for the Handicapped, Room 4926, Donohoe Building, 400 Maryland Avenue, SW., Washington, D.C. 20202, (202) 245–9405.

(s) Brief Account of Early Involvement and Communication With Respondent Populations—CEIS endorsed the form in March, 1978, and it has remained unchanged except for technical amendments which reflect changes in statute. (See Item n).

(t) Assurance That Respondents Will Have Sufficient Lead Time To Comply With Request—This data is collected annually as a stipulation for receiving a Part B grant. This publication is an announcement of intent to extend a report form currently in use; the States already have in place systems to collect, process and submit data reporting the number of handicapped receiving special education and related services.

(u) Specific Justification for a Multi-Year Approval—This is a routine administrative form required by legislative authority. Multi-year approval is being requested, since the form is expected to be used for several years.

Data Activity Plan Summary

(a) Title of Proposed Activity—Program Administrative Review System.

(b) Agency/Bureau/Office—U.S. Office of Education/Bureau of Education for the Handicapped.

(c) Agency Form Number—OE Form 9066.

(d) Justification:

1. *Program Management:* The Division of Assistance to States, Bureau of Education for the Handicapped is responsible for the administration of the Education of the Handicapped Act, Part B, as amended by Pub. L. 94–142. The information collected through this activity is necessary to fulfill the monitoring requirements of this statute. Further, it is essential to document that handicapped children in institutions and day programs receiving Pub. L. 89–313 funds are also receiving the benefits required by Pub. L. 94–142.

2. *Evaluation:* The Division of Assistance to States will use the information collected as the basis for the development of Program Administrative Review reports for each State and Territory reviewed. The information will permit the Bureau to (1) assess the implementation of each State's current Annual Program Plan; (2) monitor State compliance with specific provisions of federal statues; (3) provide data for the Annual Report to Congress.

3. *Available Information:* The Bureau of Education for the Handicapped receives considerable information via the Annual Program Plan procedure. As all such data are planning data, the only way to ascertain actual implementation is through the on-site monitoring activities described herein.

4. *Average Number of Reporting Hours Exceeds 30 Minutes:* The average reporting time for several of the guides (SEA, LEA, SOP, and advocacy groups will be approximately 1.5–2 hours. These estimates are based on 3½ years experience interviewing with the current guides.

(e) Description of Survey Plan—The laws authorizing the monitoring activities are complex. States are required to implement numerous and varied procedures in order to be in compliance. In order to judge State compliance, considerable respondent time is required. To minimize the burden, copies of all guides are mailed prior to monitoring visits, so that respondents will have time to review them; develop tentative responses; and identify and compile support documentation. Prior to a monitoring visit, a State's Annual Program Plan, local agency applications, and administrative guides will be reviewed by DAS to eliminate unnecessary redundancy of information collections on-site.

(f) Tabulation and Publication Plans—This information will not be published but will be utilized in the development of reports to individual State Commissioners relative to the compliance or non-compliance of their States and territories with Federal statues and regulations. Working tabular summaries will be made of the data to facilitate preparation of reports. They will not be reported in tabular form.

(g) Time schedule for Data Collection and Publication—The process is continuous. Visitations to States comprise one to three day visits followed by a one week visit. States are scheduled throughout the year. Each State receives a review every other year. Final results of the visit are communicated in a draft report, within thirty days of the visit, and a final reports within two months.

(h) Consultation Outside the Agency—Contact with the Office for Civil Rights regarding the potential for collecting information already available was made and all duplicative questions eliminated. Lists of parent groups within each State were obtained from "Closer Look." Numerous meetings were conducted in consultation with NCES regarding what data was on hand relative to agencies and groups sampled. Substantial consultation with State officials occurred. The Committee on

Evaluation and Information Systems of the Council of Chief State School Officers has been alerted to the technical revisions being made in the documents they have previously reviewed. The response burden on public agencies is being dramatically reduced in the proposed revisions so that CEIS endorsement can be anticipated. They will be consulted within the next few weeks as cleaner draft copies of the proposed guides are made available.

(i) Estimation of Respondent Reporting Burden:

Respondent type	Number of interviews per State	Average person-hours
SEA	1-3	3
LEA	1	1½
SOP	1-2	1½
Advocacy groups	10-50	1
Teachers groups	5-10	½
Private officials	4-6	½
Pirvate schools	1	1½
Individual teachers	8-10	2
Individual parent	5	1
Correction institution	1-3	1½

Note.—Estimations are based on 3½ years of interviewing experience with the current guides.

(j) Sensitive Questions—The questions all deal with required Federal procedures. None would be classified as sensitive.

(k) Estimate of Cost to Federal Government—The expenses to be incurred by the Federal govenment are routine expenses for the administrative responsibility of monitoring the legislation. Travel, mailing, processing, and reporting are activities within the functional statements of the Division of Assistance to States. The estimated expense (about $80,000) is not in excess of the normal operating expenses of the Division.

(l) Detailed Justification of How Information Once Collected Will Be Used—The information gathered through the interview guides will be used to verify that policies and procedures described in the SEA Annual Program Plans are in place and that observed practices are consistent with Federal Requirements. Interview guide data will be used to write Program Administrative Review (Monitoring) reports which describe the areas in which a state is in compliance and out of compliance with Federal requirements. For areas in which a State is out of compliance, such reports describe corrective actions to bring about compliance and a timeline for doing so. If an SEA is not responsive to corrective actions outlined in the report, procedures are available for withholding and terminating funds to the SEA or selected LEAs. Thus, the interview guide data serve as the principal way of assessing compliance status with Federal statutes and for determining eligibility for continued funding.

(m) Methods of Analysis—Each of the requirements for Pub. L. 94-142 has specific compliance criteria associated with it. Interviewers seek evidence confirming that all compliance criteria are being met; that policies are in place, and procedures are being implemented. Through interview, document reviews, and on-site observations, BEH staff determines the compliance status of each site on each requirement. This information is summarized across sites for a given State. From this summary a Program Administrative Review report is written in which, for each requirement, the name and number of sites which are in compliance and which are out of compliance are reported. For all requirements for which evidence of non-compliance exists, corrective actions are specified.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection.

"Whenever the Commissioner * * * finds—(1) that there has been failure to comply substantially with any provision of Section 612 or Section 613, or, (2) in the administration of the State Plan there is a failure to comply with any provision of this part or with any requirements set forth in the application of a local education agency or intermediate education unit approved by the State Plan, the Commissioner * * * shall * * * withhold further payments * * *" (Pub. L. 94-142, Part B, Section 616(a), 20 U.S.C. 1401-1402; 35 CFR Part 121a).

(o) Time Table for the Dissemination of the Collected Data—As indicated above, a Program Administrative Review Report is written for each State visited. This report is disseminated in draft form within one month after the site visit, and in final form no later than two months after the site visit.

(p) Estimate of the Total Person-Hours and Costs Required To Complete the Request—A total of approximately 600 hours will be required for education agency staff and 980 hours for advocacy groups. Approximately 14 hours will be required of public schools official, 4½ hours of private school officials and staff, 35 hours of advocacy and teacher group time, and 3 hours of individual teacher and parent time. Time required of individual teachers and parents will be controlled so as to not require any costs to respondents. Advocacy and teacher groups interviews will be conducted before or after hours at no cost to respondent other than those volunteered by participants. The total respondent costs per State should not exceed $500 or $14,000 per year for all States. The cost to the Federal government will be approximately $80,000 per year to collect, process, analyze, and report the data.

(q) Evidence of Any Urgent Need or Very Unusual Circumstance Requiring the Data—The information gathered is used to verify that policies and procedures described in SEA Annual Program Plans, guidelines and regulations, and similar documents by LEAs and other agencies educating handicapped children are consistent with Federal requirements. No other method short of on-site visitations can be relied on to obtain such evidence.

(r) Copy of the Exact Data Instrument—Copies of the ten interview guides may be obtained from: John W. Jones, Chief, Field Services Branch, Bureau of Education for the Handicapped, Donohoe Building, Room 4046, 400 Maryland Avenue, SW., Washington, D.C. 20202.

(s) Brief Account of Early Involvement and Communications With Respondent Populations—Because this information is collected from SEAs, LEAs, and SOPs substantial consultation with appropriate officials has occurred. They also have had more than 3½ years experience with the process. Individuals with experience at all levels of educational policy making have been consulted. When the process was first initiated several workshops were held at the national level to assure understanding of the Federal procedures and objectives. SEAs have tended to model their own monitoring procedures after those used by DAS.

(t) Assurance That Respondents Will Have Sufficient Lead Time To Comply With Request—To minimize the response burden and time copies of all interview guides will be mailed prior to monitoring visits. Respondents will have time to review the guides, develop tentative reponses, and identify and compile support documentation prior to the visit.

(u) Specific Justification for Multi-Year Approval—The proposed guides are likely to continue to be used without substantial change during the forseeable future. Technical changes made this year were to adjust the focus of visits to more child-centered evidence. This focus will need to be maintained during future monitoring visits.

[FR Doc. 80-4817 Filed 2-14-80; 8:45 am]
BILLING CODE 4110-89-M

Food and Drug Administration

Advisory Committee; 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 Pat 14) relating to advisory committees. The following advisory committee meetings are announced:

Committee name	Date, time, and place	Type of meeting and contact person
1. General and Personal Use Devices Section of the General Medical Devices Panel.	March 3, 9 a.m., Rm. 503A, 200 Independence Ave. SW., Washington, DC.	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 4:30 p.m.; Robert R. Gatling (HFK-470), 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7750.

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.

Agenda—Open public hearing. Interested persons are encouraged to present information pertinent to insulin delivery systems. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify Robert Gatling by February 22, 1980, 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, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The topic of discussion by the panel will be insulin delivery systems. Presentations will be made by Dr. A. Michael Albisser, Hospital for Sick Children, Toronto; Dr. Louis Vignati, Joslin Clinic; Dr. Phillip Felig, Yale Medical School; and Dr. Ernest Johnson, National Institutes of Health.

Committee name	Date, time, and place	Type of meeting and contact person
2. Arthritis Advisory Committee	March 6 and 7, 9 a.m., Conference Rm. M, Parklawn Bldg., 5600 Fisheries Lane, Rockville, MD.	Open committee discussion March 6, 9 a.m. to 11 a.m.; open public hearing March 6, 11 a.m. to 12 m.; open committee discussion March 6, 12 m. to 5 p.m., March 7, 9 a.m. to 5 p.m.; Timothy Ulatowski (HFD-150), 5600 Fishers Lane, Rockville, MD 20857, 301-443-5197.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in treating arthritis.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss the aspirin data base; guidelines for disease modifying anti-rheumatic drugs; labeling of Meclomen (meclofenamate sodium) (NDA 18-006); update of clinical guidelines for evaluation of anti-inflammatory drugs; protocols for Ontosen (orgotein) (NDA 18-209); and update of gold labeling.

Committee name	Date, time, and place	Type of meeting and contact person
3. Miscellaneous External Drug Products Panel	March 7 and 8, 9 a.m., Conference Rm. F, 5600 Fishers Lane, Rockville, MD, (March 7), Bethesda Marriott Hotel, Bethesda, MD, (March 8).	Open public hearing March 7, 9 a.m. to 10 a.m.; open committee discussion March 7, 10 a.m. to 4:30 p.m.; March 8, 9 a.m. to 4:30 p.m.; John T. McElroy (HFD-510), 5600 Fishers Lane, Rockville, MD 20857, 301-443-1430.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the Committee. Those who desire to make such a presentation should notify the contact person before March 3, 1980, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The Panel will review data submitted under the over-the-counter (OTC) review's call for this Panel (see also 21 CFR 330.10(a)(2)). The Panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Committee name	Date, time, and place	Type of meeting and contact person
4. Endocrinologic and Metabolic Drugs Advisory Committee	March 11 and 12, 9 a.m., Conference Rm. F, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Open public hearing March 11, 9 a.m. to 10 a.m.; open committee discussion March 11, 10 a.m. to 5 p.m.; March 12, 9 a.m. to 5 p.m.; A. T. Groire (HFD-130), 5600 Fishers Lane, Rockville, MD 20857, 301-443-3542.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in endocrine and metabolic disorders.

Agenda—Open public hearing. Any 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 recent toxicity studies of Probucol (NDA 17-535) and other lipid-altering agents, and the committee will review androgen products class labeling.

Committee name	Date, time, and place	Type of meeting and contact person
4a. Ad Hoc Subcommittee of the Drug Abuse Advisory Committee to Study the "Effects of Scheduling".	March 14, 9 a.m., Conference Rm. C, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 4:30 p.m.; Robert C. Nelson (HFD-120), 5600 Fishers Lane, Rockville MD 20857, 301-443-3360.

General function of the Committee. The Committee advises on the scientific and medical evaluation of information gathered by the Department of Health, Education, and Welfare and the Department of Justice on the safety, efficacy, and abuse potential of drugs and recommends actions to be taken on the marketing, investigation, and control of such drugs.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The subcommittee will discuss comments received in connection with its proposed report and prepare a final draft of the report.

Committee name	Date, time, and place	Type of meeting and contact person
5. Antimicrobial Panel	March 21 and 22, 9 a.m., Conference Rm. M, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD, (March 21), Holiday Inn Bethesda, MD, (March 22).	Open public hearing March 21, 9 a.m. to 10 a.m.; open committee discussion March 21, 10 a.m. to 4:30 p.m.; March 22, 9 a.m. to 4:30 p.m.; Lee Geismar (HFD-512), 5600 Fishers Lane, Rockville, MD 20857, 301-443-6057.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of non-prescription drug products.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the Committee. Those who desire to make such a presentation should notify the contact person before March 18, 1980, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The Panel will review data submitted under the over-the-counter (OTC) review's call for data for this Panel (see also 21 CFR 330.10(a)(2)). The Panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

FDA public advisory committee meetings 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 a open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion 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.

Persons interested in specific agenda items to be discussed 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 obtained from the Public Records and Documents Center (HFC–18), 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

FDA has established a pilot program for financial assistance to participants in certain agency proceedings, including hearings before public advisory committees under 21 CFR Part 14. This program is described in regulations that were published in the Federal Register of October 12, 1979 (44 FR 59174) and that became effective October 25, 1979 (44 FR 72585; Devember 14, 1979). Subject to the availability of funds and other factors, FDA may reimburse participants meeting the criteria set forth in these regulations for certain costs of participating in this proceeding. For more information regarding the reimbursement program, contact Ron Wylie, Office of Consumer Affairs (HF–70), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2932. Although reimbursement may be made available for hearings under Part 14, the program's priority will be given to funding participation in formal evidentiary public hearings under Part 12 or public boards of inquiry under Part 13 of FDA's regulations (21 CFR Part 12 or 13).

Applications for reimbursement for participation in any meeting listed above should be sent to Ronald Wylie, Office of Consumer Affairs (HF–70), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, (301–443–2932), rather than to the Hearing Clerk as prescribed in 21 CFR 10.210 of the regulations. The time limits for applying for such reimbursement are as follows:

Committee meeting	Meeting date	Deadline for reimbursement application
1. General and Personal Use Devices Section of the General Medical Devices Panel.	Mar. 3	Feb. 28.
2. Arthritis Advisory Committee.	Mar. 6 and 7	Mar. 3.
3. Miscellaneous External Drug Products Panel.	Mar. 7 and 8	Mar. 3.
4. Endocrinologic and Metabolic Drugs Advisory Committee.	Mar. 11	Mar. 3.
4a. Ad Hoc Subcommittee of the Drug Abuse Advisory Committee.	Mar. 14	Mar. 3.
5. Antimicrobial Panel	Mar. 21 and 22	Mar. 11.

FDA has established expedited procedures for review of any application for reimbursement for participation in meetings announced in this notice. The Office of Consumer Affairs, FDA, will file any applications for reimbursement for participation in meetings announced in this notice in the docket for this notice.

Dated: February 11, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–4879 Filed 2–14–80; 8:45 am]

BILLING CODE 4110–03–M

[Docket No. 79M–0438]

Cooper Laboratories, Inc.; Premarket Approval of Permalens (Perfilcon A) Hydrophilic Contact Lens

Correction

In FR Doc. 79–39393, appearing at page 76862 in the issue of Friday, December 28, 1979, the tenth line of the first complete paragraph in column three, page 76862, should read, "are now regulated as class III devices."

BILLING CODE 1505–01–M

[Docket No. 80F–0032]

Lonza, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Lonza, Inc., has filed a petition proposing that 21 CFR 178.1010(b)(17) of the food additive regulations be amended to provide for the safe use of ethyl alcohol as a substitute for isopropyl alcohol as a component of a sanitizing solution used on food-processing equipment and utensils and on food-contact surfaces in public eating places.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF–334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 9H–3464) has been filed by Lonza, Inc., 22–10 Route 208, Fair Lawn, NJ 07410, proposing that the food additive regulations be amended to provide for the safe use of ethyl alcohol as a substitute for isopropyl alcohol as a component of a sanitizing solution containing di-*n*-alkyl (C_8-C_{10}) dimethyl ammonium chlorides for use on food-processing equipment and utensils and on food-contact surfaces in public eating places.

The potential environmental impact of this action is being reviewed. If this petition results in a regulation, and the agency concludes that an environmental impact statement is not required, the notice of availability of the environmental impact analysis report, statement of exemption, and environmental assessment report, as applicable, will be published in the Federal Register as permitted by 21 CFR 25.25(b).

Dated: February 7, 1980.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 80–4883 Filed 2–14–80; 8:45 am]

BILLING CODE 4110–03–M

[Docket No. 79F–0478]

Mitsubishi Petrochemical Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Mitsubishi Petrochemical Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of N-methacryloyl ethyl N, N-dimethyl ammonium α-N-methyl carboxylate, octadecyl methacrylate, ethyl methacrylate, cyclohexyl methacrylate, N-vinyl-2-pyrrolidone copolymer in polyolefin films.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF–334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 8B3390) has been filed by Mitsubishi Petrochemical Co., c/o SL Testing Institute, Enfield, CT 06082 proposing that § 178.3130 *Antistatic and/or antifogging agents in food-packaging materials* (21 CFR 178.3130) be amended to provide for the safe use of N-methacryloyl ethyl N, N-

dimethyl ammonium α-N-methyl carboxylate, octadecyl methacrylate, ethyl methacrylate, cyclohexyl methacrylate, N-vinyl-2-pyrrolidone copolymer as an antistatic agent in polyolefin films.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 7, 1980.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 80-4882 Filed 2-14-80; 8:45 am]

BILLING CODE 4110-03-M

Norden Laboratories; Phenylbutazone Crumblet Tablets; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The agency withdraws approval of a new animal drug application (NADA) providing for use of phenylbutazone crumblet tablets containing 1 gram of phenylbutazone per tablet for horses for treating anti-inflammatory conditions of the musculo-skeletal system. The sponsor, Norden Laboratories, requested the withdrawal of approval.

EFFECTIVE DATE: February 25, 1980.

FOR FURTHER INFORMATION CONTACT: Leonard D. Krinsky, Bureau of Veterinary Medicine (HFV-216), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4093.

SUPPLEMENTARY INFORMATION: Norden Laboratories, Inc., Lincoln, NE 68501, is the sponsor of NADA 102-823, which provides for use of phenylbutazone tablets for treating horses for inflammatory conditions associated with the musculo-skeletal system. This application was originally approved August 19, 1977. In submitting a report on August 3, 1979, the sponsor requested that approval of the NADA be withdrawn because the product has never been manufactured or marketed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))), under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director, Bureau of Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 102-823 and all supplements for Norden Laboratories' phenylbutazone crumblet tablets is hereby withdrawn, effective February 25, 1980.

In a separate document published elsewhere in this issue of the Federal Register § 520.1720a is amended to delete that portion of the regulations which reflects approval of this NADA.

Dated: February 8, 1980.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 80-4880 Filed 2-14-80; 8:45 am]

BILLING CODE 4110-03-M

Public Advisory Committees; Request for Nominations for Voting Members

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) requests nominations for voting members to serve on the Vaccines and Related Biological Products Advisory Committee in the Bureau of Biologics. A notice of establishment of this committee appears elsewhere in this issue.

DATE: Nominations should be received by March 17, 1980.

ADDRESS: All nominations for membership must be sent to: Jack Gertzog, Bureau of Biologics (HFB-5), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, MD 20205.

FOR FURTHER INFORMATION CONTACT: Jack Gertzog, at the address given above (301-443-5455).

SUPPLEMENTARY INFORMATION: FDA requests nominations for voting members on the Vaccines and Related Biological Products Advisory Committee. The function of the committee is to review and evaluate available data on the safety, effectiveness, and appropriate use of vaccines and other immunological products intended for use in the diagnosis, prevention, or treatment of human diseases; to advise the Commissioner of Food and Drugs of its findings regarding the safety and effectiveness of the products; and to advise on clinical and laboratory studies involving such products, on the promulgation of monographs establishing conditions under which these particular products are generally recognized as safe and effective and not misbranded, and on the quality and relevance of FDA's research program which provides scientific support for the regulatory program concerning these agents.

Persons nominated for membership shall have adequately diversified experience appropriate to the work of the committee in such fields as immunology, virology, bacteriology, epidemiology, allergy, preventive medicine, infectious diseases, pediatrics, microbiology, and biochemistry, or other appropriate areas of expertise. The specialized training and experience necessary to qualify the nominee as an expert suitable for appointment is subject to review, but may include experience in medical practice, teaching, and/or research relevant to the field of activity of the committee. The term of office is 4 years, except that initial appointments will be staggered to provide for an orderly rotation of membership.

Any interested person may nominate one or more qualified persons for membership on the advisory committee. Nominations shall state that the nominee is aware of the nomination, is willing to serve as a member of the advisory committee, and appears to have no conflict of interest that would preclude committee membership. Potential candidates will be asked by FDA to provide detailed information concerning such matters as financial holdings, consultancies, and research grants or contracts in order to permit evaluation of possible sources of conflict of interest.

FDA has a special interest in assuring that women, minority groups, and the physically handicapped are adequately represented on advisory committees and therefore extends particular encouragement to nominations for appropriately qualified female, minority, and physically handicapped candidates.

The notice is issued under the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)) and 21 CFR Part 14, relating to advisory committees.

Dated: February 7, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-4881 Filed 2-14-80; 8:45 am]

BILLING CODE 4110-03-M

Orticalm (Reserpine) Premix; Withdrawal of Approval

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The agency withdraws approval of a new animal drug application (NADA) sponsored by E. R. Squibb & Sons, Inc., providing for use of Orticalm (reserpine) premix used to manufacture complete feed for turkeys. E. R. Squibb & Sons, Inc., requested the withdrawal of approval.

EFFECTIVE DATE: February 25, 1980.

FOR FURTHER INFORMATION CONTACT: David N. Scarr, Bureau of Veterinary Medicine (HFV-214), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3183.

SUPPLEMENTARY INFORMATION: E. R. Squibb & Sons, Inc., P.O. Box 4000, Princeton, NJ 08540, is the sponsor of NADA 11-581 which provides for safe and effective use of a 0.08 percent reserpine premix used to manufacture complete turkey feed. The reserpine-containing feed would aid in prevention of aortic rupture or lessen the incidence of aortic rupture. The sponsor requested withdrawal of approval of the NADA by letter on July 13, 1979, because the product is no longer being manufactured or marketed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 11-581 and all supplements thereto is hereby withdrawn; effective February 25, 1980.

A final order revoking § 556.570 *Reserpine* (21 CFR 556.570) and § 558.505 *Reserpine* (21 CFR 558.505) is issued elsewhere in this issue of the Federal Register to reflect withdrawal of approval of the NADA.

Dated: February 8, 1980.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 80-4895 Filed 2-14-80; 8:45 am]

BILLING CODE 4110-03-M

Health Care Financing Administration

Medicare and Medicaid Programs; Schedule of Limits on Home Health Agency Costs per Visit

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Proposed notice.

SUMMARY: This Notice sets forth a proposed schedule of limits on home health agency costs that may be reimbursed under the Medicare program. Limits are established by type of service and are expressed as costs per visit. We intend for this schedule to apply for the entire cost reporting period of a provider which begins on or after July 1, 1980. It would replace the initial schedule published in the Federal Register on June 1, 1979 (44 FR 31814).

DATES: Comments should be received by: April 15, 1980.

ADDRESSES: Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 17073, Baltimore, MD 21235.

If you prefer, you may deliver your comments to: Room 5220 Switzer Building, 330 C Street, SW., Washington, D.C.; or to Room 789 East High Rise Building, 6401 Security Boulevard, Baltimore, Maryland.

When commenting please refer to File Code BPP-55-PN.

Agencies and organizations are requested to submit comments in duplicate. Comments will be available for public inspection, beginning approximately 2 weeks from today, in Room 5220 of the Department's offices at 330 C Street, SW., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (202-245-0365).

FOR FURTHER INFORMATION, CONTACT: Carl Slutter, 301-594-9344.

SUPPLEMENTARY INFORMATION:

Background

Section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)) authorizes the Secretary to set prospective limits on allowable costs incurred by a provider of services that will be reimbursed under Meidcare, based on estimates of the costs necessary in the efficient delivery of needed health services. The limits may be applied to direct or indirect overall costs or to the costs incurred for specific items or services furnished by the provider. This provision of the statute is implemented under regulations at 42 CFR 405.460.

Under this authority, limits on home health agency per visit costs by type of service were established effective July 1, 1979. These limits contained provisions related to: (1) Classification system based on whether the HHA was located within a Standard Metropolitan Statistical Area (SMSA) or a non-SMSA; (2) limits set at the 80th percentile; and (3) an inflation factor based upon estimates by The Office of Financial and Actuarial Analysis, HCFA, of increases in the average per visit interim reimbursement and the application of a formula established by the Council on Wage and Price Stability. The limits were applied on an aggregate basis. That means that the Medicare allowable costs for all types of services are totaled and compared to an overall limit computed for each agency by multiplying the number of Medicare visits for each service furnished by the respective per visit cost limit. The revised schedule of limits proposes several changes in the methodology used in computing and applying these limits.

Summary of Proposed Changes

The proposed new schedule of limits on home health agency costs would provide for:

1. A classification system based on whether a HHA is provider-based or free-standing. (A "provider-based" HHA is one that participates in Medicare as part of a hospital, skilled nursing facility, or rehabilitation facility.) In addition, agencies would be classified according to whether the HHA is located within a Standard Metropolitan Statistical Area (SMSA) or a non-SMSA area. For the New England area, New England County Metropolitan Areas (NECMA) are used to determine urban location.

2. A market basket index developed from the price of goods and services purchased by HHAs, used to account for the impact of changing wage and price levels on HHA costs. This index would be used to adjust HHA cost data from July 1, 1980, to the beginning of the cost reporting periods to which the limits will apply.

3. A wage index, developed from hospital wages, used to adjust the wage component of the limits to reflect differing wage levels among the areas in which HHAs are located. The wages and salaries portion of the market basket index (64.99 percent) plus a factor representing the wage portion of contract services (4.79 percent) is used to determine the wage component (69.78 percent) for all group limits.

4. A cost of living adjustment for Alaska and Hawaii.

5. Application of limits to each type of service furnished by the agency (i.e., skilled nursing, physical therapy, speech pathology, occupational therapy, medical social services and home health aide).

Discussion of Proposed Limits and Changes

We propose to establish these revised limits for home health agency costs per visit by type of service and apply them

to the following services—skilled nursing care, physical therapy, occupational therapy, speech pathology, medical social services, and intermittent services of home health aides.

The limits also include the cost of medical supplies routinely furnished in conjunction with patient care. However, the costs of medical appliances and supplies that are not routinely furnished in conjunction with patient care visits and which are direct identifiable services to an individual patient are excluded from the per visit limit amounts. The reasonable costs of these items will be reimbursed without regard to the schedule of limits.

Before the limits are applied at cost settlement, the provider's actual costs will be reduced by the amount of individual items of cost (e.g., administrative compensation, contract services) that are found to be excessive under Medicare principles of provider reimbursement, and of reimbursable costs that are not included in the limitation amount (e.g., medical appliances).

1. Use of Separate Limits for Provider-Based and Free-Standing HHAs

The initial schedule of limits on home health agency costs made no distinction between provider-based and free-standing agencies. Under this system, the percentage of provider-based agencies exceeding the cost limit was far greater than the percentage of provider-based agencies represented in the data base. Since the initial schedule of limits was published, we have further examined the reasons for the higher costs associated with some provider-based HHAs. We have also received input from providers and home health organizations citing cost differences between provider-based and free-standing agencies. Although some of these commenters claim that the provider-based HHA serves a more seriously ill patient and therefore provides a more intensive level of care, we have not received compelling evidence of this. However, we have more closely examined the effects of Medicare cost reporting requirements nationally on costs per visit for provider-based HHAs. We analyzed the relationship between the indirect overhead costs allocated from the hospital to the home health care department and the direct visit costs incurred by the agency. (See 42 CFR 405.453 for explanation of allocation of overhead costs.) We found that as a rule a substantial proportion of the home health care department's total costs per visit (nationally about 26 percent of total cost) can be traced to the method of allocating overhead expenses to the home health cost center required by the Medicare cost reporting instructions. For this reason, we believe separate limits are justifiable to take into account the cost differential resulting from the cost reporting requirements that are beyond the control of the provider-based HHA.

Although separately classifying the provider-based agencies diminishes the impact on the provider-based classification, it does not significantly alter the impact of the freestanding agencies as the provider-based group comprises only 14 percent of the data base for the entire universe of HHAs. We will continue to evaluate all possible reasons for the higher costs in many provider-based facilities and alternative ways in which comparisons can be made among various types of home health providers.

Approximately 38 percent of provider-based HHAs are located in rural areas. Of this group, however, not all offer every home health service. Consequently, we do not have sufficient data on which to set valid basic limit amounts for Speech Pathology, Occupational Therapy, and Medical Social Service disciplines of the provider-based non-SMSA agencies. For these groupings, we propose using the basic limits computed for the free-standing non-SMSA agencies. On the basis of the data available, we believe the costs of the free-standing non-SMSA agencies most closely approximate the cost of the provider-based non-SMSA agencies.

2. Use of a Wage Index in Calculating Cost Per Visit Limits

Our analysis of area economic factors in conjunction with the initial schedule of limits included per capita income and service industry wage levels. Since that schedule was published, HCFA has developed an index based upon hospital wage data supplied by the Bureau of Labor Statistics (BLS). This data is compiled by BLS from the "hospital group" reporting category of the ES-202 Reporting Services for Unemployment Insurance. Using this data we have found a statistically significant correlation between hospital wage levels and HHA costs. Because there is no data available for which to develop a specific HHA wage index, and because the types of personnel employed by a HHA are comparable to that of hospitals, we believe the hospital wage index is currently the best proxy for area differences in HHA wages. In addition, competition between HHAs and hospitals for personnel should necessitate similar salary levels within the same labor market.

The hospital wage index, based on data for the year 1977, was developed by computing the national SMSA (or NECMA) average wage for the hospital group and dividing this average into the average hospital wage for each SMSA (NECMA). The result is expressed as an index number, which is used to adjust the wage portion of the group limit. For non-SMSA areas, the index was developed by computing the national non-SMSA average wage for the hospital group and dividing this average into the average hospital wage for all non-SMSA counties in a State. The index then applies to all non-SMSA counties in the State. If an index based on more current data is developed prior to publication of a final notice, we will incorporate the updated wage index at the time of final publication. The wage percentage used to adjust the per visit limit is 69.78 percent. In determining this wage factor for HHAs, we added an estimated wage percentage of contract service costs (4.79 percent) to the wages and salary weight shown in the market basket (64.99 percent). Home health agencies frequently contract for direct patient care services. As a result the contract service component is expected to contain an element of salary expense. This added factor is based on an assumption, in the absence of any evidence to the contrary, that the salary portion of contract services has the same weight as the wage portion in direct employment. The wage index for both SMSA and non-SMSA areas is set forth in Table IV.

3. Use of a Market Basket Index

In the initial schedule of home health limits, the inflation adjustment factors were obtained from actuarial projections of the change in HHA interim reimbursement rates. We believe a more accurate measure of increased costs would be based on the cost of purchased goods and services necessary to provide home health care. Therefore, HCFA has developed a "market basket" price index, similar to that used to adjust inpatient hospital routine operating costs, but derived from and weighted by expenditures that are specifically associated with home health agency costs.

Nine categories of costs specifically related to home health agencies were identified on the basis of data on the expenditures of home health agencies. Each item was weighted according to its estimated proportion to total costs. The percentage distribution of total operating costs was obtained from an analysis of Medicare cost reports and other available health industry surveys. Column 2 of the "market basket" index

table lists the weight for each category. In columns 3 and 4 of the "market basket" index, we have identified the price variables used to determine historical rates of increase for the various cost categories and the source of the forecast for 1980–1982. The price variables for contract services are based on an assumption that the distribution of expenditures within contract services is similar to noncontract service costs. The price increase factors for contract services were, therefore, derived from price and weight factors for all other categories.

Because of the difficulty in projecting increases which relate to current inflationary trends, we are proposing to allow for a retrospective adjustment to the cost limits. We will adjust the projected rate of increase in the market basket to actual where our estimate is more than ¼ of 1 percentage point below the actual rate of increase. This estimate, we feel, is the smallest amount that can be quantified at this point.

Home Health Agency Input "Price" Index: Cost Categories, Weights, Forecasters and "Price" Variable Used

Cost category	Relative weight 1978	Forecaster	"Price" variable used
Wages and salaries	$64.99		A. *Historical*—Payroll expenses per full-time equivalent worker employed by community hospitals. Source: American Hospital Association Panel Survey.
		DRI-CFS	B. *Projections*—Average hourly earnings of production and nonsupervisory workers on private nonagricultural payrolls, service industry. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Employment and Earnings*, Table C-2.
Employee benefits	8.61		A. *Historical*—Employee benefits per full-time equivalent worker employed by community hospitals. Source: Americal Hospital Association, National Hospital Panel Survey.
		DRI-MM	B. *Projection*—Supplements to wages and salaries per worker in nonagricultural establishments. Source: For supplements to wages and salaries—U.S. Dept. of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, (monthly) Table 7 (1.13) July issue has detailed components. For total employment—U.S. Dept. of Labor, Bureau of Labor Statistics, *Employment and Earnings*, Table B-4.
Transportation	4.73	DRI-CFS	Transportation component of the consumer price index, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, Table 2.
Office costs	2.78	DRI-MM	Services component of consumer price index, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, Table 2.
Rent	1.30		Residential rent component of Consumer Price Index, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review* + Table 23.
		DRI-MM, HCFA-DHEW.	B. *Projection*—Historical relationship of rental component of consumer price index, all urban, for 1977 and 1978 to all item consumer price index, all urban, projected to subsequent years.
Nonrental space occupancy costs.	1.16	DRI-MM	Composite fuel and other utilities index. Source: DHEW-HCFA, Community Hospital Input Price Index.
Medical nursing supplies and rental equipment.	2.69		A. *Historical*—1978: Medical equipment and supplies component of the consumer price index. Prior to 1978: commodities component of consumer price index, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, Table.
		DRI-CFS	B. *Projection*—Medical commodities component of the consumer price index, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, Table 23.
Miscellaneous	6.95	DRI-MM	Consumer price index for all items, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, Table 23.
Contract services	6.87	DHEW-HCFA	Weighted mean of price variables for items 1 through 8 above.
Total	100.00		

Sources: DRI-MM refers to Data Resources, Inc., Macro Model; 29 Hartwell Ave., Lexington, Massachusetts 02173, Control 042379, DRI-CFS refers to Data Resources, Inc., Cost Forecasting Service, 1750 K St., N.W., Washington, D.C. 20006, CFS-792.

4. Limits set at the 80th Percentile

We are proposing to maintain the basic service limit at the 80th percentile of each group. Each HHA's individual limits would be increased or decreased by the application of the wage index as described in the methodology section of this notice. We examined the possibility of using a percentage of the mean as the basis for establishing the limit, but did not find this an appropriate measure for HHA limits set by type of service. Not all agencies provide every type of service nor is the distribution of agencies comparable across services. In examining the cost distributions we found that the mean was sensitive to distortion and would not be representative of expected cost.

5. Limits Applied to Each Service

In the initial schedule of HHA limits, we explained that we would apply limits to the costs of each service provided by a HHA when all HHAs are computing their costs under a single method of cost-finding and cost-apportionment. Until that time, the limits apply to the total costs for all covered services provided by the HHA.

A proposed regulation establishing a single method of cost finding is being promulgated coincidentally with these revised cost limits. Therefore, we are proposing to apply each per visit limit to

the costs of individual services, effective with cost reporting period beginning on or after July 1, 1980. We believe the refinements made to the classification system, as well as the single cost reporting methodology, eliminates the need for the aggregate application, used in the current methodology.

6. Reclassification, Exemptions and Exceptions

The provisions of 42 CFR 405.460 provide that classification adjustments, exemptions and exceptions may be made to the application of cost limits where certain conditions are met. This section of the regulations was most recently amended on June 1, 1979. An explanation of the current provisions as set forth at 44 FR 51802. New provisions pertaining to HHAS are:

(a) A provider must submit a request for reclassification within 180 days of the date of its intermediary's notice of program reimbursement (A provider could, of course, make a request as soon as a schedule of cost limits is published, or at any time during its cost reporting year affected by the cost limits, if it knew how it would be affected by the cost limits.);

(b) An exception may be granted to a provider for additional costs that result from the provision of medical education programs;

(c) An exception may be granted to a newly established HHA which has operated as the type of provider for which it was certified for Medicare under previous ownership for less than 3 full years;

(d) If a provider's cost limit is based in part on an average proportion of labor cost that is adjusted for area differences in wage levels, a new exception provides an adjustment to the limit if a provider can demonstrate that its actual labor percentage varies more than 10 percent from the percentage used in promulgating the limits.

Application of Limits to State Medicaid Rates

Methods of reimbursement for home health agencies under Medicaid are determined by the individual State agencies. Although many States reimburse on a cost related basis, others use a fee schedule, flat rate or payment based on a percentage of charges. Often the Medicaid payment rate is less than Medicare reasonable cost. There is no existing regulatory requirement that Medicare cost limits be applied to payment rates for HHA services under Medicaid. HHA cost limits will only apply to Medicaid payments in those cases where the State chooses to incorporate the limits into its State plan for payment for home health services.

Methodology for Determining Proposed Cost Per Visit Limits

1. Data. The proposed limits were determined by using cost per visit data obtained from the latest Medicare cost reports for periods ending on or before September 30, 1978. The data were adjusted from the midpoint of each provider's cost reporting period to June 30, 1980. These adjustment factors were developed by HCFA from actual historical increases in home health agency reimbursement. The market basket index factors would be used to project costs from July 1, 1980, to the midpoint of the first cost reporting period to which the limits would apply. The annual percentage increases for this projection are:

Calendar year and percent increase	
1977	7.3
1978	8.9
1979	9.1
1980 (1/1/80–6/30/80)	9.0
1980 (market basket, 7/1/80–12/31/80)	9.0
1981 (market basket)	8.9
1982 (market basket)	8.5

The projected rate of increase in the market basket index would be adjusted to actual if the actual rate of increase is more than ¼ of 1 percentage point above the estimated rate. The actual rate of increase would be published in the Federal Register and used to adjust a home health agency's cost limit at time of final settlement.

2. Deflation by Wage Index. Each HHA's per visit costs is divided into wage and non-wage portions. The wage portion of costs is determined by using the 69.78 percent routine wage factor derived from the market basket weight (64.99%) for employee wages and salaries plus a wage percentage (4.79%) of contract services. This wage portion is then divided by the wage index applicable to the HHA's location to arrive at an adjusted wage cost. (See table IV.) This adjusted wage cost is then added to the non-wage cost to obtain the per visit cost used to calculate the basic service limit.

3. Basic Service Limit. A basic service limit equal to the 80th percentile of the array was calculated for each type of service according to the provider-based and free-standing classification and the urban or non-urban location of the group.

4. Computing the Adjusted Limit. The basic limit for each type of service is divided into its wage and non-wage components. The cost weight (69.78 percent) representing wage and salary expenditures is used to determine the wage component of the cost limit. The wage component of the basic service limit is then multiplied by the wage index. (See Table IV.) The adjusted limit which would apply to each service group would be the sum of the non-wage component of the basic limit, plus the adjusted wage component.

Example—Calculation of Adjusted Limit
Limit from Schedule—$46.67
Labor portion—$32.57
Non-labor portion—$14.10
Wage Index—1.1310564

Computation of Adjusted Limit

$32.57×1.1310564 (wage index)=$36.84—Adjusted Labor Portion
$36.84+14.10=$50.94—Adjusted per visit limit for this HHA

5. Adjustment for Reporting Year. If a HHA has a cost reporting period beginning on or after August 1, 1980, the published limit for each service would be revised upward before adjusting for wages by a factor of .7417 percent for each elapsed month between July 1, 1980, and the month in which the HHA's cost reporting period starts. (The figure .7417 is one twelfth of the calendar year projected market basket increase of 8.9 percent.) This factor is developed by dividing the projected increase in the market basket index by 12 and is used to account for inflation in costs that will occur after the date on which the limits become effective.

Example—HHA A's cost reporting period begins October 1, 1980. The basic limit for physical therapy for HHA A's group is $47.54.

Computation of Revised Group Limit

Group Per Visit Limit)—$47.54
Plus Adjustment for 3-month period
3×.7417=2.23 percent
1.0223×$47.54=$48.60

In this example, the revised basic group limit for physical therapy services applicable to HHA A for cost reporting period beginning October 1, 1980, is $48.60 per visit. This basic service limit will be divided into its labor and non-labor portions, using the percentage published in Table I and II, and the labor portion will be adjusted by use of the wage index. The sum of the adjusted labor portion and the unadjusted non-labor portion would be the home health agency's per visit cost limit for that service.

If a HHA uses a cost report period which is not 12 months in duration, a special calculation of the adjustment factor must be made. This results from the fact that projections are computed to the midpoint of a cost reporting period and the factor of .7417 is based on an

assumed 12-month reporting period. For cost reporting periods other than 12 months, the calculation must be done specifically for the midpoint of the cost reporting period. The HHA's intermediary will obtain this adjustment factor from HCFA.

Schedule of Limits

The proposed schedule of limits set forth below would apply to the 12-month cost reporting period beginning on or after July 1, 1980. The adjusted limits (using the wage index published in Table IV) would be computed by the fiscal intermediaries and each HHA would be notified of its applicable limit. A home health agency operating as a branch or subunit (not independently certified for Medicare participation) whose main office, as of the effective date of the schedule of limits, is located in a Standard Metropolitan Statistical Area (SMSA) or within a New England County Metropolitan Area (NECMA), if in New England, will be classified as metropolitan. (NECMA counties are listed in Table III.) A home health agency whose main office is not located in a SMSA (or NECMA) will be classified non-metropolitan. (See 42 CFR 405.1202 for definition of branch office.)

Table I—*Per Visit Limits for Provider-Based HHAs*

SMSA (NECMA) Location

Type of visit	Per visit limit for SMSA location	Labor portion (69.78 percent)	Nonlabor portion (30.22 percent)
Skilled nursing care	58.33	40.70	17.63
Physical therapy	51.73	36.10	15.63
Speech pathology	51.53	35.96	15.57
Occupational therapy	54.23	37.84	16.39
Medical social services	59.35	41.41	17.94
Home health aide	50.61	35.32	15.29

Non-SMSA Location

Type of visit	Per visit limit for non-SMSA location	Labor portion (69.78 percent)	Nonlabor portion (30.22 percent)
Skilled nursing care	46.83	32.68	14.15
Physical therapy	44.68	31.18	13.50
Speech pathology	[1]	[1]	[1]
Occupational therapy	[1]	[1]	[1]
Medical social services	[1]	[1]	[1]
Home health aide	42.37	29.57	12.80

[1] Insufficient data—Use basic service limits for freestanding non-SMSA agencies.

Table II—*Per Visit Limits for Free-Standing HHAs*

SMSA (NECMA) Location

	Limit for SMSA location	Labor portion (69.78 percent)	Nonlabor portion (30.22 percent)
Skilled nursing	46.67	32.57	14.10
Physical therapy	45.87	32.01	13.86
Speech pathology	47.63	33.24	14.39
Occupational therapy	48.96	34.16	14.80
Medical social services	52.52	36.65	15.87
Home health aide	34.94	24.38	10.56

Non-SMSA Location

	Non-SMSA	Labor portion (69.78 percent)	Nonlabor portion (30.22 percent)
Skilled nursing care	44.27	30.89	13.38
Physical therapy	47.54	33.17	14.37
Speech pathology	46.14	32.20	13.94
Occupational therapy	56.85	39.67	17.18
Medical social services	42.78	29.85	12.93
Home health aide	30.64	21.38	9.26

Table III NECMAs and Constitutent Counties

Boston-Lowell-Brockton-Lawrence-Haverhill

Massachusetts Portion

Essex
Middlesex
Norfolk
Plymouth
Suffolk

New Hampshire Portion

Rockingham

Bridgeport-Stamford-Norwalk-Danbury

Connecticut

Fairfield

Hartford-New Britain-Bristol

Connecticut
Hartford
Litchfield
Middlesex
Tolland

Lewiston-Auburn

Maine

Androscoggin
Manchester-Nashua

New Hampshire

Hillsborough
Merrimack

New Bedford-Fall River

Massachusetts

Bristol

New Haven-Waterbury-Meriden

Connecticut

New Haven

New London-Norwich

Connecticut
New London

Pittsfield

Massachusetts

Berkshire

Portland

Maine

Cumberland
Sagadahoc
York

Providence-Warwick-Pawtucket

Rhode Island

Bristol
Kent
Newport
Providence
Washington

Springfield-Chicopee-Holyoke

Massachusetts

Hampden
Hampshire

Worcester-Fitchburg-Leominster

Massachusetts

Worcester

Table IVA.—*Wage Index for Urban Areas*

SMSA Area	Wage index
Abilene, TX	.7617864
Akron, OH	.9009922
Albany, GA	.8888152
Albany-Schenectady-Troy, NY	.9564138
Albuquerque, NM	1.0024912
Alexandria, LA	.8846018
Allentown-Bethlehem-Easton, PA-NJ	.9676768
Altoona, PA	1.0162619
Amarillo, TX	.9160889
Anaheim-Santa Ana-Garden Grove, CA	1.0459080
Anchorage, AK	1.3802678
Anderson, IN	.8253111
Ann Arbor, MI	1.1310564
Anniston, AL	.6573296
Appleton-Oshkosh, WI	.8826942
Asheville, NC	1.0053935
Atlanta, GA	.9610632

Table IVA.—*Wage Index for Urban Areas*—Continued

SMSA Area	Wage index
Atlantic City, NJ	.9647122
Augusta, GA-SC	.9618104
Austin, TX	.8146060
Bakersfield, CA	.9299136
Baltimore, MD	1.0411706
Baton Rouge, LA	.7507689
Battle Creek, MI	1.1068553
Bay City, MI	.8832990
Beaumont-Port Arthur-Orange, TX	.7751797
Billings, MT	.7925247
Biloxi-Gulfport, MS	1.0729581
Binghamton, NY-PA	.9250013
Birmingham, AL	.8999575
Bloomington, IN	.8545872
Bloomington-Normal, IL	.8614273
Boise City, ID	.9617957
Boston-Lowell-Brockton-Lawrence-Haverhill, MA-NH	1.0383125
Bradenton, FL	.7840533
Bridgeport-Stamford-Norwalk-Danbury, CT	1.0174982
Brownsville-Harlingen-San Benito, TX	.7766885
Bryan-College Station, TX	.8780472
Buffalo, NY	.8785851
Burlington, NC	.7132341
Canton, OH	.8070206
Cedar Rapids, IA	.7870741
Champaign-Urbana-Rantoul, IL	.8275104
Charleston-North Charleston, SC	.9526042
Charleston, WV	.9867342
Charlotte-Gastonia, NC	.7968266
Chattanooga, TN-GA	.7933386
Chicago, IL	1.0802769
Cincinnati, OH-KY-IN	.9936312
Clarksville-Hopkinsville, TN-KY	.7707538
Cleveland, OH	1.0727585
Colorado, Springs, CO	.9010228
Columbia, MO	1.1482990
Columbia, SC	.8929885
Columbus, GA-AL	.7559156
Columbus, OH	.9097972
Corpus Christi, TX	.7713051
Dallas-Fort Worth, TX	.8395097
Davenport-Rock Island-Moline, LA-IL	.7802528
Dayton, OH	1.0186927
Daytona Beach, FL	.9139633
Decatur, IL	.9320051
Denver-Boulder, CO	.9953444
Des Moines, IA	.9549639
Detroit, MI	1.0741989
Dubuque, IA	.7330132
Duluth-Superior, MN-WI	.7808645
Eau Claire, WI	.7479729
El Paso, TX	.8247980
Elmira, NY	.7894086
Erie, PA	.8758995
Eugene-Springfield, OR	.8370397
Evansville, IN-KY	.9039087
Fargo-Moorhead, ND-MN	.9334691
Fayetteville, NC	1.4407882
Fayetteville-Springdale, AR	.9143109
Flint, MI	1.0090565
Florence, AL	.7396290
Fort Collins, CO	.7120910
Fort Lauderdale-Hollywood, FL	1.0729465
Fort Myers-Cape Coral, FL	.8458886
Fort Smith, AR-OK	.7501032
Fort Wayne, IN	.8273688
Fresno, CA	.9922715
Gadsden, AL	.8372010
Gainesville, FL	1.0245589
Galveston-Texas City, TX	.8697117
Gary-Hammond-East Chicago, IN	1.0393875
Grand Forks, ND-MN	.7402507
Grand Rapids, MI	.8200939
Great Falls, MT	.8271436
Greeley, CO	.7550165
Green Bay, WI	.8074495
Greensboro-Winston-Salem-High Point, NC	.7804287
Greenville-Spartanburg, SC	.7774527
Hamilton-Middletown, OH	.9677146
Harrisburg, PA	.9395587
Hartford-New Britain-Bristol, CT	1.0293686
Honolulu, HI	1.0521231
Houston, TX	.9066861
Huntington-Ashland, WV-KY-OH	.8121577
Huntsville, AL	.6648394
Indianapolis, IN	.9606246
Jackson, MI	.8655644
Jackson, MS	.8412921
Jacksonville, FL	.8922471
Janesville—Beloit, WI	.7369821

Table IVA.—*Wage Index for Urban Areas*—Continued

SMSA Area	Wage index
Jersey City, NJ	1.0024191
Johnson City-Kingsport, TN-VA	.8520487
Johnstown, PA	.8906899
Kalamazoo-Portage, MI	.9627004
Kankakee, IL	.9173186
Kansas City, MO-KS	.8746920
Kenosha, WI	.8646885
Kiln-Temple, TX	.9667617
Knoxville, TX	.7454802
Kokomo, IN	.8180744
La Crosse, WI	.7692549
Lafayette, LA	.7299344
Lafayette-West Lafayette, IN	.8036818
Lake Charles, LA	.7122432
Lakeland-Winter Haven, FL	.7291346
Lancaster, PA	.8186873
Lansing-East Lansing, MI	.9396465
Laredo, TX	.6974902
Las Vegas, NV	1.0363198
Lawrence, KS	1.1054001
Lawton, OK	.6814294
Lewiston-Auburn, ME	.7724421
Lexington-Fayette, KY	.9239338
Lima, OH	.8451905
Lincoln, NE	.9063602
Little Rock-North Little Rock, AR	.9937774
Long Branch-Asbury Park, NJ	.9575276
Longview-Marshall, TX	.7113164
Lorain-Elyria, OH	.8584578
Los Angeles-Long Beach, CA	1.1037830
Louisville, KY-IN	.9069019
Lubbock, TX	.7230551
Lynchburg, VA	.7576805
Macon, GA	.8802535
Madison, WI	.9362551
Manchester-Nashua, NH	.7704519
Mansfield, OH	.7670934
McAllen-Pharr-Edinburg, TX	.5806522
Melbourne-Titusville-Cocoa, FL	.8192961
Memphis, TN-AR-MS	.8646840
Miami, FL	1.0854220
Midland, TX	.7111879
Milwaukee, WI	.9199721
Minneapolis-St. Paul, MN-WI	.7570047
Mobile, AL	.7915066
Modesto, CA	.8302491
Monroe, LA	.7499661
Montgomery, AL	.8241726
Muncie, IN	.7878266
Muskegon-North Shores-Muskegon Heights, MI	.8856485
Nashville-Davidson, TN	.9308903
Nassau-Suffolk, NY	1.1435511
New Bedford-Fall River, MA	.8609717
New Brunswick-Perth Amboy-Sayreville, NJ	.9529374
New Haven-Waterbury-Meriden, CT	1.0431054
New London-Norwich, CT	.9580296
New Orleans, LA	.9323589
New York, NY-NJ	1.2836483
Newark, NJ	1.1530874
Newport News-Hampton, VA	.9250905
Norfolk-Virginia Beach-Portsmouth, VA-NC	.8917366
Northeast Pennsylvania	.9671651
Odessa, TX	.6942824
Oklahoma City, OK	.7853505
Omaha, NE-IA	.8508704
Orlando, FL	.7672632
Owensboro, KY	.8712032
Oxnard-Sun Valley-Ventura, CA	1.2981618
Panama City, FL	.7860455
Parkersburg-Marietta, WV-OH	.8482920
Pascagoula-Moss Point, MS	.8144002
Peterson-Clifton-Passaic, NJ	.9871591
Pensacola, FL	.8687345
Peoria, IL	.9603141
Petersburg-Colonial Heights-Hopewell, VA	.8604133
Philadelphia, PA-NJ	1.0427869
Phoenix, AZ	.9367511
Pine Bluff, AR	.8367947
Pittsburgh, PA	1.0037657
Pittsfield, MA	.9315021
Portland, ME	.8732662
Portland, OR-WA	1.0046502
Poughkeepsie, NY	1.0379910
Providence-Warwick-Pawtucket, RI	.9101288
Provo-Orem, UT	.6906648
Pueblo, CO	.9417969
Racine, WI	.8080810
Raleigh-Durham, NC	.9982751
Rapid City, SD	.9912066
Reading, PA	.8929759
Reno, NV	1.1936980

Table IVA.—*Wage Index for Urban Areas*—Continued

SMSA Area	Wage Index
Richland-Kennewick-Pasco, WA	.8333314
Richmond, VA	.8557333
Riverside-San Bernardino-Ontario, CA	.9922397
Roanoke, VA	.9616381
Rochester, MN	.8039937
Rochester, NY	1.0114625
Rockford, M	.8863163
Sacramento, CA	1.0701363
Saginaw, MI	1.0305533
ST. Cloud, MN	.7889363
St. Joseph, MO	.8106216
St. Louis, MO–IL	.8353947
Salem, OR	.9671521
Salinas-Seaside-Monterey, CA	1.0521816
Salt Lake City-Ogden, UT	.8003268
San Angelo, TX	.7280581
San Antonio, TX	1.2015727
San Diego, CA	1.0423081
San Francisco-Oakland, CA	1.2261579
San Jose, CA	1.2318725
Santa Barbara-Santa Maria-Lompoc, CA	.9141919
Santa Cruz, CA	.9390376
Santa Rosa, CA	1.3319986
Sarasota, FL	.7794111
Savannah, GA	.7991026
Seattle-Everett, WA	.9114513
Sherman-Denison, TX	.6840456
Shreveport, LA	.9304503
Sioux City, IA–NE	.8158085
Sioux Falls, SD	.7752901
South Bend, IN	.8039176
Spokane, WA	.9596857
Springfield, IL	.8021688
Springfield, MO	.8428475
Springfield, OH	.8397949
Springfield-Chicopee-Holyoke, MA	.9118872
Steubenville-Weirton, OH–WV	.8687642
Stockton, CA	1.1694052
Syracuse, NY	1.0320577
Tacoma, WA	.9338239
Tallahassee, FL	.7936591
Tampa-St. Petersburg, FL	.9112976
Terre Haute, IN	.8133320
Texarkana, TX-Texarkana, AR	.9651876
Toledo, OH–MI	.9636379
Topeka, KS	1.0191180
Trenton, NJ	1.0181014
Tucson, AZ	.9615322
Tulsa, OK	.8085469
Tuscaloosa, AL	.9434434
Tyler, TX	.7888754
Utica-Rome, NY	.9483622
Vallejo-Fairfield-Napa, CA	1.3675897
Vineland-Millville-Bridgeton, NJ	.8849021
Waco, TX	1.0659382
Washington, DC–MD–VA	1.1430803
Waterloo-Cedar Falls, IA	.7296063
West Palm Beach-Boca Raton, FL	.8588761
Wheeling, WV–OH	.8278128
Wichita, KS	.9031149
Wichita Falls, TX	.7661439
Williamsport, PA	.8408558
Wilmington, DE-NJ-MD	1.0590599
Wilmington, NC	.6793208
Worcester-Fitchburg-Leominster, MA	.8941985
Yakima, WA	.7821286
York, PA	.8702993
Youngstown-Warren, OH	.9486057

Table B—*Wage Index for Rural Areas*

Alabama	1.0461294
Alaska	1.6354423
Arizona	1.1122143
Arkansas	.8273242
California	1.2993578
Colorado	1.0080249
Connecticut	1.1747087
Delaware	1.0342322
Florida	.9703395
Georgia	1.0599658
Hawaii	1.1225531
Idaho	.8989254
Illinois	.9286388
Indiana	1.0841407
Iowa	1.0275121
Kansas	.9487575
Kentucky	.8980309
Louisiana	.8812404
Maine	1.0173606
Maryland	1.0668544
Massachusetts	1.2069380
Michigan	1.1016350
Minnesota	.7643302

Table B—*Wage Index for Rural Areas*—Continued

Mississippi	.8376849
Missouri	.9206227
Montana	.9939387
Nebraska	.8271144
Nevada	1.3182003
New Hampshire	1.0166505
New Jersey	1.1075845
New Mexico	.9972106
New York	1.0818880
North Carolina	1.0102951
North Dakota	.8934854
Ohio	.9990494
Oklahoma	.8099723
Oregon	1.0864072
Pennsylvania	1.1423726
Rhode Island	1.0525859
South Carolina	.9095838
South Dakota	.7760311
Tennessee	.8322538
Texas	.9576274
Utah	.7477027
Vermont	1.0353552
Virginia	.9030129
Washington	1.0312944
West Virginia	1.0907991
Wisconsin	.8837830
Wyoming	1.0836848

(Secs. 1102, 1814(b), 1861(v)(1), 1866(a), and 1871 of the Social Security Act; (42 U.S.C. 1302, 1395f(b), 1395x(v)(1), 1395cc(a) and 1395hh))

(Catalog of Federal Domestic Assistance Program No. 13,773, Medicare—Hospital Insurance)

Dated: January 17, 1980.

Earl M. Collier,

Acting Administrator, Health Care Financing Administrator.

Approved: February 7, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 80-4940 Filed 2-14-80; 8:45 am]

BILLING CODE 4110-35-M

Office of Human Development Services

[Program Announcement No. 13628-802]

Demonstration Projects for Child Abuse and Neglect Program

AGENCY: Office of Human Development Services, Department of Health, Education, and Welfare.

SUBJECT: Announcement of Availability of Grant Funds for Demonstration Projects for the Child Abuse and Neglect Programs.

SUMMARY: The Administration for Children, Youth and Families (ACYF) announces that application are being accepted for demonstration grants for Fiscal Year 1980 under The Child Abuse Prevention and Treatment Act of 1974, as amended. Regulations governing this program are published in the *Code of Federal Regulations* in 45 CFR Part 1340.

DATES: Closing date for receipt of applications is: May 5, 1980.

Scope of This Announcement

This Program announcement is one of four for the Child Abuse and Neglect Research, Demonstration and Service-Improvement Grants Program in Fiscal Year 1980. It relates specifically to Section 5(b)(1) of the Child Abuse Prevention and Treatment Act, as amended, which requires that no less than three centers be established for the provision of treatment and personnel training and other related services related to the prevention and treatment of *child sexual abuse.*

Program Purpose

The purpose of the Child Sexual Abuse Treatment-Training Institute Demonstration program is to test effective and efficient methods for providing training on intervention and treatment skills for professionals with responsibility for working with intrafamily child sexual abuse cases in an ongoing treatment program setting.

Program Objectives

Applications are solicited for projects which reflect the following program objectives:

4. To design and test within a treatment program context an inservice training program for transferring clinical skills and knowledge about the treatment of intrafamily child sexual abuse;

2. To continue the development of treatment models and methods which are aimed at: protecting victims from further maltreatment; providing humane, therapeutic intervention and treatment for all members of the family, including the perpetrator; and strengthening the family unit when that goal is in the best interests of the child and other family members.

3. To define and test the most effective, replicable training techniques for dealing with the treatment of child sexual abuse;

To design and test effective training techniques for imparting the program development skills necessary to assist trainees in developing specialized treatment programs within the agencies from which they are drawn;

5. To define what combination of staff/clients/trainees are most conducive to successful clinical training on child sexual abuse;

6. To determine what types of training/treatment models are most effective in terms of: numbers of persons served, quality of training experience, cost, length of time necessary to impart skills, and replicability of program models.

Eligible Applicants

Only public or nonprofit private agencies and organizations *with already existing treatment programs for*

intrafamily child sexual abuse and with the capability of carrying out the proposed demonstration treatment-training institute programs are eligible to apply for these grants. Applicants must propose to recruit and train professionals from a geographical area encompassing two HEW Federal Regions. For purposes of planning, applicants should choose two contiguous Regions, including the ones in which they are located. *Applications will NOT be accepted from HEW Federal Region IX (encompassing Arizona, California, Hawaii, Nevada, Guam, American Samoa and the Pacific Trust Territories), because of Treatment-Training Institute funded as a pilot project in Fiscal Year 1979 already exists to serve that Region.*

Available Funds

The Administration for Children, Youth and Families expects to award $800,000 in Fiscal Year 1980 (of the $22,928,000 appropriated by Congress) for new grants in this demonstration program. A new grant is the initial grant made in support of a project for this program.

It is expected that approximately four grants will be awarded for amounts not to exceed $200,000 each for the initial grant. Projects will be supported for three years. The initial grant sustains the Federal share of the budget for the first 12 months of the project. Support for additional time remaining in the project period depends upon available and the grantee's satisfactory performance of the project for which the grant was awarded.

Grantee Share of the Project

Grantees are not required to provide a share of the budget for this grants program; however, applicants must be able to document the current existence of fully functional child sexual abuse treatment programs wich have the fiscal capacity of remaining operational during the three years of anticipated funding for these projects.

The Application Process

Availability of Forms

Application for a grant under the Demonstration Projects for Child Abuse and Neglect Program must be submitted on standard forms provided for this purpose. Application kits which include the forms and Program Guidance materials which should be used in preparing the program narrative sections of the applications may be obtained by writing to: National Center on Child Abuse and Neglect, Attention: Grants Administrative Assistant, Children's Burea/ACYE, P.O. Box 1182, Washington, D.C. 20013, Telephone: (202) 755-0587.

Application Submission

One signed original and two copies of the grant application, including all attachments, must be submitted to the address provided below under "Closing Dates for Receipt of Applications."

A-95 Notification Process

The Demonstration Projects for Child Abuse and Neglect Program is covered under the provisions of OMB Circular A-95. Applicants for grants must, prior to submission of an application, notify the State A-95 Clearinghouse of their intent to apply for Federal assistance for this program. Applicants should contact the appropriate State Clearinghouse (listed in 42 FR 2210, January 10, 1977) for information on how they can meet the A-95 requirements.

Application Consideration

The Commissioner for Children, Youth and Families determines the final action to be taken with respect to each grant application for this program. Applications which are complete and conform to the requirements of this program announcement are subjected to a competitive review and evaluation by qualified persons independent of the Administration for Children, Youth and Families.

The results of the review assist the Commissioner in considering competing applications. The Commissioner's consideration also takes into account comments of HEW Regional and Headquarters program office staff. Comments also may be requested from appropriate specialists and consultants inside and outside the Federal government. To the extent possible, the Commissioner's final decisions reflect the mandate of the Child Abuse Prevention and Treatment Act of 1974, as amended, "to achieve equitable distribution of assistance . . . among the States, among geographical areas of the Nation, and among rural and urban areas." [Section 4(d)].

Criteria for Review and Evaluation of Applications

Competing grant applications for Child Sexual Abuse Treatment-Training Institutes will be reviewed and evaluated against the following criteria:

1. The applicant organization is capable of carrying out the proposed project in relation to the following areas:

a. *Treatment program capability:* the applicant has documented the existence of a fully functioning child sexual abuse treatment program whose facilities and resources are of sufficient capacity to carry out the proposed project. Facilities and resources include staff and financial resources to continue adequate support of the existing treatment program, comprehensive family treatment services and referral linkages with other resources, staff expertise, and current caseloads of sufficient size to permit direct, clinical trainee/client contact. (20 points)

b. *Training project capability:* the applicant has demonstrated sufficient knowledge and/or experience with the problems and issues associated with providing intensive inservice training to professionals from different disciplines and geographic locations concerning both treatment and program development. (10 points)

2. The applicant's presentation of the project's objectives, training goals and results or benefits expected demonstrate a clear understanding of the purpose of the Treatment-Training Institute program. (10 points)

3. The applicant's program narrative describes a work program which is comprehensive, clear and feasible and has the potential for attaining the project's objectives. (This criterion relates to the application's work plan, content of training, and plan for utilization and dissemination of information.) (30 points)

4. The applicant's proposed staff has the knowledge, expertise, and current experience in the child sexual abuse treatment program and is capable of carrying out the project's work plan. (20 points)

5. The applicant's proposed budget contains estimated costs to the Government which are reasonable considering the anticipated benefits and scope of the project. (Note that no more than one-third of these grant funds may be used to directly support the existing child sexual abuse treatment program itself). (10 points)

The following criteria must be met in order for an application to be approved for funding:

1. The applicant organization, if it is not a mandated child protective service agency, has included a letter of support/cooperation from the state or local agency officially responsible for handling cases of intrafamily child sexual abuse.

2. The applicant's existing child sexual abuse treatment program conforms with the clinical treatment orientation of Program Objective No. 2.

3. The applicant organization has documented the fiscal capability of maintaining no less than two-thirds of the currently operating treatment

program budget during the three years of anticipated funding.

4. The applicant has described a project whose scope includes serving a geographical area encompassing or equivalent to two HEW Federal Regions.

5. The applicant has certified that it will collaborate/cooperate fully with the National Center on Child Abuse and Neglect for purposes of program evaluation and information sharing.

6. The applicant has agreed to provide regular quarterly reports on a schedule to be established after grant award.

Closing Date for Receipt of Applications

The closing date for receipt of applications under this Program Announcement is May 5, 1980.

Applications may be mailed or hand-delivered. Hand-delivered applications will be accepted during regular working hours of 9:00 a.m. to 5:00 p.m. Hand-delivered applications must be taken to Room 341F–1, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C.

Mailed applications will be considered to be received on time if: (1) the application is *received on or before the closing date* by the DHEW mail room in Washington, D.C., or (2) the application is *mailed* by registered or certified mail *not later than five days before the closing date,* as evidenced by the U.S. Postal Service postmark on the wrapper or envelope or on the original receipt from the U.S. Postal Service. Mailed applications must be addressed to Department of Health, Education, and Welfare, Office of Human Development Services/Humphrey Building, Grants Management Branch—Room 345F–1, 200 Independence Avenue, S.W., Washington, D.C. 20201 13628–802.

Applications may be submitted at any time previous to the closing date, and applications received after the closing date will be returned to the senders without being reviewed.

(Catalog of Federal Domestic Assistance Program: 13.628, Child Development—Child Abuse and Neglect Prevention and Treatment)

Dated: February 6, 1980.

Henlay A. Foster,

Acting Commissioner for Children, Youth and Families.

Approved: February 8, 1980.

Manuel Carballo,

Acting Assistant Secretary for Human Development Services.

[FR Doc. 80–4924 Filed 2–14–80; 8:45 am]

BILLING CODE 4110–92–M

Office of Education

National Advisory Committee on Black Higher Education and Black Colleges and Universities; Meeting

AGENCY: National Advisory Committee on Black Higher Education and Black Colleges and Universities.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of the thirteenth meeting of the National Advisory Committee on Black Higher Education and Black Colleges and Universities. Notice of this meeting is required under Section 10(a)(2) of the Federal Adivsory Committee Act (5 U.S.C. Appendix 1). This document is intended to notify the general public of their opportunity to attend.

DATE: March 31 and April 1, 1980.

ADDRESS: The Shoreham Hotel, 2500 Calvert St., NW., Washington, D.C. 20008.

FOR FURTHER INFORMATION CONTACT: Ms. Carol J. Smith, Program Delegate, National Advisory Committee on Black Higher Education and Black Colleges and Universities, Suite 706, 1100 17th Street, NW., Washington, D.C. 20036, AC 202 653–7558.

The National Advisory Committee on Black Higher Education and Black Colleges and Universities is governed by the provisions of Part D of the General Education Provisions Act (Pub. L. 90–247 as amended; 20 U.S.C. 1233 *et seq.*) and the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. Appendix 1) which set forth standards for the formation and use of advisory committees.

The Committee is directed to advise the Secretary of Health, Education, and Welfare, the Assistant Secretary for Education, and the Commissioner of Education. The Committee shall examine all approaches to higher education of Black Americans as well as the needs of historically Black colleges and universities.

The meeting on March 31 and April 1, 1980 will be open to the public beginning at 9:00 am each day. The meeting will be held at the Shoreham Hotel, 2500 Calvert Street, NW., Washington, D.C. 20008.

The proposed agenda will include review of the final draft of the Final Report and 25-Year Plan to enhance opportunities for Blacks in higher education; discussion of the draft of the report on Black Higher Education: Access, Opportunities for Success, and Diversity—The Necessary System Supports; and review of commissioned research.

Records shall be kept of all Committee proceedings and shall be available for public inspection at the Office of the National Advisory Committee on Black Higher Education and Black Colleges and Universities located at 1100 17th Street, NW., Suite 706, Washington, D.C. 20036.

Signed at Washington, D.C., on February 7, 1980.

Carol J. Smith,

Program Delegate, National Advisory Committee on Black Higher Education and Black Colleges and Universities.

[FR Doc. 80–4886 Filed 2–14–80; 8:45 am]

BILLING CODE 4110–02–M

Health Resources Administration

National Advisory Council on Nurse Training; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of March 1980:

Name: National Advisory Council on Nurse Training.

Date and Time: March 10, 1980, 9:00 a.m.

Place: Conference Room 9–30 B, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782.

Open for the entire meeting.

Purpose: The Council advises the Secretary and Administrator, Health Resources Administration, concerning general regulations and policy matters arising in the administration of the Nurse Training Act of 1975. The Council also performs final review of grant applications for Federal assistance, and makes recommendations to the Administrator, HRA.

Agenda: Agenda items will cover (a) announcements; and (b) final review of capitation grant applications for Federal assistance under section 810 of the Public Health Service Act.

Anyone wishing to obtain a roster of members, minutes of meeting, or other relevant information should write to or contact Dr. Mary S. Hill, Bureau of Health Manpower, Health Resources Administration, Room 3–50, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone (301) 436–6681.

Agenda items are subject to change as priorities dictate.

Dated: February 11, 1980.

James A. Walsh,

Associate Administrator for Operations and Management.

[FR Doc. 80–4951 Filed 2–14–80; 8:45 am]

BILLING CODE 4110–83–M

Public Health Service

National Institute for Occupational Safety and Health

Video Display Terminal (VDT) Operator Stress/Strain; Occupational Safety and Health Field Research Projects Initiation

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Center for Disease Control, PHS, HEW.

ACTION: Notice of Research Project Initiation.

SUMMARY: NIOSH announces that it is ready to begin data collection on a field research project entitled, "Exploratory Evaluation of Video Display Terminal (VDT) Operator Stress/Strain". The study is designed to characterize symptoms related to VDT operator stress and to highlight factors contributing to these symptoms. This project is part of the NIOSH industrywide research effort conducted under the Occupational Safety and Health Act of 1970. This notice does not constitute a request for proposed.

DATES: Field work is scheduled to begin on or about March 26, 1980.

FOR FURTHER INFORMATION CONTACT: Michael J. Smith, PH.D., Division of Biomedical and Behavioral Science, NIOSH, 4676 Columbia Parkway, Cincinnati, Ohio 45226, Telephone: (513) 684–8291.

SUPPLEMENTARY INFORMATION: On January 23, 1980, NIOSH published in the Federal Register (45 FR 5400) a list of proposed field research projects. That notice stated that more specific information would be provided to the public 6 weeks before starting field work on any of the proposed projects. Field investigation and data collection on the following study will begin on or about March 26, 1980:

Title: Exploratory Evaluation of Video Display Terminal Operator Stress/Strain.

Project Officer: Michael J. Smith, PH.D., Division of Biomedical and Behavioral Science, NIOSH.

Purpose: The purpose of this study is to determine the symptoms and factors contributing to the symptoms of video display terminal operator stress/strain.

Background: Since VDT operations represent a relatively new technology and have not been in widespread use for more than five years, there is very little research or other information suggestive of health effects from such operations.

Machine pacing with little operator control, high information processing demands, and few opportunities for social interactions loom as significant potential stress factors for VDT operators based on previous research in other types of job situations. The intent of this study is to focus on VDT work regimens as stress-producing factors.

Study Description: The proposed study group will consist of approximately 150 employees whose jobs include the operation of a VDT device for 4 or more hours per day. The control group will consist of 150 non-VDT operators.

A questionnaire covering description of workplace, workplace environment, medical history, and demographic characteristics will be completed for each of the 300 workers. Participation in this study by employees is voluntary. The study is intended to assess those differences which exist between VDT device operators and non-user control groups to define possible occupational health problems attributed to video display terminal device operation.

The NIOSH field research project described above will be conducted under the authority of section 20 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 669) and in accordance with the provisions of Part 85a of Title 42, Code of Federal Regulations. The protocol for this type of project has been reviewed by the Office of Management and Budget and determined to be in compliance with the Federal Reports Act.

Dated: February 11, 1980.

Anthony Robbins,

Director, National Institute for Occupational Safety and Health.

[FR Doc. 80-4678 Filed 2-14-80; 8:45 am]

BILLING CODE 4110-87-M

Public Health Service

National Institute for Occupational Safety and Health

National Institute for Occupational Safety and Health Testing and Certification Program; Availability of Report

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Center for Disease Control, Public Health Service, HEW.

ACTION: Notice of Availability of Report on the NIOSH Testing and Certification Program.

SUMMARY: NIOSH announces the availability of a report evaluating its program to test and certify personal protective equipment (PPE) and hazard measuring instruments (HMI). The report (summarized below) is a compendium of the findings of several consultants retained for the purpose of providing an external evaluation of the present testing and certification program and recommending alternative courses of action that NIOSH might take in order to more effectively accomplish its mandate. This evaluation project was initiated by NIOSH as a result of recent incidents of poor performance and even failures of approved respirators. In their evaluation the consultants described failures of the present testing and certification program which indicate that NIOSH cannot assure users that the recent occurrences of poor performance by certified respirators are isolated or unusual. These events have caused a loss of confidence in the ability of the NIOSH certification program to adequately protect workers. NIOSH plans to use the results of the evaluation as the basis for revamping its certification program to provide a higher level of confidence in approved or certified equipment.

To update the present system, NIOSH plans to focus initially on respirators because of the potential imminent hazard to users if respirators fail to perform adequately. NIOSH is giving the interested public an opportunity to review the evaluation report prior to holding a public meeting on the issues. NIOSH welcomes written comments on the report as well as other comments relevant to the subject.

DATE: Single copies of the full evaluation report entitled "Evaluation of the NIOSH Certification Program, Division of Safety Research, Testing and Certification Branch" will be available to the public after February 18, 1980.

ADDRESSES: Requests for the report should be sent to: Publications Dissemination, NIOSH, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

Written comments, recommendations, and requests to be notified of the public meeting should be addressed to: Jon R. May, Ph.D., NIOSH, Room 8A–54, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: Jon R. May, Ph.D., (301) 443–3680.

SUPPLEMENTARY INFORMATION: The National Institute for Occupational Safety and Health, in partial fulfillment of its responsibility for protecting workers, has established a program activity to evaluate and certify personal protective equipment and hazard measuring instruments. This activity is carried out by the Testing and Certification Branch (TCB) of the Institute's Division of Safety Research.

As a result of increased public concern, particularly over recent respiratory protective equipment failures, such as occurred in Lubbock,

Texas, NIOSH requested several consultants from various disciplines to provide an external evaluation of the present testing and certification function and to recommend alternative courses of action that NIOSH might adopt to execute its mandate more effectively. The consultants, selected for their expertise in varying disciplines, were:

Richard Brief, Director of Industrial Hygiene in the Research and Environmental Health Division of Exxon Corporation, Linden, New Jersey.

Morton Corn, Professor of Occupational Health, Graduate School of Public Health, University of Pittsburgh and President of Morton Corn and Associates (environmental consultants and engineers for occupational health, industrial hygiene, safety science, and air pollution), Pittsburgh, Pennsylvania.

Robert Firenze, President of RJF Associates (occupational and environmental affairs consultants for occupational and public safety and health programs), Bloomington, Indiana.

Mary-Win O'Brien, Assistant General Counsel for the United Steelworkers of America, Pittsburgh, Pennsylvania.

David Scott, Independent consultant (occupational health and safety programs and occupational and environmental health and safety programs related to nuclear fuel cycle facilities), Rochester, Vermont.

The consultants made an initial two-day site visit to the TCB laboratory in Morgantown, West Virginia, to obtain a first-hand and consistent understanding of the functional aspects of the program. From the site visit, a work plan was developed and each consultant proceeded, independently, to analyze regulations, technical reports, and program strategies that described the functions of the present TCB program. The analyses led to a consensus that there should be a consistent approach by the consultants for presentation of an objective analysis of the current TCB program. The resulting report is a compendium of the consultants' findings, conclusions, and recommendations.

Major conclusions in the report are:

1. NIOSH should play an important role in assuring the public of the reliability of personal protective equipment and the reliability and accuracy of hazard measuring instruments.

2. NIOSH must assume the major responsibility for providing the public with information related to PPE and HMI performance and usage.

3. The historical growth of NIOSH's statutory authority to establish a voluntary or mandatory certification program demands that the agency resubstantiate the need for the program, not just in terms of equipment-related failures and injuries, but also in terms of how it is to be structured.

4. The NIOSH certification procedures represent an amalgamation of regulatory standards, check lists, audits, bench tests, and test protocols that are product and manufacturer oriented rather than user oriented. They need to be replaced by a system that places product performance as the sole responsibility of the manufacturer. The responsibility of NIOSH in this system should be to develop basic performance criteria required for NIOSH certification and to assure that products in use adhere to these criteria.

The Consultants' recommendations to NIOSH were:

1. The Director of NIOSH should hold a public meeting to solicit views on current testing and certification procedures and proposals for future procedures as presented in this report. A draft of issues has been appended to this report.

2. NIOSH, from the Institute Director's Office, should formulate policy positions that define NIOSH's posture on the testing and certification program. These policies should reflect the assignment of responsibilities proposed in this report.

3. NIOSH should develop a Division of Safety Research program that focuses on TCB areas of responsibility. Components of this plan should be:

a. PPE and HMI performance criteria, standards, and detailed protocols for product testing which reflect the current state of the art.

b. A premanufacturing notification and evaluation system aimed at releasing only those products to the market with a high degree of reliability under conditions of field usage.

c. A verification system aimed at sampling products in usage to assure users of continued reliability of manufactured PPE and HMI units.

d. An information feedback system that will provide NIOSH with manufacturer and user product failure and near-failure data and/or experience.

e. An information distribution system that will provide users, potential users, and manufacturers with the quantities of PPE and HMI in use as well as the performance data for them (gathered from the programs outlined in b, c, and d above).

f. Establishment of a system to certify private laboratories to engage in performance testing of PPE and HMI in accordance with NIOSH verified and published protocols.

g. A research effort aimed at:

(1) Developing PPE and HMI not on the market and needed to meet present or future OSHA or MSHA health and safety standards;

(2) Meeting PPE and HMI needs revealed by programs b, c and d above; and

(3) Developing and verifying detailed test protocols for performance criteria.

4. Develop in one compendium, a statement of policies, program objectives and activities, responsibilities, test protocols, etc. so that an individual or group such as this consulting group can apprise itself of the Testing and Certification Branch activities without recourse to examination of numerous technical and nontechnical publications, statutes, informal notes, and verbal transmittals. This compendium is the analog of a field operations manual.

Based on the findings of the consultants, it is apparent that a major reconstruction of the testing and certification program is necessary. New procedures need to be developed that will: (1) Place greater emphasis on performance criteria; (2) require periodic recertification of new respirators according to updated standards; (3) include standards for maintenance, shelf life, and field use; (4) acknowledge excellence by publishing quantitative test results; and (5) include a convenient and accessible method for communication with the primary beneficiary of this program—the worker. The system also needs to be streamlined to reduce the amount of paperwork required of applicants, to improve the timeliness of decisions, and to be more receptive to significant innovations.

As recommended in the report, NIOSH plans to hold a public meeting to discuss these issues. The meeting will be announced in the Federal Register after the public has had sufficient time to review the evaluation report and NIOSH has had the opportunity to formulate its plans for implementing the necessary improvements.

Dated: February 6, 1980.

Anthony Robbins,

Director, National Institute for Occupational Safety and Health.

[FR Doc. 80-4885 Filed 2-14-80; 8:45 am]

BILLING CODE 4110-87-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Cedar City District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Cedar City District Grazing Advisory Board will be held on Wednesday, March 19, 1980. The meeting will begin at 9:30 a.m. in the Bureau of Land

Management Dixie Resource Area Office, St. George, Utah.

There will be three primary items on the agenda. A tour of the Ft. Pierce Allotment to discuss the new Allotment Management Plan, discussion on procedures for implementing Hot Desert Allotment Management Plans, and election of board officers.

Grazing advisory board meetings are open to the public. Interested persons may make oral statements following election of officers, or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 1579 North Main Street, Cedar City, Utah 84720, phone 801-586-2401, by March 17, 1980. Depending on the number of persons wishing to make statements, a per person time limit may be established by the District Manager.

All those desiring to make the tour should furnish their own transportation and lunch. The tour will stop in town around noon for those who wish to purchase lunch.

Summary minutes of the board meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: February 8, 1980.

J. Kent Giles,

Assistant District Manager.

[FR Doc. 80-4909 Filed 2-14-80; 8:45 am]

BILLING CODE 4310-84-M

[27790-A]

Colorado; R/W Applications for Pipeline Mountain Fuel Resources, Inc.

February 8, 1980.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Mountain Fuel Resources, Inc., 36 South State Street, Salt Lake City, Utah 84111, has applied for a right-of-way, lateral R/W 13896, for approximately .40 miles of pipeline on the following public land:

Sixth Principal Meridian, Rio Blanco County, Colo.

T. 3 S., R. 101 W.,
Sec. 3: SW¼NW¼, NW¼SW¼
Sec. 4: NE¼SE¼

Right-of-way 13896 will enable the applicant to collect natural gas and to convey it to its customers. The purposes for this notice are: (1) to inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports necessary for determining whether or not the application should be approved, and if approved, under what terms and conditions; (2) to give all interested parties the opportunity to comment on the application; (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on Mountain Fuel Resources, Inc.

Any comment, claim or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, as promptly as possible after publication of this notice.

Andrew W. Heard, Jr.,

Leader, Craig Team Branch of Adjudication.

[FR Doc. 80-4911 Filed 2-14-80; 8:45 am]

BILLING CODE 4310-84-M

Decision on Special Wilderness Inventory on Pueblo Mountain Area of Humboldt County, Nev.

An accelerated intensive wilderness inventory was conducted on the Pueblo Mountains Area of Northwestern Nevada recently in a special effort to determine whether or not wilderness values are present in advance of the normal inventory schedule. This inventory was announced in a Federal Register notice published November 16, 1979.

The inventory unit involved straddles the Nevada-Oregon border, and an inventory of the Oregon portion of the area was conducted by the Burns, Oregon District. The decision on the inventory of the Oregon land will be published in a future Federal Register notice.

The Nevada public land is split into two wilderness inventory units: NV-020-642A (5,680 acres), and NV-020-642B (4,480 acres). The Bureau issued a proposed decision on the results of the field inventory followed by a public comment period which ended on January 4. The proposed decision indicated that NV-020-642A does not have wilderness values, but that all of NV-020-642B does and should be identified as a wilderness study area.

After evaluating all public comments and analyzing new information submitted by the public, the State Director has issued the following decision: 5,680 acres in NV-020-642A does not contain wilderness characteristics as well as 3,880 acres in NV-020-642B. Six hundred acres in NV-020-642B contiguous with public land acreage extending into Oregon does contain wilderness values and is identified as a wilderness study area. Those lands not having wilderness characteristics are eliminated from further wilderness review with the restrictions imposed by Section 603 of the Federal Land Policy and Management Act no longer in effect. The wilderness study area lands are subject to protective measures to maintain the wilderness resource as stated in Section 603 of the Federal Land Policy and Management Act.

A formal 30-day waiting period will commence on February 19 and conclude on March 19 in which protests to these decisions may be filed with the Nevada State Director. Protests must be written and received by the Nevada State Office, Bureau of Land Management, no later than 4 p.m. on March 19. They should list the unit number of the area protested and include a statement citing the reasons why the area does or does not contain wilderness characteristics, as stated in Section 2(C) of the Wilderness Act of 1964 (78 Stat. 891). Unless protests are received, these decisions will be implemented on March 20, 1980.

For further information on these decisions, contact the State Director, 300 Booth Street, Room 3008, Reno, Nevada 89509.

Dated: February 6, 1980.

William J. Malencik,

Acting State Director, Nevada.

[FR Doc. 80-4910 Filed 2-14-80; 8:45 am]

BILLING CODE 4310-84-M

[N-25248]

Nevada; Realty Action—Non-Competitive Sale of Public Lands in Lyon County, Nev.

February 7, 1980.

The following described land has been examined and identified for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713):

Mount Diablo Meridian

T. 13 N., R. 24 E.,
Sec. 19, Lot 3.

The above-described land, comprising 40.74 acres, is being offered by direct sale to Associated Ranch Management at fair market value. Said land was previously considered in a private exchange with the same applicant; however, it was excluded because of

mining claim conflicts. The mining claims have since been relinquished. Associated Ranch Management owns property on three sides of the subject parcel and after the sale it will become an integral part of an ongoing farming and ranching operation. This sale is consistent with the Bureau's planning system.

The land will not be offered for sale for at least 60 days after the date of this notice.

Patent, when issued, will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States. Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. All mineral deposits in the lands so patented, and to it, or persons authorized by it, the right to prospect, mine, and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

Detailed information concerning the sale is available for review at the Nevada State Office, 300 Booth Street, Reno, Nevada.

For a period of 30 days, interested parties may submit comments to the Secretary of the Interior, BLM–320, Washington, D.C. 20240. Any adverse comments will be evaluated by the Secretary, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the Secretary, this realty action will become the final determination of the Department of the Interior.

Wm. J. Malencik,

Chief, Division of Technical Services.

[FR Doc. 80–4912 Filed 2–14–80; 8:45 am]

BILLING CODE 4310–84–M

[U–910]

Utah; Designation of Dirty Devil Wilderness Study Areas

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice announces the Utah BLM State Director's final decision to designate two Wilderness Study Areas within the Dirty Devil River Unit (UT–050–236).

Pursuant to the authority delegated by the Director of BLM, an accelerated wilderness inventory has been conducted on a 356,000 acre inventory unit (UT–050–236) wherein minerals activities have been proposed. The unit was inventoried according to provisions of Sections 201(a) and 603 of the Federal Land Management Act of 1976 and Section 2(c) of the Wilderness Act of 1964. The areas listed herein meet the wilderness criteria of Section 2(c) of Public Law 88–557 and are hereby designated as Wilderness Study Areas:

The appropriate inventory and associated public comment period have been conducted by the Utah BLM Richfield District.

As a result of the intensive inventory, an 90,000 acre portion of Unit UT–050–236 was proposed as a Wilderness Study Area, as published in the Federal Register, April 11, 1979, pages 21898–21899.

A 60-day comment period ending June 5, 1979, and public meeting were held to gain comments on the proposal. As a result of public comments, the size of the original 90,000 acre proposal was reduced to 61,000 acres (Area A).

Also, as a result of comments which recommended that French Spring Canyon and the Main Fork of Happy Canyon be included in the Wilderness Study Area, this portion of Unit UT–050–236 was re-evaluated. It was determined that approximately 25,000 acres meet the wilderness criteria of Sec. 2(c) of the Wilderness Act of 1964, and have become Wilderness Study Area B. Both areas total 86,000 acres and are hereby designated as Wilderness Study Areas.

Upon publication of this final decision, February 15, 1980, a 30-day protest period is initiated. Any person who has disagreement with this decision on this unit and has information which may influence this decision, may file a written protest with: BLM Utah State Director, 136 East South Temple, Salt Lake City, Utah 84111. Protests must be filed with the State Director by 4:30 p.m., March 17, 1980. The protest must specify the unit and include a clear concise statement of reasons for the protest and must furnish supporting data. Should protests be filed on this inventory unit, the State Director will consider such protests and issue a decision which will be subject to appeal on the inventory unit to the Department of the Interior, Board of Land Appeals (IBLA). If the decision on the protest remains consistent with this decision, only the protester may appeal to the IBLA. If such decision reflects changes from this decision based upon information submitted by the protester, any adversely affected person may appeal to the IBLA.

The final decision announced herein is scheduled to become effective as of 4:30 p.m., March 17, 1980 (close of protest period), if no protest is filed. At that time, the portions of the unit not within the Wilderness Study Areas will no longer be subject to the management restrictions imposed by Section 603 of Pub. L. 94–579. For purposes of this decision, this unit is considered separable from every other unit under wilderness inventory. Should any amendment to this decision be made by the Utah BLM State Director, as a result of new information received following this announcement, that amendment will be formally published in the Federal Register and will not become effective until 30 days following such publication. This 30-day extension will apply only to the amendment and not the original decision.

More detailed information on the Wilderness Study Areas is available at the Utah BLM State Office and the BLM Richfield District Office.

FOR FURTHER INFORMATION CONTACT: Herbert Hunt, BLM Richfield District Office, (801) 896–8221.

Dated: February 6, 1980.

Gary J. Wisks,

State Director.

[FR Doc. 80–4824 Filed 2–14–80; 8:45 am]

BILLING CODE 4310–84–M

Preplanning Activities for Resource Management Plan; Platte River Resource Area, Casper District, Wyoming

February 11, 1980.

Pursuant to the Federal Land Policy and Management Act of 1976 (FLPMA), the Bureau of Land Management (BLM), Casper District, has begun preparation for a resource management plan (RMP) to guide and control future management actions on the public lands within the Platte River Resource Area. The RMP will be completed in 1984.

The Platte River Resource Area is located in east-central Wyoming. It includes 7,915,477 acres in Natrona, Converse, Platte, and Goshen counties; 80 percent of the land surface is privately owned, 1 percent is state-owned, 18 percent (1,392,272 acres) is public land administered by BLM and 1 percent is administered by other federal agencies. BLM administers 52% (4,120,215 acres) of the mineral estate of the resource area. The resource area is bounded on the east by the state of Nebraska, on the south and west by Rawlins District BLM and the Medicine Bow National Forest, and on the north by the Worland District BLM, the Bighorn National Forest, and two other resource areas in the Casper District.

The resource management plan is a comprehensive land use plan that will establish land areas for limited, restrictive, designated, or exclusive uses within the resource area, including areas of critical environmental concern. The

RMP will identify allowable resource uses and levels of production or use to be maintained, resource condition goals, program constraints, and general management practices needed to achieve these objectives. The RMP will also establish a sequence of implementation, the support action necessary, and the need for more detailed or specific plans.

Public involvement will be an essential component of the RMP process. As a public resource management agency, BLM will ensure that attitudes, interests, and desires of local, regional and national groups are considered throughout the decision-making process. News releases which explain the planning project and ask the general public for issues they wish to have addressed will be printed in local newspapers in the four-county area.

In order to focus the direction of the RMP at the outset of the process, the public, other federal agencies, and state and local governments are encouraged to assist in identifying the issues that should be addressed by the RMP. Governmental agencies will be contacted through the mail to solicit information about issues they believe are pertinent. Individuals or groups representing the public will be invited by the BLM to develop issues or discuss the process.

Some of the general planning issues that are anticipated include: rangeland uses, present and future developments for energy minerals, land development, recreation uses, cultural resources, wildlife areas, social and economic conditions, access rights-of-way, and soil, air and water quality.

An interdisciplinary team will be formed to complete the RMP. Disciplines to be represented will include:

Geology, Realty, Forestry, Range Conservation, Archaeology, Sociology, Economics, Fire Management, Watershed, Hydrology, Wildlife, Recreation, Soils, Air Quality, and Access.

If you wish to discuss, review, or obtain copies of planning documents for the Platte River Resource Area you may write, call, or visit the BLM office at the address below:

Robert Wilber, District Manager, BLM, or Charles Wilkie, Area Manager, BLM, Casper District Office, 951 Union Boulevard, Casper, Wyoming 82601, Telephone (307) 265-5550 Ext. 5101.

Comments and suggestions on issues to be addressed in the RMP should be submitted to the address as stated above by March 15, 1980.

Bob Wilber,

District Manager.

[FR Doc. 80-4923 Filed 2-14-80; 8:45 am]

BILLING CODE 4310-84-M

Idaho Wilderness Inventory—Decision

The Federal Register of December 28, 1979 announced the intended final decision for intensive wilderness inventory for inventory units in the Oil and Gas Overthrust Area of the Idaho Falls BLM District.

One protest to the intended final decision was received opposing the dropping of the Game Creek Unit from further wilderness consideration. After evaluation of the protest, the decision on the Game Creek Unit remains unchanged, as the Unit does not qualify for wilderness study, due to lack of sufficient size and lack of manageability for wilderness.

The final decision identifies the following units as Wilderness Study Areas:

		Acres
35-77	Henry's Lake [1]	350
37-77	Worm Creek [1]	40
34-2, 3, 4	Islands	770

[1] Unit contiguous to Forest Service RARE II lands.

Remaining intensive inventory units in the Overthrust area are dropped from further wilderness consideration.

This final decision upon publication in the Federal Register is subject to appeal under Title 43, Code of Federal Regulations, Part 4.

For further information contact: Idaho State Office, Federal Building, Box 042, 550 W. Fort Street, Boise, Idaho 83724. Idaho Falls District Office, 940 Lincoln Road, Idaho Falls, Idaho 83401.

Dated: February 8, 1980.

T. G. Bingham,

Acting State Director.

[FR Doc. 80-4740 Filed 2-14-80; 8:45 am]

BILLING CODE 4310-84-M

INTERSTATE COMMERCE COMMISSION

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 that:

Each transaction is exempt from section 11343 (formerly section 5) 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 on or before March 6, 1980. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; 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 1132.4 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 indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also 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 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

By the Commission, Review Board Number 5, The Motor Carrier Board, Members Krock, Pohost, and Taylor.

Agatha L. Mergenovich,

Secretary.

MC-FC-78351. By decision of January 29, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, The Motor Carrier Board approved the transfer to Mid Jersey Van & Storage, a Corporation, Linden, NJ, of Certificate MC 8526, issued June 26, 1977, to O'Connor Bros., Moving & Storage, Inc., Elizabeth, NJ, authorizing the transportation of *household goods,* Between points in Essex, Union, Hudson, and Middlesex Counties, NJ, on the one hand, and, on the other, points in NJ and NY. Applicants' representative: James W. Ellis, Jr., 1604 W. Edgar Rd., Linden, NJ 07036.

MC-FC-78371. By decision of January 17, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, The Motor Carrier Board approved the transfer to J. C. Trucking Company, Incorporated, of New Haven, CT, of Certificate MC 30180 issued May 19,

1954, to Marion D. Hansen and Carl V. Hansen (Marion D. Hansen, Executrix of the Estate of Carl V. Hansen), d/b/a Dillon Transport, Orange, CT, authorizing the transportation of general commodities, with the usual exceptions, over a regular route, between South Norwalk, CT, and New York, NY: From South Norwalk over CT Hwy 123 to Norwalk, CT, thence over U.S. Hwy 1 via Darien, CT, to New York (also from South Norwalk over CT Hwy. 136 to Darien, and then over U.S. Hwy 1 to New York), and return over the same route. Service is authorized to and from all intermediate points. General commodities, with the usual exceptions, over irregular routes, from South Norwalk, CT, to points in CT. Transferee intends to tack the above irregular and regular route authority at South Norwalk, CT, so as to provide a through service from New York, NY to points in CT. Applicant's representative is Sidney L. Goldstein, 109 Church St., New Haven, CT 06510.

Federal Register Summary for Certificate or Permit

MC-FC-78355. By decision of January 18, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, The Motor Carrier Board approved the transfer to Scott's Express, Inc., of Grand Forks, ND, of Certificate MC 118838 (Sub-27F) issued June 22, 1979 to Gabor Trucking, Inc., of Detroit Lakes, MN, authorizing the transportation of (1) *Spices, flavorings, mustard* and *mustard products,* from Grand Forks, ND, to points in the United States (except AK and HI); and (2) materials, equipment and supplies used in the manufacture of commodities named in (1) above, from points in the United States (except AK and HI), to Grand Forks, ND, restricted in (1) and (2) above against the transportation of commodities in bulk in tank vehicles. Transferee holds no operating authority from the Interstate Commerce Commission and does seek temporary authority under Section 11349.

Federal Register Summary for Certificate or Permit

MC-FC-78378. By decision of January 18, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132. The Motor Carrier Board approved the transfer to Pan Patch Motor Freight, Inc., of Bridport, VT, of Permit MC 136469 issued January 19, 1976 to Broughton's Trucking Co., Inc., of Florence, VT authorizing the transportation of such commodities as are dealt in by a retailer of farm and agricultural supplies, from Millbury, MA, to points in Rutland, Addison, Chittenden, and Lowoille Counties, VT, and points in Essex, Clinton, Franklin, St. Lawrence, Jefferson, Schoharie, Montgomery, Fulton, Madison, Cherango, Broone, Tiogo, Steuben, Wyoming, and Ontario Counties, NY. under contract with IVA, Inc., of Millbury, MA. Applicant's representative is: Mark L. Sperry, Drawer 351, Middlebury, VT 05753. Transferee holds no authority from the Commission. An application seeking temporary lease authority has been filed.

Federal Register Summary for Certificate or Permit

MC-FC-78379. By decision of January 18, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132. The Motor Carrier Board approved the transfer to Lizak Bus Service, Inc., of Warren, MA, of Certificate MC 128097 issued August 31, 1967 to Edwin Lizak, d/b/a Lizak Bus Service, of Warren, MA, authorizing the transportation of Passengers and their baggage, in roundtrip charter operations, beginning and ending at Warren, Ware, Brookfield, East Brookfield, West Brookfield, Hardwick, and Stuarbridge, MA, and extending to points in ME, NH, VT, CT, RI, and NY. Applicant's representative is: Edwin Lizak, Coy Hill, Warren, MA 01083.

MC-FC-78384. By decision of January 17, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, The Motor Carrier Board approved the transfer to R.A.P.T. Corporation, of Ogden, UT, of Permit MC 126104 (Sub-3), issued December 29, 1966 to Weber Trucking Corp. which company changed its name to Tramcor Corporation in December 1974, authorizing the transportation of (1) *industrial and farm conveyors,* (2) *farm stack wagons,* and (3) *metal mine mats,* except those commodities described above which because of size and weight require the use of special equipment and handling, from Clearfield, UT, to points in OR, ID, MT, WY, CO, NM, AZ, NV, and UT, under contract(s) with Clearfield Manufacturing Company of Clearfield, UT. Applicants' representative: Irene Warr, 430 Judge Bldg., Salt Lake City, UT 84111.

Federal Register Summary for Certificate or Permit

MC-FC-78386. By decision of January 18, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. Part 1132. The Motor Carrier Board approved the transfer to Hub Bus Lines, Inc., of Boston, MA, of Certificates MC 45414 and (Sub-2), issued April 25, 1942 and October 10, 1961, to Metropolitan Coach Service, Inc. authorizing the transportation of passengers and their baggage, in charter operations, with a restriction, from Belmont, Waltham, Concord, Brookline, Cambridge, and Boston, MA, to points in NH and RI, and return, and passengers, in special operations, beginning and ending at Belmont, Boston, Brookline, Cambridge, Newton, Waltham, and Watertown, MA, and extending to Derry, Hudson, and Nashua, NH, and Central Falls, RI, with a restriction. Applicant's representative is: Arthur M. White, 781 Pleasant St., Framingham, MA 01701. Transferee holds no authority from the Commission. An application seeking temporary lease has not been filed.

Federal Register Summary for Certificate or Permit

MC-FC-78390. By decision of January 17, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. Part 1132. The Motor Carrier Board approved the transfer to Randy Erickson, of Luck, WI, of Certificate MC 73241, issued November 8, 1971 to Lester L. Mishler, of St. Croix Falls, WI, authorizing the transportation of general commodities (except those of unusual value, classes A and B explosives, commodities in bulk, and those requiring special equipment), between points in Sterling, Laketown, and Eureka Townships, Polk County, WI, on the one hand, and, on the other, South St. Paul, St. Paul, Minneapolis, and Newport, MN. Applicant's representative is: James E. Ballenthin, 630 Osborn Bldg., St. Paul, MN 55102.

Federal Register Summary for Certificate or Permit

MC-FC-78392. By decision of January 15, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132. The Motor Carrier Board approved the transfer to Don-Del Coach Lines, Inc. of Norristown, PA, of Certificates MC 38342 and (Sub-1 and 2) issued (date) August 8, 1951, June 13, 1955, and December 14, 1970, to Schuylkill Valley Lines, Inc., also of Norristown, PA, authorizing the transportation of Passengers and then baggage, in charter operations, from Philadelphia, PA, to points in DE, MD, and NJ within 100 miles of Philadelphia, and return; from points in Montgomery County, PA, to points in NY, NJ, DE, MD, VA, WV, and DC, and return; passengers and their baggage, in special operations, from Norristown, PA, to points in NY, NJ, DE, MD, VA, and DC, and return; beginning and ending at Norristown, PA, and extending to NH, VT, MA, RI, CT, WV, NC, SC, GA, and FL; passengers and

their baggage in charter operations, beginning and ending at Philadelphia, PA, and extending to NJ, NY, DE, MD, and DC. Applicant's representative is: A. Richard Gerber, 18 West Airy St., Norristown, PA 19401. Transferee holds no authority from the Commission. An application seeking temporary authority has not been filed.

Federal Register Summary for Certificate or Permit

MC-FC-78396. By decision of January 15, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. Part 1132. The Motor Carrier Board approved the transfer to Middle Creek Garage, Inc. of Triadelphia, WV of Certificate MC 107825 (Sub-2) issued April 29, 1960 to Woodrow F. Knollinger, d/b/a Middle Creek Garage, of Triadelphia, WV authorizing the transportation of wrecked or disable motor vehicles only, by use of wrecker equipment only, between points in Ohio County, WV, on the one hand, and, on the other, points in OH and PA within 50 miles of Triadelphia, WV. Applicant's representative is Woodrow F. Knallinger, 95 National Rd., Triadelphia, WV 26059. Applicants have not filed an application for temporary lease. Transferee holds no authority from the Commission.

MC-FC-78400. By decision of January 17, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. Part 1132. The Motor Carrier Board approved the transfer to JEFFREY J. STEWARD d.b.a. STEWART TRUCKING CO., of Sea Cliff, NY of Certificate MC 44470, issued July 30, 1968, to Townsend Trucking Co., Inc., authorizing the transportation of *General commodities* (except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in that part of New Jersey bounded by a line beginning at the Hudson River near Palisades, NY, and extending in a northwesterly direction along the NY-NJ State line to junction U.S. Hwy 202, then along U.S. Hwy 202 to junction NJ Hwy 28, then along NJ Hwy 28 to junction NJ Hwy 18, then along NJ Hwy 18 via New Brunswick, and Old Bridge; NJ, to the Middlesex-Monmouth County line, then north and northwesterly along the Middlesex-Monmouth County line to Raritan Bay, and then northwesterly and northeasterly along the NJ State line to point of beginning, including all points on the indicated portions of the highways specified, on the one hand, and, on the other, New York, NY and Newark, NJ. Applicants' representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904.

MC-FC-78407. By decision of January 17, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, The Motor Carrier Board approved the transfer to Malcolm Keljikian, d.b.a. Mal's Night & Day Towing, Arlington, MA of Certificate MC 116167, issued March 27, 1957 to B & M Auto Sales, Inc., Boston, MA (First National Bank of Boston, 100 Federal St., Boston, MA 02105, Secured Party), authorizing the transportation of *wrecked or disabled motor vehicles*, between points in Bristol, Essex, Middlesex, Norfolk, Plymouth, Suffolk, and Worcester Counties, MA, on the one hand, and, on the other, points in ME, NH, CT, VT, MA, NY, NJ, and RI. Applicants' representative is: Kenneth B. Williams, 84 State St., Boston, MA 02109.

MC-FC-78412. By decision of February 1, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, The Motor Carrier Board approved the transfer to Brookline Moving Co., Inc., Brookline, MA, of Certificate MC 78177 (Sub-1), issued May 19, 1953 to Wilfred Leclair d.b.a. W. Leclair, New Bedford, MA, authorizing the transportation of household goods, between Malden, MA, and points in MA within 10 miles of Malden, on the one hand, and, on the other, points in NY, CT, RI, and NH. Applicants' representative: George C. O'Brien, 12 Vernon St., Norwood, MA 02062.

MC-FC-78413. By decision of February 1, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, The Motor Carrier Board approved the transfer to Ken Staub, Jr., Trucking, Inc., Grand Island, NY, of Certificate MC 119641 (Sub-122), issued June 11, 1975, to Ringle Express, Inc., Fowler, IN, authorizing the transportation of *iron and steel articles*, from the plant site of Bethlehem Steel Corporation, at Lackawanna, NY, to points in IL, IN, the Lower Peninsula of MI, MN, and WI. Applicants' representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204.

MC-FC-78414. By decision of January 17, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, The Motor Carrier Board approved the transfer to Ashland Truck Lines, Inc., Belleville, MI, of Certificate MC 142876, issued July 3, 1979, to Albin A. Anderson, d.b.a. Al Anderson & Sons, Ashland, WI, authorizing the transportation of *Machinery, machinery parts, implements, and equipment, and parts, accessories and attachments*, for all such items, (except in bulk, in tank vehicles), from points in Ashland County, WI, to points in the United States (Except AK, HI, IA, and MN), and *materials, equipment and supplies* (except in bulk in tank vehicles), used or useful in the manufacture, production, sale or distribution of machinery, machinery parts, implements, and equipment and parts, accessories and attachments, for all such items, from points in the United States (except AK, HI, IA, and MN), to points in Ashland County, WI, restricted against the transportation of commodities which because of size or weight require the use of special equipment. Applicants' representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703.

MC-FC-78451. By decision of January 17, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, The Motor Carrier Board approved the transfer to L. J. Nadeau & Son, Inc., Fort Kent, ME, of Certificate MC 139718 (Sub-1), issued November 21, 1978, to Allan Dow, d.b.a. Allan Dow & Son, Fort Kent, ME, authorizing the transportation of *skidders*, between points in Aroostook and Penobscot Counties, ME, on the one hand, and, on the other, ports of entry on the United States-Canada Boundary line located at or near Fort Kent, ME. Applicants' representative: Robert R. Michaud, West Main St., Fort Kent, ME 04743.

Federal Register Summary for Certificate or Permit

MC-FC-78358. By decision of January 18, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR. Part 1132. The Motor Carrier Board approved the transfer to transport Contractors, Inc., of Greenville, S.C. of Permits MC 143083 (Subs 1 and 3) issued February 23, 1978 and July 7, 1978 to C. T. S. Lines, Inc., of Greenville, S.C., authorizing the transportation of Irregular routes: (1) *Dry animal and poultry feeds, animal and poultry mineral feed mixtures, animal and poultry medicines, pesticides, feeders* and *equipment* (except liquid commodities in bulk), From the facilities of the Moorman Manufacturing Company, located at or near Quincy, Ill., to points in South Carolina, Georgia, and Florida; and (2) *Materials, equipment* and *supplies* used in the manufacture, sale and distribution of the commodities named in (1) above (except liquid commodities and dry chemicals in bulk), From points in South Carolina, Georgia, and Florida, to the facilities of the Moorman Manufacturing Company, at or near Quincy, Ill. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract,

or contracts, with Moorman Manufacturing Company, of Quincy, Ill. *Carpeting and rugs,* From the facilities of Dan River, Inc., Floorcovering Division located near Greenville, S.C., to points in Alabama, California, Colorado, Florida, Georgia, Louisiana, Mississippi, and Oklahoma, and to Sparks, Nev., and Dallas and Houston, Tex., and *Returned shipments* of the commodities described above, From the destination points listed above to the origin point named above. Restriction: The authority granted herein is limited to a transportation service to be performed under a continuing contract(s) with Dan River, Inc., Floorcovering Division of Greenville, S.C. Transferee holds no authority from the Commission. An application seeking temporary lease authority has been filed. Applicant's representative is: Melvin K. Younts, 212 S. Main St., Box 566, Fountain Inn, SC 29644.

Federal Register Summary for Certificate or Permit

MC-FC-78377. By decision of January issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132. The Motor Carrier Board approved the transfer to Herzog Bros. Trucking, Inc., of Smethport, PA, of Certificates MC 126920 and (Sub. 1, 2, 4, and 5) issued to Robert L. Herzog, of Smethport, PA, authorizing the transportation of *New empty containers,* From Fairport, N.Y., to Farmers Valley, Pa. *Wood products,* From the plant sites of Dale E. Elliott Lumber Company at Shinglehouse (Potter County), Bradford, (McKean County), and Emporium (Cameron County) Pa., to points in New York, (except Niagara Falls, Buffalo, and Rochester), New Jersey, Ohio, Indiana, Michigan, North Carolina, and Tennessee. *Empty glass containers,* From the plant site of Pierce Glass Co., and Indian Head Company, at Port Allegany, Pa., to Elkhart, Ind., Chicago, Ill., Springfield and Jefferson City, Mo., Cedar Rapids, Iowa, and Syracuse, N.Y. *Glass containers,* From the plant site of Pierce Glass, and Indian Head Company, located at Port Allegany, Pa., to points in Illinois, Iowa, Michigan, and Missouri, with no transportation for compensation on return except as otherwise authorized. *Glass containers;* (1) From the facilities of Pierce Glass, an Indian Head Company, at Port Allegany, PA, to points in KY. (2) From the facilities of Pierce Glass an Indian Head Company, at Lincoln, IL, to Port Allegany, PA, Bethlehem, PA, and points in NY. Applicant's representative is: Arthur J. Diskin, 806 Frick Bldg., Pittsburgh, PA 15219. Transferee holds no authority from the Commission. An application seeking temporary lease has not been filed.

Federal Register Summary for Certificate or Permit

MC-FC-78380. By decision of January 17, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. Part 1132. The Motor Carrier Board approved the transfer to Joseph Richardson, Sr., Inc., of Bridgeport, PA, of the Certificates No. MC-134163 and (Subs 3, 4, and 6), issued 9/15/70, 7/20/72, 12/6/72, and 1/19/73, authorizing the transportation of *Frozen foods,* from the plant sites and storage facilities of Pet, Inc., at or near Allentown, Pa., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont, West Virginia, and that part of Virginia east of U.S. Highway 220, *Foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from points in Chester County, Pa. (except Downingtown and the plant site of the Green Giant Company near Parkesburg, Pa., and the plant sites of Grocery Store Products Company at West Chester, Pa.), to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont, and West Virginia, and the District of Columbia *Seafood,* in vehicles equipped with mechanical refrigeration, from Gloucester, Mass., Sebasco Estates and Portland, Maine to West Chester, Pa. *Frozen meats* in vehicles equipped with mechanical refrigeration, from the plant site of French Steak Company, Swoyersville, Pa., to points in Maryland, Delaware, New Jersey, New York, Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, and the District of Columbia. *Frozen pretzels* in vehicles equipped with mechanical refrigeration, from the plant site of K&N Pretzel Company, King of Prussia, Pa., to points in Delaware, Maryland, Massachusetts, Connecticut, New Hampshire, Vermont, Rhode Island, the District of Columbia, and York and Cumberland Counties, Maine. *Food* and *foodstuffs* (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from the facilities of Kraft Foods Division of Kraftco Corporation at or near Fogelsville, Pa., to points in Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Virginia, West Virginia, Maryland, and the District of Columbia. Also the transfer of Permit No. MC-95763 Sub 2 authorizing limestone and crided stone, (except in bulk) from York, PA, to points in Delaware, Maryland, New Jersey, and New York, under contract with White Pigment Corporation, of Proctor, UT, and R. E. Carroll, Inc. of Trenton, NJ. Transferee holds no authority from the Commission. An application seeking temporary lease authority has not been filed. Applicant's representative: Glen Richardson, P.O. Box 146, Bridgeport, PA 19405.

MC-FC-78382. By decision of February 1, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, The Motor Carrier Board approved the transfer to Jet Line Service, Inc., Portland, ME, of Certificates MC-30164, and MC-30164 (Sub-Nos. 17, 20, 21, 26, and 30), issued May 31, 1950, October 16, 1950, April 6, 1950, April 4, 1950, January 22, 1952, and March 24, 1960, Respectively, to Highway Transportation Company, Inc., Portland, ME, authorizing the transportation of General commodities (except those of unusual value, and except dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods,* 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, Beterrn Portland, ME and Boston, MA, over a specified regular route, serving all intermediate points within 25 miles of the statehouse in Boston. *Sugar,* between Boston, MA, on the one hand, and, on the other, points in NH and ME; *waster paper and other waste material,* from Portland, ME, to points in MA; *Ginger ale, moxie and other carbonated beverages,* from Millis and Boston, MA, to points in NH and ME; *empty cargonated beverage containers,* from points in ME and NH to Boston and Millis, MA; *malt beverages,* from West Haven, CT, Providence, RI, and Bradford, Williamansett, Lowell, and Lawrence, MA, to Portland, ME; *Empty, malt beverage* containers, from Portland, ME, to West Haven, CT. Providence, RI, and Bradford, Williamansett, Lowell, and Lawrence, MA; *compressed gases,* in cylinders, from Boston, MA, to points in ME; *empty gas cylinders,* from points in ME, to Boston, MA; *fish meal,* from Portland, ME, to points in NH, MA, and CT; *fibre cartons,* from Somerville, MA, to points in ME; *canned goods,* from points in ME, to points in NH, MA, and RI; *empty barrels,* from Portland, ME, to points in MA; *fertilizer and fertilizer materials,* from Woburn, MA, to points in ME; *poultry grit, shell meal, peat moss, salt, and oyster shells,* from Boston, MA and Portland, ME, to points in ME and NH;

spraying material, from Topsfield, MA, to points in ME; *syrup,* from Boston, MA, to points in ME; *petroleum products,* in bulk, in tank vehicles, from Auburn, ME, to points in NH, which are located on or north of NH Hwy 25 and south of U.S. Hwy 302, except Conway; *petroleum products,* in bulk, in tank vehicles from Auburn, ME, to points in Essex, Orleans, Caledonia, Lamoille, and Washington Counties, VT; *Fish oil and fish solubles,* in bulk, in tank vehicles, from points in ME on and east of that portion of U.S. Hwy 1 beginning at the NH-ME State line and extending to Calais, ME, except Eastport, ME, to points in MA and VT; and *frozen blueberries,* from Portland, Corinna, West Rockport, and Washington Junction, ME, to Boston, Gloucester and Worcester, MA, Wethersfield, and East Hartford, CT, and New York and Buffalo, NY. Applicants' representative: Kenneth B. Willians, 84 State St., Boston, MA 02109.

Federal Register Summary for Certificate or Permit

MC-FC-78393. By decision of January 15, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132. The Motor Carrier Board approved the transfer to Transtech Ltd., of Sioux City, IA, of Permit MC 141476 issued March 17, 1977, to C. T. Transportation Co., Sioux City, IA, authorizing the transportation of (1)(a) *Towers, antennas, and equipment, materials, and supplies used in the manufacture, sale, distribution and erection of towers and antenna, and (b) reflectors, radomes, plons, buildings, building panels, building parts, and accessories, materials and supplies used in the installation, constuction and erection of buildings, building panels and building parts,* from the facilities of Advance Industries, at Sioux City, IA, to points in the United States (except HI), with no transportation for compensation on return except as otherwise authorized; (2) *Towers, antennas, and equipment, materials, and supplies used in the manufacture, sale, distribution, and erection of the commodities described in (1) (a) and (b) above,* from points in the United States (except AK and HI) to the facilities of Advance Industries at Sioux City, IA, with no transportation for compensation on return except as otherwise authorized. RESTRICTION: The operations in (1) and (2) above are restricted against the transportation of commodities in bulk and said operations are limited to a transportation service to be performed under a continuing contract(s) with Advance Industries of Sioux City, IA; (3) *Trenching machines,* from the facilities of Digz-All, Inc. at Merrill, IA to points in the United States (except HI), with no transportation for compensation on return except as otherwise authorized; (4) *Equipment, materials and supplies used in the manufacture, sale and distribution of trenching machines,* from points in the United States (except AK and HI) to the facilities of Digz-All, Inc. at Merrill, IA. RESTRICTION: The operations in (3) and (4) above are restricted against the transportation of commodities in bulk and said operations are limited to a transportation service to be performed under a continuing contract(s) with Digz-All, Inc. of Merrill, IA. Transferee presently holds authority from the Commission in Docket No. MC-145639. Application has been filed for temporary authority under 49 USC § 11349. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501.

[FR Doc. 80-4821 Filed 2-14-80; 8:45 am]
BILLING CODE 7035-01-M

Agricultural Cooperatives; Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: February 12, 1980.

The following Notices were filed in accordance with section 10526 (a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change. The name and address of the agricultural cooperative, the location of the records, and the name and address of the person to whom inquiries and correspondence should be addressed, are published here for interested persons. Submission of information that could have bearing upon the propriety of a filing should be directed to the Commission's Bureau of Investigations and Enforcement, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

(1) Agate Elevator Agricultural and Livestock Cooperative Assn.

Complete Legal Name Of Cooperative Association Or Federation Of Cooperative Associations, P.O. Box, Agate, CO 80101.

Principal Mailing Address (Street No., City, State, and Zip Code) P.O. Box 4, Agate, CO 80101.

Where Are Records Of Your Motor Transportation Maintained (Street No., City, State and Zip Code), Robert L. Benjamin, P.O. Box 4, Agate, CO 80101.

Person to Whom Inquiries and Correspondence Should be Addressed (Name and Mailing Address).

(2) Ejido Colorado Agricultural Assn.

Complete Legal Name of Cooperative Association or Federation of Cooperative Associations, 323 San Francisco, Santa Fe, NM 87501.

Principal Mailing Address (Street No., City, State, and Zip Code), 4033 West San Juan, Phoenix AZ 85019.

Where Are Records of Your Motor Transportation Maintained (Street No., City, State and Zip Code), David Robinson, P.O. Box 33152, Phoenix, AZ 85067.

Person to Whom Inquiries and and Correspondence Should be Addressed (Name and Mailing Address).

(3) Hathco Lines, Inc.

Complete Legal Name of Cooperative Association or Federation of Cooperative Associations, 1300 Market St., Wilmington, DE 19801.

Principal Mailing Address (Street No., City, State, and Zip Code), Hwy. 45 North, Selmer, TN 38375.

Where Are Records of Your Motor Transportation Maintained (Street No., City, State and Zip Code), William Hathcock, P.O. Box 641, Selmer, TN 38375.

Person to Whom Inquires And Correspondence Should Be Addressed (Name and Mailing Address).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-4915 Filed 2-14-80; 8:45 am]
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[Volume No. 50]

Petitions, Applications, Finance Matters (Including Temporary Authorities), Alternate Route Deviations, Intrastate Applications, Gateways, and Pack and Crate

Dated: February 1, 1980.

Petitions for Modification, Interpretation or Reinstatement of Motor Carrier Operating Rights Authority

The following petitions seek modification or interpretation of existing motor carrier operating rights authority, or reinstatement of terminated motor carrier operating rights authority.

All pleadings and documents must clearly specify the suffix numbers (e.g., M1 F, M2 F) where the docket is so identified in this notice.

The following petitions, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission publication in

the Federal Register with a copy being furnished the applicant. Protests to these applications will be *rejected.*

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that if (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 FR 50908, as modified at 43 FR 60277.

Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 55822 (Sub-8 M4F), (Notice of Filing of Petition to Modify Permit), filed July 5, 1979. Petitioner: VICTORY EXPRESS, INC., P.O. Box 26189, Trotwood, Ohio 45426. Representative: Richard Schaefer (same address as applicant). Petitioner holds a motor *contract carrier* permit in MC-55882 Sub-8, issued May 18, 1979, to transport in interstate or foreign commerce, over irregular routes. (1) *general commodities* (except classes A and B explosives, those of unusual value, household goods as defined by the Commission, commodities in bulk and commodities which, because of their size and weight, require the use of special equipment), between points in the United States (except AK and HI), restricted to the transportation of shipments, originating at, or destined to, the facilities of the Allied/Egry Business Systems Division and the Allied Paper Division of SCM Corporation, under a continuing contract(s) with the Allied/Egry Business Systems Division of SCM Corporation of Dayton, OH, and Allied Paper, Inc., of Kalamazoo, MI. By the instant petition, petitioner seeks to modify the above authority by amending the restriction to read. Restricted to the transportation of traffic originating at, or destined to, the facilities of the SCM Corporation, including its affiliates and subsidiaries, under a continuing contract(s) with the SCM Corporation of New York, NY.

MC 71902 (Subs-72 and 75M1F), (Notice of Filing of Petition to Modify Certificate), filed June 27, 1979. Petitioner: UNITED TRANSPORTS, INC., 4900 North Santa Fe Avenue, Oklahoma City, OK 73154. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street, NW, Washington, DC 20004. Petitioner holds motor *common carrier* certificates (1) in MC 71902 Sub-72 issued November 1, 1971, and (2) M 71902 Sub-75 issued December 21, 1973, authorizing transportation, over irregular routes. (1) *New motor vehicles, vehicle cabs and bodies,* and *automobile show equipment and paraphernalia,* when transported with display vehicles, in initial movements in truckway and driveaway service. From the site of the General Motors Plant in Wyandotte County, KS, to points in AL, AZ, CA, KY, MS, NV, and TN, with no transportation for compensation on return except as otherwise authorized. From the site of the General Motors Plant (GM Assembly Division) in Wyandotte County, KS, to points in ID, OR, and WA, with no transportation for compensation on return except as otherwise authorized. From points in Wyandotte County, KS to points in AR, CO, IL, IA, LA, MN, MO, MT, NE, NM, OK, SD, TX, UT, and WY, with no transportation for compensation on return except as otherwise authorized. *New motor vehicles, vehicle cabs and bodies,* and *automobile show equipment and paraphernalia,* when transported with display vehicles, in secondary movements, in truckaway and driveway service. Between points in AR, LA, and TX. Between points in CO, IL, IA, MN, MO, MT, NE, NM, OK, SD, UT, WY, and KS. Between points in CO, IL, IA, MN, MO, MT, NE, NM, OK, SD, UT, WY, and KS, on the one hand, and, on the other, points in AR, LA, and TX. *Motor vehicles,* in initial movements, in driveaway and truckaway service, *vehicle cabs and bodies,* and *automobile show equipment* and *paraphernalia.* From points in Wyandotte County, KS, to points in ND, WI, and IN, with no transportation for compensation on return except as otherwise authorized. From the plant site of General Motors Corporation at Arlington, TX, to Memphis, TN, and points in TX, LA, OK, NM, AZ, UT, CO, KS, AR, WY, NE, and MO, with no transportation for compensation on return except as otherwise authorized. *New motor vehicles, vehicle cabs and bodies,* and *automobile show equipment,* when transported with display vehicles, in initial movements in truckaway service. From the plant site of General Motors Corporation (GM Assembly Division) at Arlington, TX, to points in AL, KY, MS, and those in TN, (except Memphis), with no transportation for compensation on return except as otherwise authorized. Restriction: The service authorized herein is subject to the following conditions: The secondary movement authority granted herein is limited to the handling of traffic originating at or destined to a plant, warehouse, or other facility of General Motors Corporation. No single portion of the above-described authority shall be joined or tacked, directly or indirectly, with any other portion of the authority described above for the purpose of performing a through service. (2) in MC 71902 Sub-75, issued December 21, 1973, authorizing transportation, over irregular routes: *New motor vehicles* (except agricultural and industrial tractors and attachments) *vehicle cabs and bodies,* and *automobile show equipment* and *paraphernalia,* when transported with display vehicles, in secondary movements, in truckaway service. From New Orleans, LA, to points in AL, FL, and MS with no transportation for compensation on return except as otherwise authorized. Restriction: The service authorized herein is subject to the following conditions: Said operations are restricted to the transportation of traffic originating at, or destined to a plant site warehouse, or other facility of General Motors Corporation. Said operations are restricted against the transportation of import traffic. Said operations are restricted against tacking or joining with any other authority held by applicant for the purpose of performing a through service. By the instant petition, petitioner seeks to modify the above authorities as follows: delete the restrictions limiting service to plant sites, warehouses, or the facilities of General Motors Corporation.

MC 109821 (MIF) (Notice of filing of petition to modify certificate) filed

March 1, 1979. Petitioner: TAYNTON FREIGHT SYSTEM, INC., 40 Main St., Wellsboro, PA 16901. Representative: Michael R. Werner, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. Petitioner holds motor *common carrier* certificate in MC–109821 issued June 7, 1977. MC–109821 authorizes transportation, over regular routes and irregular routes as pertinent, of (A) over regular routes, of *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), (1) From Warsaw, NY, to Pulaski, NY, over specified routes. *Restriction: No transportation service in the route description next-above is authorized from points in Cayuga and Oswego Counties, NY, except those points in Cayuga County within 20 miles of Ithaca, NY, (2) From Warsaw, NY, to Genoa, NY, over specified routes. *Restriction: No transportation service in the route description next-above is authorized from points in Livingston and Cayuga Counties, NY, except those points in Cayuga County within 20 miles of Ithaca, NY, except as specified in other regular-routes herein. (3) From Warsaw, NY to Ridgeway, NY, over specified routes. *Restriction: No transportation service in the route description next-above is authorized from points in Orleans County, NY. (4) Between Warsaw, NY, and binghamton, NY, over specified routes. *Restriction: No transportation service in the route description next-above is authorized from points in Chemung, Broome and Livingston Counties, NY, except as specified in other regular routes herein. (5) From Pine Woods, NY, to Batavia, NY, over specified routes. *Restriction: No transportation service in the route description next-above is authorized to points in Madison County and from points in Cayuga and Livingston Counties, NY, except points in Cayuga County, NY within 20 miles of Ithaca, NY, except as specified in other regular-routes herein. (6) From Buffalo, NY, to Ridgeway, NY, over specified points. *Restriction: No transportation service in the route description next-above is authorized from points in Orleans County, NY. (7) From Buffalo, NY, to Albion, NY, over specified routes. *Restriction: No transportation service in the route description next-above is authorized from points in Orleans County, NY. (8) From Buffalo, NY, to Wayland, NY, over specified routes. *Restriction: No transportation service in the route description next-above is authorized from points in Livingston County, NY. (9) From Buffalo, NY, to Wellsville, NY, over specified routes. *Restriction: No transportation service in the route description next-above is authorized from points in Allegany County, NY. (10) Between Warsaw, NY, and Utica, NY, over specified routes. *Restriction: No transportation service in the route description next-above is authorized from points in Cayuga County, and to points in Madison County, NY, except those points in Cayuga County within 20 miles of Ithaca, NY, except as specified in other routes herein. (11) Between Utica, NY, and Buffalo, NY, over specified routes. *Restriction: No transportation service in the route description next-above is authorized from points in Cayuga County and to points in Madison County, NY, except those points in Cayuga County, NY within 20 miles of Ithaca, NY, except as specified in other regular-routes herein. (12) Between Syracuse, NY, and Warsaw, NY, over specified routes. *Restriction: No transportation service in the route description next-above is authorized from points in Cayuga County except those points in Cayuga County within 20 miles of Ithaca, NY, except as specified in other regular-routes herein. (13) Between Syracuse, NY, and Buffalo, NY, over specified routes. *Restriction: No transportation service in the route description next-above is authorized from points in Cayuga County except those points within 20 miles of Ithaca, NY, except as specified in other routes herein. (14) Between Philadelphia, PA and Delaware Water Gap, PA, over specified routes. *Restriction: The authority granted in the route description next-above is restricted against transportation to, from or through New York, NY and Hudson, Essex, Bergen, Sussex, Morris, Middlesex, Monmouth, Passaic, Somerset, Mercer and Union Counties, NJ, (B) over regular routes, of *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), (1) Between Mansfield, PA and Cortland, NY, over specified routes. *Restriction: No transportation service in the route description next-above is authorized from off-route points beyond 20 miles of Ithaca, NY except as specified in other regular routes of off-route points herein. (2) Between Buffalo, NY and Binghamton, NY, over specified routes. *Restriction: No transportation service in the route description next-above is authorized from points in Cayuga County, NY except those points in Cayuga County, NY within 20 miles of Ithaca, NY except as specified in other regular routes of off-route points herein. (3) Between Bath, NY and Dresden, NY, over specified routes. *Restriction: No transportation service in the route description next-above is authorized from off-route points within 20 miles of Ithaca, NY except as specified in other regular routes of off-route points herein. (4) Between Binghamton, NY and Utica, NY, serving all intermediate and off-route points in Broome, Onondaga, Madison, and Oneida Counties, NY, over specified routes. *Restriction: No transportation service in the route description next-above is authorized from points in Broome County, NY or to points in Madison County, NY, except as specified in other regular-routes or off-route points herein, (C) over regular routes of *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), (1) From Buffalo, NY, to Brockport, PA, serving intermediate and off-route points in Erie and Allegany Counties, NY, and those in Elk, Potter and Cameron Counties, PA, over specified routes. (2) Between Rochester, NY, and Niagara Falls, NY, over specified routes. *Restriction: No transportation service in the route description next-above is authorized from points in Orleans County, NY. (3) Between Rochester, NY, and Syracuse, NY, over specified routes. *Restriction: No transportation service in the route description next-above is authorized from points in Cayuga County, NY, except those points within 20 miles of Ithaca, NY, except as specified in other regular-routes herein. (4) From Rochester, NY, to Medina, NY, over specified routes. *Restriction: No transportation service in the route description next-above is authorized from points in Orleans County, NY. (5) Between Rochester, NY and Binghamton, NY, over specified routes. *Restriction: No transportation service in the route description next-above is authorized from points in Broome, Chemung, and Livingston Counties, NY, except as specified in other regular-routes herein. (6) Between Rochester, NY and Utica, NY, over specified routes. *Restriction: No transportation service in the route description next-above is authorized to points in Madison County, NY and from points in Cayuga County, NY, except those points in Cayuga County, NY within 20 miles of Ithaca, NY except as specified in other regular-routes herein. (7) From Rochester, NY, to Oswego, NY, over specified routes.

*Restriction: No transportation service in the route description next-above is authorized from points in Cayuga and Oswego Counties, NY, except those points within 20 miles of Ithaca, NY, except as specified in other regular-routes herein. (8) From Rochester, NY, to Wellsville, NY, over specified routes. *Restriction: No transportation in the next-above route description is authorized from points in Livingston and Allegany Counties, NY. (9) From Batavia, NY, to Dansville, NY, over specified routes. *Restriction: No transportation service in the route description next-above is authorized from points in Livingston County, NY. (10) From Batavia, NY, to Wellsville, NY, over specified routes. *Restriction: No transportation service in the route description next-above is authorized from points in Allegany County, NY. (11) From Utica, NY, to Dansville, NY, over specified routes. *Restriction: No transportation service in the route description next-above is authorized from points in Madison County or from points in Cayuga and Livingston Counties, NY, except those points in Cayuga County, NY, within 20 miles of Ithaca, NY, except as specified in other regular-routes herein. (12) From Utica, NY, to Wellsville, NY, over specified routes. *Restriction: No transportation service in the route description next-above is authorized to points in Madison County, NY or from points in Cayuga, Chemung, and Allegany Counties, NY except those points in Cayuga and Chemung Counties, NY within 20 miles of Ithaca, NY, except as specified in other regular-routes herein. (13) From Syracuse, NY, to Dansville, NY, over specified routes. *Restriction: No transportation service in the route description next-above is authorized from points in Cayuga and Livingston Counties, NY, except points in Cayuga County, NY, within 20 miles of Ithaca, NY, except as specified in other regular-routes herein. (14) From Syracuse, NY, to Wellsville, NY, over specified routes. *Restriction: No transportation service in the route description next-above is authorized from points in Chemung and Allegany Counties, NY, except points in Chemung County, NY within 20 miles of Ithaca, NY except as specified in other regular-routes herein. (15) From Warsaw, NY, to Dansville, NY, over specified routes. *Restriction: No transportation service in the route description next-above is authorized from points in Livingston County, NY. (16) From Warsaw, NY, to Wellsville, NY, over specified routes. *Restriction: No transportation service in the route description next-above is authorized from points in Allegany County, NY. (17) From Hamilton, NY, to Dansville, NY, over specified routes. *Restriction: No transportation service in the route description next-above is authorized from points in Madison County, NY, or from points in Cayuga and Livingston Counties, NY, except those points in Cayuga County, NY within 20 miles of Ithaca, NY, except as specified in other regular-routes herein. (18) From Hamilton, NY, to Wellsville, NY, over specified routes. *Restriction: No transportation service in the route description next-above is authorized from points in Madison County, NY, or from points in Broome, Chemung, and Allegany Counties, NY except those points in Broome and Chemung Counties, NY within 20 miles of Ithaca, NY, except as specified in other regular-routes herein. (19) Between Hamilton, NY, and Warsaw, NY, over specified routes. *Restriction: No transportation service in the route description next-above is authorized to points in Madison County, NY, or from points in Cayuga and Livingston Counties, NY except those points in Cayuga County, NY within 20 miles of Ithaca, NY, except as specified in other regular-routes herein. (20) Between Hamilton, NY and Niagara Falls, NY, over specified routes. *Restriction: No transportation service in the route description next-above is authorized from points in Madison County, NY, or from points in Cayuga County, NY, except those points in Cayuga County, NY within 20 miles of Ithaca, NY, except as specified in other regular-routes herein. (21) From Hamilton, NY, to Rome, NY, over specified routes. *Restriction: No transportation service in the route description next-above is authorized to points in Madison County, NY. (22) From Hamilton, NY, to Medina, NY, over specified routes. *Restriction: No transportation service in the route description next-above is authorized from points in Madison County, NY or from points in Cayuga and Orleans Counties, NY except those points in Cayuga County, NY within 20 miles of Ithaca, NY. (23) From Hamilton, NY, to Oswego, NY, over specified routes. *Restriction: No transportation service in the route description next-above is authorized to points in Madison County, NY or from points in Oswego County, NY. Alternate routes for operating convenience only: General commodities (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between Williamsport, PA, and Delaware Water Gap, PA, over specified routes. *Restriction: The alternate routes above between Carroll, PA, and DuBois, PA, over Interstate Hwy 80 and the regular route between Lock Haven, PA and Ridgeway, PA over PA Hwy 120 is restricted against the transportation of traffic moving to, from, or through Pittsburgh, PA and points in the Pittsburgh Commercial Zone, of (D) Regular routes, of (I) *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), (1) Between Ithaca, NY, and Waverly, NY, over specified routes. (2) Between Auburn, NY, and Syracuse, NY, over specified routes. (3) Between Ithaca, NY, and Waverly, NY, over specified routes. *Restriction: The operations authorized under (3) above are restricted to service between the authorized points on said routes, on the one hand, and, on the other, points on routes (1) and (2) above. (II) *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between Williamsport, PA, and Bradford, PA, over specified routes. *Restriction: No local shipments in the route description next-above shall be transported between Blossburg and Mansfield, PA, and points intermediate thereto on U.S. Hwy 15. (E) Over irregular routes: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Bradford, PA, and points within 30 miles of Bradford, on the one hand, and, on the other, points in Elk, Potter, and Cameron Counties, PA. *Restriction: The service authorized in the route description next-above is subject to the following conditions: *The authority granted in the route description next-above is restricted against service between points in Elk and Cameron Counties, PA, on the one hand, and, on the other, Williamsport, PA, and points within a 5 mile radius of Williamsport. *The authority granted in the route description next-above is restricted against the transportation of bricks, clay products and refractory products from the plant site of the Hanley Company at Lewis Run, PA, to points in OH and NY. By the instant petition, petitioner seeks to modify the above certificate by (1) deleting all restrictions marked with an asterisk, (2) adding points in Chenango County, NY,

as intermediate and off-route service points in part (B) route description (4), and, (3) changing the from-to-movement in Part (C) route description (1) to a between movement, so as to read, as pertinent, between Buffalo, NY and Brockport, PA.

MC 114552 (Sub-136) (M1F) (Notice of Filing of Petition to Modify Certificate), filed July 26, 1979. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, SC 29108. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. Petitioner holds a motor *common carrier* Certificate in MC-114552 Sub 136, issued April 25, 1978, to transport in interstate or foreign commerce, over irregular routes, (1) *roofing, building, and insulating materials* (except iron and steel articles and commodities in bulk), from the facilities of CertainTeed Corporation in Chatham County, GA to points in AL, FL, MS, NC, SC, and TN. (2) *Materials, equipment and supplies* used in the manufacture, installation and distribution of roofing and building materials (except iron and steel articles and commodities in bulk), from the destination points named in (1) above to the facilities of CertainTeed Corporation in Chatham County, GA. By the instant petition, petitioner seeks to modify the above authority by removing the plantsite restriction in the origin territory of part (1) of the certificate, and also removing the plantsite restriction in the destination territory of part (2).

MC 125687 (M2I) (Notice of Filing of Petition to Modify Certificate), filed August 15, 1979. Petitioner: EASTERN STATES TRANSPORTATION PA, INC., 1060 Lafayette Street, York, PA 17405. Representative: Jeremy Kahn, Attorney at Law, Kahn and Kahn, Suite 733 Investment Building, Washington, D.C. 20005. Petitioner holds a Certificate of Public Convenience and Necessity in Docket No. MC 125687, authorizing the transportation of (1) *malt beverages and related advertising material,* from Newark, NJ and points within 30 miles thereof, to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, Virginia and the District of Columbia; and (2) *paper and paperboard, printed or otherwise,* between Newark, NJ and points within 30 miles thereof, on the one hand, and, on the other, points in Connecticut, Maryland, Massachusetts, New York, Pennsylvania, Rhode Island, and the District of Columbia; and (3) *containers, container closures and container accessories,* between Newark, NJ and points within 30 miles thereof, on the one hand, and, on the other, points in Connecticut, Maryland, Massachusetts, New York (except Elmira), Pennsylvania and Rhode Island. By the instant petition, Petitioner seeks to substitute for "Newark, NJ and points within 30 miles thereof" the following territorial description: Bergen, Essex, Hudson, Huterdon, Mercer, Middlesex, Morris, Monmouth, Ocean, Passaic, Somerset, Sussex, Union, and Warren Counties, NJ, and Bordentown, NK, and Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester Counties, NY and New York, NY.

MC 142327 (Sub-1) (M1F) (Notice of Filing of Petition to Modify a Permit), filed August 14, 1979. Petitioner: McLARTY TRANSPORTATION, INC., 900 Plaza West Building, Little Rock, AR 72205. Representative: Thomas B. Staley, 1550 Tower Building, Little Rock, AR 72201. Petitioner holds a motor *contract carrier* permit in MC-142327 (Sub No. 1F) issued October 26, 1978, authorizing transportation over *irregular routes* of *coal,* in bulk in dump vehicles, from points in Latimer County, OK, to points in Little River County, AR, restricted to transportation services performed under continuing contracts with Farrell-Cooper Mining Company of Ft. Smith, AR. By the instant petition, the petitioner seeks to substitute as the contracting party: Arkansas Cement Corporation of Forman, AR.

Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission on or before March 17, 1980. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 128616 (Sub-24F) (Republication), filed July 31, 1978, published in the FR issue of July 10, 1979, and republished this issue: Applicant: GELCO COURIER SERVICES, INC., 5001 W. 80th Street, Bloomington, MN. Representative: Arthur E. Yeske, P.O. Box 1975, St. Paul, MN 55111. A Decision of the Commission, Division 2, decided November 15, 1979, and served November 26, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce, as a *contract carrier,* by motor vehicle, over irregular routes, transporting *commercial papers, documents, and written instruments* (except currency and negotiable securities), as are used in the business of banks and banking institutions, between Omaha, NE, on the one hand, and, on the other, points in Iowa in and west of Taylor, Adams, Cass, Audubon, Carroll, Sac, Buena Vista, Clay, Dickinson Counties, IA (except points in Woodbury and Monona Counties), under continuing contracts with banks and banking institutions including bank-owned computer companies, that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. The purpose of this republication is to change the territorial description.

Motor Carrier Operating Rights Applications

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission within 30 days after the date of publication in the Federal Register with a copy being furnished the applicant. Protests to these applications *will be rejected.*

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner

has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 FR 50908, as modified at 43 FR 60277. Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 86247 (Sub-24F), filed April 2, 1979. Applicant: I.C.L. INTERNATIONAL CARRIERS LIMITED, 7701 West Jefferson, Detroit, MI 48209. Representative: Joseph P. Allen (same address as applicant). To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over regular routes, transporting *general commodities* (except Classes A and B explosives, household goods as defined by the Commission, commodities of unusual value, nepheline syenite, in bulk, in dump vehicles), between Toledo, OH and the International Boundary line between the United States and Canada at Detroit, MI, over Interstate 75, serving all intermediate points, restricted to foreign traffic originating at or destined to points in Canada. (Hearing site: Detroit, MI, or Toledo, OH.)

MC 45626 (Sub-74F), filed August 2, 1979. Applicant: VERMONT TRANSIT CO., INC., 135 St. Paul St., Burlington, VT 05402. Representative: John J. Dwyer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting (1) *passengers and their baggage and express and newspapers* in the same vehicle with passengers, between Bennington, VT, and Albany County Airport, at Colonie, NY, serving no intermediate points: from Bennington, over Vermont Hwy 9 to the NY-VT state line, then over NY Hwy 7 to the junction of NY Hwy 7, and Interstate Hwy 87 near Latham, NY, then over Interstate Hwy 87 to junction Interstate Hwy 87 and NY Hwy 155, then over NY Hwy 155, to Albany County Airport, then over NY Hwy 155 to junction with Interstate Hwy 87, then over Interstate Hwy 87 to Albany, and return over the same route, and (2) over irregular routes, transporting *passengers and their baggage* in special operations, beginning and ending at points in Vermont, on the one hand, and, on the other, points in Warren, Clinton, Essex, Lawrence, Franklin, and Hamilton Counties, NY. (Hearing site: Burlington, or Montpelier, VT.)

Motor Carrier Alternate Route Deviations—Notice

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Passengers (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this Federal Register notice.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

Motor Carriers of Passengers

MC 1515 (Deviation No. 751), GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077, filed January 22, 1980. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over a deviation route as follows: From Mt. Gilead, OH over OH Hwy 61 to Galion, OH and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Mt. Gilead, OH over US Hwy 42 to Mansfield, OH, then over OH Hwy 430 to junction OH Hwy 309, then over OH Hwy 309 to Galion, OH and return over the same route.

Irregular-Route Motor Common Carriers of Property—Elimination of Gateway Letter Notices

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission *within 10 days* from the date of this publication. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier*, by motor vehicles, over irregular routes.

MC 107012 (Sub-E462), filed June 3, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *Commercial & Institutional Fixtures, and Store & Office Equipment, Crated* from points in Bartholomew, Brown, Clark, Dearborn, Decatur, Fayette, Floyd, Franklin, Harrison, Henry, Jackson, Jefferson, Jennings, Ohio, Ripley, Rush, Scott, Switzerland, Union, Washington and Wayne Counties, IN to points in AR, CA, Garfield, Mesa, Moffat, Rio Blanco, Routt, Alamosa, Archuleta, Conejos, Delta, Dolores, Gunnison, Hinsdale, La Plata, Mineral, Montezuma, Montrose, Quray, Rio Grande, Saguache, San Juan, San Miguel, Baca, Bent, Cheyenne, Costilla, Crowley, Custer, Huerfano, Kiowa, Las Animas, Lincoln, Otero, Prowers and Pueblo Counties, CO; points in ID; Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton and Stevens Counties, KS; Adams, Amite, Franklin, Jefferson, Jefferson Davis, Lawrence, Lincoln, Marion, Pike, Walthall and Wilkinson Counties, MS; points in NV; NM; OK; OR; UT; WA; and points in Lincoln, Sublette, Sweetwater and Uinta Counties, WY. (Gateway eliminated: Greene County, AR.)

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-4920 Filed 2-14-80; 8:45 am]

BILLING CODE 7035-01-M-33-

Long-and-Short-Haul Applications for Relief (Formerly Fourth Section Applications)

February 12, 1980

These applications for long-and-short-haul relief have been filed with the I.C.C.

Protests are due at the I.C.C. on or before March, 3, 1980.

No. 43794, Southwestern Freight Bureau, Agent No. B-47, on Iron or Steel pipe and related commodities, from Parkersburg, WV to Southwestern destinations published in Supplement 211 to Southwestern Freight Bureau, Agent Tariff ICC SWFB 4853, effective March 6, 1980. Grounds for relief—origin rate relationships.

No. 43795, Southwestern Freight Bureau, Agent No. B-46 on volcanic scoria or slag from Santa Fe and Las Cruces, NM to stations in Illinois Freight Association, Southwestern and Western Trunkline territories in Supplement 184 to Tariff ICC SWFB 2004-J and Supplement 44 to Tariff ICC SWFB 2006-K of Southwestern Freight Bureau, Agent, effective March 11, 1980. Grounds for relief—market competition.

No. 43796, Southwestern Freight Bureau, Agent No. B-49, on clay from origins in South Dakota and Wyoming to stations taking the Baton Rouge (W), LA basis of rates in Supplement 7 to Tariff ICC SWFB 4321-A of Southwestern Freight Bureau, Agent, effective March 15, 1980. Grounds for relief—rate relationships.

By the Commission

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-4919 Filed 2-14-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applications

Correction

In FR Doc. 79-38502, appearing at page 73184 in the issue for Monday, December 17, 1979, on page 73193, in the third column, third complete paragraph, in the eighth line, between the abbreviations "IN" and "OH", insert: "NC".

BILLING CODE 1505-01-M

Permanent Authority Decisions; Decision—Notice

Correction

In FR Doc. 79-30705, appearing at page 57255, in the issue for Thursday, October 4, 1979, on page 57256, in the first column, first line, between the abbreviations "NJ" and "NY": Delete "MN" and insert "NM".

BILLING CODE 1505-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Housing Guaranty Program Bolivia; Information for Lenders

The Agency for International Development (A.I.D.) has authorized a guaranty of a loan in an amount not to exceed $4,000,000 to finance shelter solutions for low-income families in the rural areas of Bolivia. Eligible investors as defined below are invited to make proposals to the Caja Central de Ahorro y Prestamo para la Vivienda. The full repayment of the loan will be guaranteed by A.I.D. The A.I.D. guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to authority in Section 222 of the Foreign Assistance Act of 1961, as amended (the Act).

This project is referred to as Project No. 511-HG-005.

Lenders (Investors) eligible to receive an A.I.D. guaranty are those specified in Section 238(C) of the Act. They are: (1) U.S. citizens; (2) domestic U.S. corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and (4) foreign partnerships or associations wholly owned by U.S. citizens.

Selection of an eligible investor and the terms of the loan are subject to approval by A.I.D. The investor and A.I.D. shall enter into a Contract of Guaranty, covering the loan. Disbursements under the loan will be subject to certain conditions required of the borrower by A.I.D. as set forth in an implementation agreement between A.I.D. and the borrower.

To be eligible for guaranty, the loan must be repayable in full no later than the thirtieth anniversary of the first disbursement of the principal amount thereof and the interest rate may be no higher than the maximum rate established from time to time by A.I.D. The borrower projects the following disbursement schedule during a period of two years after the date of the Loan Agreement: (1) a single disbursement of five hundred thousand dollars ($500,000) on March 30, 1980; (2) a second disbursement of six hundred and fifty thousand dollars ($650,000) seven months after the first disbursement; (3) a third disbursement of one million two hundred and sixty-five thousand ($1,265,000) eleven months after the first disbursement; (4) a fourth disbursement of one million four hundred thousand dollars ($1,400,000) to occur eighteen months from the first disbursement; (5) the final disbursement of one hundred eighty-five thousand dollars ($185,000) to occur twenty-four months after the first disbursement.

The borrower desires to receive proposals from eligible investors as defined above. The proposals should be based on the indicated disbursement schedules shown above. Since investor selection will be made on the basis of the proposals, the proposals should contain the best terms to be offered by investors. The proposals should state:

A. The fixed interest rate per annum for a period not to exceed thirty (30) years from the first disbursement.

B. The grace period for repayment of principal; such period not to exceed ten (10) years.

C. The minimum time during which prepayment of principal will not be accepted.

D. The investor's commitment or service fee, if any, and schedule of payment of such fee.

E. The period during which the proposal may be accepted which shall be at least seventy-two (72) hours after the closing date specified below.

The proposal may state other terms and conditions which the investor desires to specify. After investor selection by the borrower and approval by A.I.D., the borrower and investor shall negotiate all other terms and conditions of the Loan Agreement.

In the event the investor will engage in the reselling of the loan to other persons, the investor must provide for the servicing of his loan, i.e., recordation and disposition of loan payments received from the borrower.

The closing date by which prospective investors are requested to submit proposals to the borrower is the close of business on February 29, 1980. Negotiation of the Loan Agreement and Contract of Guaranty is expected to take place over a one month period beginning March 28, 1980.

Eligible investors are invited to consult promptly with the borrower. Those investors interested in extending a loan to the borrower should communicate with the borrower at the following address: Caja Central de Ahorro y Prestamo para la Vivienda, Casilla 4808, Cable: CACEN, LaPaz, Bolivia, Atencion: Proyecto de Vivienda 511-HC-005.

Information as to the eligibility of investors and other aspects of the A.I.D. housing guaranty program can be obtained from: Director, Office of Housing, Agency for International Development, Room 625, SA/12,

Washington, D.C. 20523, Telephone: (202) 632-9637.

To facilitate A.I.D. approval, copies of proposals made to the borrower may, at the investor's option, be sent to A.I.D. at the above address on or after the closing date noted above.

This notice is not an offer by A.I.D. or by the borrower. The borrower and not A.I.D. will select an investor and negotiate the terms of the proposed loan.

David McVoy,

Assistant Director for Operations.

February 7, 1980.

[FR Doc. 80-4887 Filed 2-14-80; 8:45 am]

BILLING CODE 4710-02-M

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

Announcement of a Solicitation for Concept Papers for the Unsolicited Research Program of the National Institute for Juvenile Justice and Delinquency Prevention, Office of Juvenile Justice and Delinquency Prevention

The National Institute for Juvenile Justice and Delinquency Prevention (NIJJDP), Office of Juvenile Justice and Delinquency Prevention (OJJDP) is sponsoring an Unsolicited Research Program aimed at increasing our knowledge of various aspects of juvenile delinquency. Under this program NIJJDP will support research that it has not initiated, but which will complement its overall Research Program. Up to $1,000,000 are available annually for this program for new grant awards.

The solicitation identifies several areas of special interest within the three part framework of the NIJJDP Research Program: 1) Delinquent Behavior and Its Prevention, 2) Juvenile Justice and 3) Community-based Alternatives to Juvenile Justice System Processing. The deadline for submission of concept papers is March 30, 1980.

Copies of the solicitation can be obtained by writing to the NIJJDP, OJJDP, 633 Indiana Avenue, NW., Washington, D.C. 20531, or by calling (202) 724-5893.

Ira M. Schwartz,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

February 8, 1980.

[FR Doc. 80-4891 Filed 2-14-80; 8:45 am]

BILLING CODE 4410-18-M

Announcement of a Solicitation for Grant Applications To Evaluate Projects Funded Under the OJJDP Youth Advocacy Program

The National Institute for Juvenile Justice and Delinquency Prevention is sponsoring an evaluation of the Office of Juvenile Justice and Delinquency Prevention Special Emphasis Youth Advocacy Program.

Applications are invited from public or private agencies and organizations or from individuals. The deadline for the submission of applications is April 15, 1980.

Copies of the solicitation can be obtained by writing to the NIJJDP/OJJDP, Room 304, 633 Indiana Ave., N.W., Washington, D.C. 20531 or by calling (202) 724-5893.

Ira M. Schwartz,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

February 8, 1980.

[FR Doc. 80-4890 Filed 2-14-80; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Employment and Training Administration

Employment Transfer and Business Competition Determinations Under the Rural Development Act; Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. 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 area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Administrator, Employment and Training Administration, 601 D Street, N.W., Washington, D.C. 20013.

Signed at Washington, D.C. this 12th day of February 1980.

Earl T. Klein,

Director, Office of Program Services.

Applications received during the week ending February 16, 1980:

Name of Applicant, Location of Enterprise, and Principal Product or Activity

Engineered Products, Inc., Dandridge, Tennessee, Manufacture custom vinyl cases.

Laurelwood Hospital, Inc., Shenandoah, Texas, Psychiatric Hospital.

Commercial Metals Company-Structural Metals, Inc., Seguin, Texas, Melting scrap steel, rolling of reinforcing and structural steel, and fabrication of reinforcing steel.

J. R. OH-KAY Enterprises, Inc., Kimberling City, Missouri, Hotel.

Cactus Pete's Inc., Jackpot, Nevada, Motel, restaurant and gaming.

[FR Doc. 80-4834 Filed 2-14-80; 8:45 am]
BILLING CODE 4510-30-M

Mine Safety and Health Administration

Burnrite Coal Co., et al.; Petitions for Modification of Application of Mandatory Safety Standard

The following companies have filed Petitions for Modification of 30 CFR 75.1400 (hoisting equipment, general). All petitions are filed under section 101(c) of the Federal Mine Safety and Health Act of 1977. The petitions have been filed to modify the application of that standard for all the mines listed below.

Burnrite Coal Company, 803 Walnut Street, Ashland, Pennsylvania 17921. The No. 3 Slope mine is located in Columbia County, Pennsylvania, Docket No. M-79-265-C.

Okay Coal Company, Box 2, Sacramento, Pennsylvania 17968. The Orchard Slope mine is located in Schuylkill County, Pennsylvania, Docket No. M-79-229-C.

Orchard Coal Company, R.D. #4, Pine Grove, Pennsylvania 17963. The Orchard Slope mine is located in Schuylkill County, Pennsylvania, Docket No. M-79-167-C.

Polcovich Coal Company, Centralia, Pennsylvania 17921. The 7 foot Slope #3 mine is located in Columbia County, Pennsylvania, Docket No. M-79-262-C.

North Mountain Coal Inc., 130 E. Independence Street, Shamokin, Pennsylvania 17872. The North Mountain Slope mine is located in Northumberland County, Pennsylvania, Docket No. M-79-268-C.

Tracy Coal Company, R.D. #1, Klingerstown, Pennsylvania 17941. The Tracy Slope mine is located in Schhuylkill County, Pennsylvania, Docket No. M-79-208-C.

The substance of the petitions follows:

1. The petitions concern the requirement for the use of safety catches on gunboats used to transport persons in shafts and slopes. The safety catches must act quickly and effectively in an emergency.

2. Petitioners state that all of the affected mines are Anthracite mines which have steeply pitching and undulating slopes with numerous curves and knuckles in the main haulage slopes.

3. Petitioners have requested permission to operate the gunboats without safety catches because, they state, no such safety catch or device is available which functions in these type slopes.

4. The petitioners believe that makeshift safety catches or devices, if installed, would be activated or knuckles and curves when no emergency existed, causing a tumbling effect on the conveyance.

5. In view of this, the petitioners propose to:

a. Operate their man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope above the main connecting device; and

b. Use hoisting ropes which have a factor of safety in excess of the 4 to 8 to 1 as suggested in the American Standards Specifications—Use of Wire Ropes for Mines.

6. Petitioners aver that the modification, if granted, would provide no less than the same measure of protection afforded miners under the existing standard.

Request for Comments

Persons interested in any of these petitions may furnish written comments on or before March 17, 1980. Comments relating to only one petition may be made separately; however, the applicable docket number must be clearly stated. If comments apply to more than one of the listed petitions, each comment must mention individually the docket number, or numbers, to which the comment applies. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petitions are available for inspection at that address.

Dated: February 5, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-4787 Filed 2-14-80; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-80-6-C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, 1800 Washington Road, Pittsburgh, PA 15241 has filed a petition to modify the application of 30 CFR 75.1700 (barriers around oil and gas wells) to its Rowland No. 3 mine located in Raleigh County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

The substance of the petition follows:

1. The Gas well affected was drilled, plugged and abandoned in 1969 with oil and gas sands in the area nearly depleted. It is sealed with concrete.

2. Research conducted by the U.S. Bureau of Mines and the U.S. Department of Energy has disclosed certain plugging methods can effectively prevent explosive well gases from entering the mine during regular mining operations.

3. As an alternative method to establishing and maintaining barriers around oil and gas wells, petitioner proposes:

a. To remove segments of the well during its normal mining cycle in consultation with Federal and State mining officials.

b. To sample for traces of gas before, during and after mining through subject wells. The methane monitor on the continuous miner will be calibrated and tested prior to mining through.

c. To provide roof support and ventilation material near the working face and have operable fire fighting equipment at hand.

d. To direct an adequate quantity of air over the continuous miner at all times.

e. To rock dust and maintain area from accumulations of coal dust and coal spillage.

4. Petitioner states that the proposed alternative method will guarantee the miners at all times no less than the same measure of protection afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before March 17, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: February 4, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-4789 Filed 2-14-80; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-79-214-C]

Five Leaf Clover Corp.; Petition for Modification of Application of Mandatory Safety Standard

Five Leaf Clover Corporation, Box 412, Oceana, West Virginia 24870, has filed a petition to modify the application of 30 CFR 75.305 (examination for hazardous conditions) to its "A" Mine located in Raleigh County, West Virginia. The petition is filed under section 101(c) of

the Federal Mine Safety and Health Act of 1977.

The substance of the petition follows:

1. Petitioner states that there are three fall areas in the main return airway of its mine that are too dangerous to travel over or around without entering the belt entry through man doors.

2. Petitioner therefore requests (a) placing danger boards at each exposed end of falls; (b) installing a date board at each end of each fall, examining the return airways weekly and dating them accordingly; and (c) traveling around these falls by going through man doors between the return airway and belt entry, as alternatives to compliance with the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before March 17, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: February 5, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-4768 Filed 2-14-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-290-C]

Bethlehem Mines Corp.; Petition for Modification of Application of Mandatory Safety Standard

Bethlehem Mines Corporation, Ellsworth Division, Box 143, Eighty-Four, Pennsylvania 15330 has filed a petition to modify the application of 30 CFR 75.1700 (barriers around oil and gas wells) to its Mariana No. 58 mine located in Washington County, Pennsylvania. The petition is filed in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977.

The substance of the petition follows:

1. The majority of oil and gas wells were drilled between 1890 and 1920 with some less extensive drilling in the 1940's. Most of the wells were abandoned as oil and gas were depleted and there is no appreciable quantity of gas flow at present.

2. Petitioner states that the roof control and the mine ventilation plans of the mine would be adversely affected if petitioner is required to establish and maintain barriers around these wells.

3. As an alternative method which will at all times guarantee no less than the same measure of protection for the miners, petitioner proposes:

(a) To plug wells in accordance with U.S. Energy Research and Development Administration published plugging techniques.

(b) To follow certain specified procedures should certain contingencies arise.

(c) To collaborate with MSHA in plugging and mining through any well.

(d) To sample for methane gas before, during and immediately after mining through each well, and make a methane examination once each shift and record results on a date-board placed in the well area.

(e) To instruct all personnel in affected areas to proceed cautiously when mining through plugged wells.

4. Based on this alternative method, petitioner requests a modification of the application of the standard to its mine.

Request for Comments

Persons interested in this petition may furnish written comments on or before March 17, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: February 7, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-4987 Filed 2-14-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-295-C]

Big Fox Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Big Fox Coal Company, Country Club Estates, Abingdon, Virginia 24210 has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its No. 1 Mine located in Buchanan County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

The substance of the petition follows:

1. Petitioner states he is mining coal seams ranging from 30 to 36 inches in height.

2. Petitioner states installation of lighting fixtures on the tops and sides of its mining equipment and installation of stationary lighting fixtures would result in a diminution of safety for the miners for the following reasons:

(a) Lighting fixtures on the side of the equipment would "blind" the operator and nearby miners or require constant adjustment to changes in illumination; fixtures would be sheared off or broken increasing the likelihood of more serious equipment failure, wedging, jamming or upset. Also, as lighting fixtures on the side or top are sheared off, roof bolts, cross beams and straps will be sheared off, thereby damaging or destroying roof support.

(b) Installation of stationary lighting equipment would similarly impair the operators' and nearby miners' vision. It would also create additional heat in the confiningly small areas in which the miners must work.

3. For these reasons, the petitioner requests a modification of the application of the standard to its mine.

Request for Comments

Persons interested in this petition may furnish written comments on or before March 17, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: February 6, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-4997 Filed 2-14-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-2-C]

C.D.F. Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

C.D.F. Coal Company, Inc., Route A, Box 191, Bee, Virginia 24217 has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its No. 1 Mine located in Dickenson County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

The substance of the petition follows:

1. Petitioner states he is mining coal seams ranging from 30 to 34 inches in height.

2. Petitioner states installation of lighting fixtures on the tops and sides of its mining equipment and installation of stationary lighting fixtures would result in a diminution of safety for the miners for the following reasons:

(a) Lighting fixtures on the side of the equipment would "blind" the operator and nearby miners or require constant adjustment to changes in illumination; fixtures would be sheared off or broken increasing the likelihood of more serious equipment failure, wedging, jamming or upset. Also, as lighting fixtures on the

side or top are sheared off, roof bolts, cross beams and straps will be sheared off, thereby damaging or destroying roof support.

(b) Installation of stationary lighting equipment would similarly impair the operators' and nearby miners' vision. It would also create additional heat in the confiningly small areas in which the miners must work.

3. For these reasons, the petitioner requests a modification of the application of the standard to its mine.

Request for Comments

Persons interested in this petition may furnish written comments on or before March 17, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: February 6, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-4998 Filed 2-14-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-293-C]

Colley & Flint Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Colley & Flint Coal Company, Inc., Drawer 1, Haysi, Virginia 24256 has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its No. 1 Mine located in Dickenson County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

The substance of the petition follows:

1. Petitioner states he is mining coal seams ranging from 26 to 29 inches in height.

2. Petitioner states installation of lighting fixtures on the tops and sides of its mining equipment and installation of stationary lighting fixtures would result in a diminution of safety for the miners for the following reasons:

(a) Lighting fixtures on the side of the equipment would "blind" the operator and nearby miners or require constant adjustment to changes in illumination; fixtures would be sheared off or broken increasing the likelihood of more serious equipment failure, wedging, jamming or upset. Also, as lighting fixtures on the side or top are sheared off, roof bolts, cross beams and straps will be sheared off, thereby damaging or destroying roof support.

(b) Installation of stationary lighting equipment would similarly impair the operators' and nearby miners' vision. It would also create additional heat in the confiningly small areas in which the miners must work.

3. For these reasons, the petitioner requests a modification of the application of the standard to its mine.

Request for Comments

Persons interested in this petition may furnish written comments on or before March 17, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: February 6, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-4991 Filed 2-14-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-3-C]

Cove Creek Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Cove Creek Coal Company, Inc., Route 1, Box 69-A, Bastian, Virginia 24314 has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its No. 1 Mine located in Buchanan County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

The substance of the petition follows:

1. Petitioner states he is mining coal seams ranging from 26 to 30 inches in height.

2. Petitioner states installation of lighting fixtures on the tops and sides of its mining equipment and installation of stationary lighting fixtures would result in a diminution of safety for the miners for the following reasons:

(a) Lighting fixtures on the side of the equipment would "blind" the operator and nearby miners or require constant adjustment to changes in illumination; fixtures would be sheared off or broken increasing the likelihood of more serious equipment failure, wedging, jamming or upset. Also, as lighting fixtures on the side or top are sheared off, roof bolts, cross beams and straps will be sheared off, thereby damaging or destroying roof support.

(b) Installation of stationary lighting equipment would similarly impair the operators' and nearby miners' vision. It would also create additional heat in the confiningly small areas in which the miners must work.

3. For these reasons, the petitioner requests a modification of the application of the standard to its mine.

Request for Comments

Persons interested in this petition may furnish written comments on or before March 17, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: February 6, 1980.

Frank A White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-4990 Filed 2-14-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-181-C]

Coxe Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Coxe Coal Company, Grace Avenue, Schuylkill Haven, PA 17972, has filed a petition to modify the application of 30 CFR 75.301 (ventilation) to its Woods Drift Mine located in Schuylkill County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

The substance of the petition follows:

1. Air sample analysis history reveals that harmful quantities of methane are nonexistent in the mine.

2. Ignition, explosion and mine fire history are nonexistent for the mine.

3. There is no history of harmful quantities of carbon dioxide and other noxious or poisonous gases.

4. Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

5. Extremely high velocities in small cross sectional areas of airways and manways in friable anthracite veins present a dangerous flying object hazard to the miners.

6. High velocities and large air quantities cause extremely uncomfortable damp and cold conditions in the already uncomfortable, wet mines.

7. Difficulty in keeping miners on the job and securing additional mine help is due primarily to these conditions.

8. For these reasons, petitioner requests that for its mine the minimum quantity of air reqaching each working face be 1,500 cubic feet per minute, that the minimum quantity of air reaching the last crosscut in any pair of developing entries be 5,000 cubic feet per minute, and that the minimum quantity of air

reaching the intake end of a pillar line be 5,000 cubic feet per minute, and/or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

9. Petitioner states that this alternative method will achieve no less protection for its miners than that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before March 17, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: February 7, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-4939 Filed 2-14-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-289-C]

Double D Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Double D Coal Company, Inc., Route A, Box 191, Bee, Virginia 24217 has filed a petition to modify the application of 30 CFR 75.1719 (illumination) of its No. 1 Mine located in Buchanan County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

The substance of the petition follows:

1. Petitioner states he is mining coal seams ranging from 30 to 42 inches in height.

2. Petitioner states installation of lighting fixtures on the tops and sides of its mining equipment and installation of stationary lighting fixtures would result in a diminution of safety for the miners for the following reasons:

(a) Lighting fixtures on side of the equipment would "blind" the operator and nearby miners or require constant adjustment to changes in illumination; fixtures would be sheared off or broken increasing the likelihood of more serious equipment failure, wedging, jamming or upset. Also, as lighting fixtures on the side or top are sheared off, roof bolts, cross beams and straps will be sheared off, thereby damaging or destroying roof support.

(b) Installation of stationary lighting equipment would similarly impair the operator's and nearby miners' vision. It would also create additional heat in the confiningly small areas in which the miners must work.

3. For these reasons, the petitioner requests a modification of the application of the standard to its mine.

Request for Comments

Persons interested in this petition may furnish written comments on or before March 17, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: February 6, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-4988 Filed 2-14-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-33-M]

International Salt Co.; Petition for Modification of Application of Mandatory Safety Standard

International Salt Company, Avery Island, Louisiana 70513 has filed a petition to modify the application of 30 CFR 57.19-11 (Hoist flanges) to its Avery Island Mine and Refinery located in Iberia Parish, Louisiana. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

The substance of the petition follows:

1. Petitioner states that the hoist drum presently operating has been in service since the turn of the century and is presently in excellent physical and mechanical condition.

2. Petitioner states that compliance with the standard would require the addition of at least two to three inches of material to the present flange. The addition of the material would weaken the structure as a whole, causing a diminution of safety to the miners affected.

3. For these reasons, petitioner requests a modification of the application of the standard at this mine.

Request for Comments

Persons interested in this petition may furnish written comments on or before March 17, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: February 8, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-4990 Filed 2-14-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-278-C]

Kaiser Steel Corp.; Petition for Modification of Application of Mandatory Safety Standard

Kaiser Steel Corporation, P.O. Box D, Sunnyside, Utah 84539, has filed a petition to modify the application of 30 CFR 75.1100-3 (Condition and examination of firefighting equipment) to its Sunnyside No. 3 Mine located in Carbon County, Utah. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

The substance of the petition follows:

1. Petitioner states that if the water line in the Slope Belt entry of its mine is kept constantly full of water, it will freeze and render the system inoperable during the winter months (October through April).

2. Petitioner seeks a modification applicable only during winter months and only on the portion of this water line extending from the portal to the 3rd left, a distance of approximately 2,000 feet.

3. As an alternative method, petitioner proposes the following:

(a) a tagged main valve will be located approximately 1,000 feet in by the portal and so located to prevent it from freezing,

(b) this valve could be turned on within minutes, providing water to that portion of the water line should the need arise,

(c) during the months specified, this section of the water line would be drained and this main valve closed,

(d) in the event of an emergency, petitioner would have person(s) responsible for opening this main valve.

4. The petitioner believes that this alternative method will at all times guarantee the same measure of protection afforded by the standard and that application of the standard would result in a diminution of safety to the miners.

Request for Comments

Persons interested in this petition may furnish written comments on or before March 17, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: February 6, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-4995 Filed 2-14-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-296-C]

R. & W. Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

R. & W. Coal Company, Inc., Country Club Estates, Abingdon, Virginia 24210 has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its No. 14 Mine located in Buchanan County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

The substance of the petition follows:

1. Petitioner states he is mining coal seams ranging from 30 to 36 inches in height.

2. Petitioner states installation of lighting fixtures on the tops and sides of its mining equipment and installation of stationary lighting fixtures would result in a diminution of safety for the miners for the following reasons:

(a) Lighting fixtures on the side of the equipment would "blind" the operator and nearby miners or require constant adjustment to changes in illumination; fixtures would be sheared off or broken increasing the likelihood of more serious equipment failure, wedging, jamming or upset. Also, as lighting fixtures on the side or top are sheared off, roof bolts, cross beams and straps will be sheared off, thereby damaging or destroying roof support.

(b) Installation of stationary lighting equipment would similarly impair the operators' and nearby miners' vision. It would also create additional heat in the confiningly small areas in which the miners must work.

3. For these reasons, the petitioner requests a modification of the application of the standard to its mine.

Request for Comments

Persons interested in this petition may furnish written comments on or before March 17, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: February 6, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-4994 Filed 2-14-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-294-C]

T. & R. Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

T. & R. Coal Company, Star Route, Box 55, Hurley, Virginia 24620 has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its No. 1 Mine located in Dickenson County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

The substance of the petition follows:

1. Petitioner states he is mining coal seams ranging from 29 to 31 inches in height.

2. Petitioner states installation of lighting fixtures on the tops and sides of its mining equipment and installation of stationary lighting fixtures would result in a diminution of safety for the miners for the following reasons:

(a) Lighting fixtures on the side of the equipment would "blind" the operator and nearby miners or require constant adjustment to changes in illumination; fixtures would be sheared off or broken increasing the likelihood of more serious equipment failure, wedging, jamming or upset. Also, as lighting fixtures on the side or top are sheared off, roof bolts, cross beams and straps will be sheared off, thereby damaging or destroying roof support.

(b) Installation of stationary lighting equipment would similarly impair the operators' and nearby miners' vision. It would also create additional heat in the confiningly small areas in which the miners must work.

3. For these reasons, the petitioner requests a modification of the application of the standard to its mine.

Request for Comments

Persons interested in this petition may furnish written comments on or before March 17, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: February 6, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-4993 Filed 2-14-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-29-C]

United States Steel Corp.; Petition for Modification of Application of Mandatory Safety Standard

United States Steel Corporation, Pittsburgh, Pennsylvania 15230, has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its Gurnee Mine located in Shelby County, Alabama. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

The substance of the petition follows:

1. Mining is in the development stage in the Gholsom Seam and has advanced some 700 feet. The Gholsom Seam pitches steeply downward at a substantial grade from the outcrop for approximately 2500 feet.

2. Old entries were found at the outcrop and only three entries, the intake, return and mine belt, could be developed at this location. The 42-inch mine belt cannot be modified to safely transport miners and have supplies.

3. Rubber tired equipment for hauling miners and equipment cannot be used because the grade encountered at the outcrop is 33 percent.

4. For these reasons, petitioner proposes the following alternative method which would guarantee the same measure of safety to the miners affected as that afforded by the standard.

(a) A second belt conveyor system from the surface will be installed and utilized only for handling supplies and transporting miners. For this reason and since there is no other entry available the belt will be on intake.

(b) The proposed belt will be fire resistant.

(c) The drive unit of this belt conveyor will be on the surface.

(d) The sproposed belt will be attended when operating; therefore, there will be no need for automatic fire sensor and warning devices.

(e) The proposed belt will extend into the mine to some point where rubber tired equipment can be used to transport miners and materials.

Request for Comments

Persons interested in this petition may furnish written comments on or before March 17, 1980. Comments must be filed with the Office of Standards, Regulations and Variances. Mine Safety

and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: February 8, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-4992 Filed 2-14-80; 8:45 am]

BILLING CODE 4510-43-M

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 80-8]

Employee Benefit Plans; Exemption From the Prohibitions for a Certain Transaction Involving Evans Products Co. General Pension Plan (Exemption Application No. D-1032)

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption permits the sale of secured real estate loans by the Evans Products Company General Pension Plan (the Plan) to the Evans Products Company (the Employer) for an amount equal to the sum of the outstanding principal balances plus accrued unpaid interest to the date of sale.

FOR FURTHER INFORMATION CONTACT: Ronald D. Allen of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523-7901. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION: On October 19, 1979, notice was published in the Federal Register (44 FR 60437) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of sections 406(a) and 406(b) (1) and (2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for a transaction described in an application filed by the trustees of the Plan. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. On December 7, 1979, notice was published in the Federal Register (44 FR 70593) extending the time for comments and hearing requests. The applicant has represented that he has complied with the notice requirements contained in the proposed exemption. No public comments and no requests for a hearing were received by the Department.

This application was filed with both the Department and the Internal Revenue Service. However, the notice of pendency was issued and the exemption is being granted, solely by the Department because, effective December 31, 1978 section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things, require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

The restrictions of sections 406(a) and 406(b) (1) and (2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale by the Plan of secured real estate loans which were not transferred to the Bank of America on December 15, 1976, to the Employer for an amount equal to the sum of the outstanding principal balances plus accrued unpaid interest to the date of sale.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 11th day of February, 1980.

Ian D. Lanoff,

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

[FR Doc. 80-4942 Filed 2-14-80; 8:45 am]

BILLING CODE 4510-29-M

Office of the Secretary

[TA-W-6890]

Batino Fashions, Hoboken, N.J.; Termination of Investigation

Pursuant to Section 221(a) of the Trade Act of 1974 an investigation was initiated on January 30, 1980, in response to a worker petition received on January 23, 1980 which was filed by International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats and raincoats at Batino, Hoboken, New Jersey. The correct company name is Batino Fashions.

On January 4, 1980 an investigation was initiated (TA–W–6685) in response to a worker petition received on December 26, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats and raincoats at Batino Fashions, Hoboken, New Jersey.

Since workers of Batino Fashions, Hoboken, New Jersey are covered by the ongoing investigation (TA–W–6685), a new investigation would serve no purpose. Consequently, the new investigation (TA–W–6890) has been terminated.

Signed at Washington, D.C. this 7th day of February 1980

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80–4755 Filed 2–14–80; 8:45 am]

BILLING CODE 4510–28–M

[TA–W–6734]

Bethlehem Steel Corp., Seattle, Wash.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, and investigation was initiated on January 9, 1980 in response to a worker petition received on January 2, 1980 which was filed on behalf of workers and former workers producing carbon steel products at the Bethlehem Steel Corporation, Seattle, Washington.

On November 23, 1979 all workers at the Seattle, Washington plant other than those covered by an existing certification (TA–W–2236) were denied eligibility to apply for adjustment assistance (TA–W–6048). The investigation indicated that any employment declines at the Seattle plant of Bethlehem Steel Corporation were due to normal business fluctuations. The petitioner requested administrative reconsideration of the Department of Labor's denial of that petition. On January 9, 1980 the Department of Labor issued a Notice of Negative Determination Regarding Application for Reconsideration.

On January 9, 1980 the Department instituted another investigation on behalf of workers at the Seattle, Washington plant of Bethlehem Steel Corporation (TA–W–6734). The new petition presents no new information which would change the determinations previously made under TA–W–6048.

Since an investigation has already been conducted pursuant to the facts and statements presented in the current petition (TA–W–6734) and since the current petition presents no additional information pursuant to the previous determination (TA–W–6048) that would change the previous determination, another investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 7th day of February 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80–4758 Filed 2–14–80; 8:45 am]

BILLING CODE 4510–28–M

[TA–W–6800]

Chrysler Corp., Marine and Industrial Division, Marysville, Mich.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on January 17, 1980 in response to a worker petition received on January 4, 1980 which was filed by the United Automobile, Aerospace and Agricultural Workers of America, Local Union #375 on behalf of workers and former workers producing marine engines at the Marine and Industrial Division of Chrysler Corporation, Marysville, Michigan.

During the course of the investigation, it was determined that all workers at the Marine and Industrial Division were separated from employment by August 1978, when the Marysville plant closed. Production of marine engines was subsequently transferred from Marysville to another Chrysler facility in Hartford, Wisconsin. Section 223(b) of the Trade Act of 1974 states that no certification under this section may apply to any worker whose last total or partial separation from the firm or appropriate subdivision of the firm occurred more than one year prior to the date of the petition.

The date of the petition in this case is December 28, 1979 and, thus, workers terminated prior to December 28, 1978 are not eligible for program benefits under Title II, Chapter 2, Subchapter B of the Trade Act of 1974. The investigation is therefore, terminated.

Signed at Washington, D.C., this 7th day of February 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80–4757 Filed 2–14–80; 8:45 am]

BILLING CODE 4510–28–M

[TA–W–6668]

Eaton Corp., Engineer Fastener Division, Wire Mill Plant, Massillon, Ohio; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 28, 1979 in response to a worker petition received on December 17, 1979 which was filed by the Allied Industrial Workers Union on behalf of workers and former workers producing cold drawn carbon steel wire at Eaton Corporation, Engineer Fastener Division, Wire Mill Plant, Massillon, Ohio.

In the following determination without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of carbon steel wire declined both absolutely and relative to domestic shipments in January–September 1979 compared to the same period in 1978. Sales and production at the Engineer Fastener Division, Wire Mill Plant increased in both quantity and value in 1978 compared to 1977 and decreased only slightly in 1979 compared to 1978.

Conclusion

After careful review, I determine that all workers of Eaton Corporation, Engineer Fastener Division, Wire Mill Plant, Massilon, Ohio are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 7th day of February 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80–4758 Filed 2–14–80; 8:45 am]

BILLING CODE 4510–28–M

[TA-W—6615]

Huntington Industries, Inc., Huntington, W. Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 13, 1979 in response to a worker petition received on December 10, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' dresses and two-piece suits at Huntington Industries Company, Incorporated, Huntington, West Virginia. The investigation revealed that the correct corporate title is Huntington Industries, Incorporated and that the plant produces primarily ladies' dresses. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or producion.

U.S. imports of women's, and misses' dresses decreased absolutely during the first three quarters of 1979 compared with the same period in 1978.

Sales of ladies' dresses increased in both quantity and value in 1978 compared with 1977 and in 1979 compared with 1978. Sales also increased in each of the four quarters of 1978 compared with the corresponding quarters of 1977 and in each of the four quarters of 1979 compared with the same quarters of 1978.

Employment declines were the result of Huntington's increased utilization of outside domestic contractors for dress production at the expense of in-house production.

Conclusion

After careful review, I determine that all workers of Huntington Industries, Incorporated, Huntington, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act. of 1974.

Signed at Washington, D.C. this 7th day of February 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-4759 Filed 2-14-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6609]

JDR, Inc., Rockaway, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 12, 1979 in response to a worker petition received on November 26, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing blouses at JDR, Incorporated, Rockaway, New Jersey. The investigation revealed that the plant produces ladies' blouses, skirts, pants, dresses and pant suits. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

JDR, Incorporated has produced ladies' blouses, skirts, pants, dresses and pantsuits exclusively for factory outlet stores since mid-1977. These factory outlets sell directly to the public.

Since these factory outlet stores relied exclusively on JDR for the production of ladies' apparel, the economic and seasonal factors that adversely affected sales at the factory outlets are also responsible for the reductions in employment and production at JDR, Incorporated.

Production declines in the third quarter of 1979 at JDR coincide with declining sales at the factory outlets that JDR supplied. The rural location of the factory outlets combined with a marketing strategy of selling only to the general public made the outlets susceptible to business fluctuations as consumers reduced their amount of travel during the gasoline shortage. In addition, the third quarter of the year normally encompasses a seasonal downturn in sales for these factory outlet stores. By November 1979, sales had increased above the level for November of the previous year.

From an industry-wide standpoint, U.S. imports of the following categories declined absolutely in the January–September period of 1979 compared to the same period of 1978: women's, misses' and children's blouses and shirts; skirts; slacks and shorts; dresses; and suits (which includes pantsuits).

Conclusion

After careful review, I determine that all workers of JDR, Incorporated, Rockaway, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 7th day of February 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-4760 Filed 2-14-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6628]

K-D Tool Manufacturing Co.; Lancaster, Pa.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to aply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 13, 1979 in response to a worker petition received on December 10, 1979 which was filed by the United Steelworkers of American on behalf of workers and former workers producing specialty hand tools for auto repair at the Lancaster, Pennsylvania plant of K-D Tool Manufacturing Company. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or

threat thereof, and to the absolute decline in sales or production.

Total shipments to customers of specialty hand tools for auto repair by K–D Tool Manufacturing Company increased in 1978 compared with 1977. Shipments declined marginally in 1979 compared with 1978. However, total customer orders increased substantially from 1978 to 1979 K–D shipped an abnormally low percentage of its orders in 1979 primarily because of temporary problems associated with its newly established distribution network.

Conclusion

After careful review, I determine that all workers of the Lancaster, Pennsylvania plant of K–D Tool Manufacturing Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 7th day of February 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-4761 Filed 2-14-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6709]

Mar-Pearl Co., Oregon, Ill.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on January 7, 1980 in response to a worker petition received on December 27, 1979 which was filed on behalf of workers and former workers producing decorative shell products for musical instrument manufacturers at Mar-Pearl Company, Oregon, illinois. The investigation revealed that Mar-Pearl Company also produces plastic guitar picks. It is concluded that all of the requirements have been met.

U.S. imports of parts for stringed instruments, which include inlaid head veneers, and U.S. imports of decorative shell products, which include mother-of-pearl and abalone inlays, increased in value in 1978 compared to 1977 and increased in the first three quarters of 1979 compared to the first three quarters of 1978. Industry and government sources indicate that imports of inlaid head veneers are supplying a larger share of the domestic market.

A customer survey revealed a major customer reduced purchases from the subject firm and increased purchases of imported decorative shell products and inlaid head veneers in 1979 compared to 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the decorative shell products and inlaid head veneers produced at Mar-Pearl Company, Oregon, Illinois contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Mar-Pearl Company, Oregon, Illinois who became totally or partially separated from employment on or after February 3, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 4th day of February 1980.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 80-4762 Filed 2-14-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6494]

Motor Wheel Corp., Newark, Del.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 30, 1979 in response to a worker petition received on November 27, 1979 which was filed by the United Auto Workers on behalf of workers and former workers producing wheels and automobiles at the Newark, Delaware plant of Motor Wheel Corporation. The investigation revealed that the plant only produces automobile wheels. It is concluded that all of the requirements have been met.

In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department conducted a survey of the major customer which purchased automobile wheels from the Newark, Delaware plant of Motor Wheel Corporation. The survey revealed that the major customer had purchased imported automobile wheels, but these automobile wheels were functionally distinct from those produced by the Newark, Delaware plant. The Newark, Delaware plant produces atuomobile wheels for regular road use for two specific car lines. The major customer purchased imported automotive wheels to be used as "mini-spares". "Mini-spares" are used strictly for emergency substitution and are not intended for prolonged regular road use. The major customer's purchases of imported automobile wheels like or directly competitive with those produced at the Newark, Delaware plant were negligible.

Conclusion

After careful review I determine that all workers of the Newark, Delaware plant of Motor Wheel Corporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 6th day of February 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-4763 Filed 2-14-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6639]

National Steel Corp.; Great Lakes Steel Division, Ecorse, Mich.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment

assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 18, 1979 in response to a worker petition received on December 10, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers producing all carbon steel products at National Steel Corporation, Great Lakes Steel Division, Ecorse, Michigan. The investigation revealed that the plant produces primarily hot and cold rolled carbon steel sheet. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Great Lakes Steel Division produces primarily hot and cold rolled carbon steel sheet.

Imports of all carbon steel sheet decreased absolutely and relatively in 1978 compared to 1977 and in the first nine months of 1979 compared to the same period in 1978.

Imports of hot rolled carbon steel sheet decreased absolutely and relatively in 1978 compared to 1977 and in the first nine months of 1979 compared to the same period in 1978.

Imports of cold rolled carbon steel sheet decreased absolutely and relatively in 1978 compared to 1977 and in the first nine months of 1979 compared to the same period in 1978.

Conclusion

After careful review, I determine that all workers of National Steel Corporation, Great Lakes Steel Division, Ecorse Michigan are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 7th day of February 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-4764 Filed 2-14-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6754]

Nu-Car Carriers, Inc., Edison, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on January 10, 1980, in response to a worker petition received on December 20, 1979, which was filed by the international Brotherhood of Teamsters on behalf of workers and former workers delivering automobiles at Nu-Car Carriers, Incorporated, Edison, New Jersey.

Nu-Car Carriers, Incorporated is engaged in providing the service of transporting automobiles from the factory or rail terminals to various dealers.

Thus, workers of Nu-Car Carriers, Incorporated do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Nu-Car Carriers, Incorporated by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Nu-Car Carriers, Incorporated and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any other company.

All workers engaged in transporting automobiles at Nu-Car Carriers, Incorporated are employed by that firm. All personnel actions and payroll transactions are controlled by Nu-Car Carriers, Incorporated. All Employee benefits are provided and maintained by Nu-Car Carriers, Incorporated. Workers are not, at any time, under employment or supervision by customers of Nu-Car Carriers, Incorporated. Thus, Nu-Car Carriers, Incorporated, and not any of its customers, must be considered to be the "workers' firm".

Conclusion

After careful review, I determine that all workers of Nu-Car Carriers, Incorporated, Edison, New Jersey are denied eligiblity to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 7th day of February 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-4765 Filed 2-14-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6718]

Nu Car Driveaway, Inc., Detroit, Mich.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on January 8, 1980, in response to a worker petition received on January 3, 1980, which was filed on behalf of workers and former workers transporting automobiles at Nu Car Driveaway, Incorporated, Detroit, Michigan.

Nu Car Driveaway, Incorporated is engaged in providing the service of transporting automobiles from manufacturing plants to various dealers.

Thus, workers of Nu Car Driveaway, Incorporated do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Nu Car Driveaway, Incorporated by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Nu Car Driveaway, Incorporated and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any other company.

All workers engaged in transporting automobiles at Nu Car Driveaway,

Incorporated are employed by that firm. All personnel actions and payroll transactions are controlled by Nu Car Driveaway, Incorporated. All employee benefits are provided and maintained by Nu Car Driveaway, Incorporated. Workers are not, at any time, under employment or supervision by customers of Nu Car Driveaway, Incorporated. Thus, Nu Car Driveaway, Incorporated, and not any of its customers, must be considered to be the "workers' firm".

Conclusion

After careful review, I determine that all workers of Nu Car Driveaway, Incorporated, Detroit, Michigan are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 4th day of February 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-4786 Filed 2-14-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6483]

Russell, Burdsall & Ward, Inc., Mentor, Ohio; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 29, 1979 in response to a worker petition received on November 23, 1979 which was filed by the United Auto Workers on behalf of workers and former workers producing industrial fasteners at the Mentor, Ohio plant of Russell, Burdsall and Ward, Incorporated. The investigation revealed that the plant produces specialty screws and bolts. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed in the course of the investigation revealed that U.S. imports of bolts and screws decreased absolutely and relative to domestic production in January-September 1979 compared to the same period in 1978. Imports of specialty fasteners are negligible.

The petitioners allege that most of Russell, Burdsall and Ward's (RB&W) fastener production is tied to the automobile industry, and, because of increases in imported cars, the resulting decline in sales of U.S. domestically produced automobiles has reduced the sales of specialty fasteners produced by the Mentor, Ohio plant of RB&W.

In discussing the term "like or directly competitive" as used in the Trade Act of 1974, the Senate Finance Committee noted that under the Trade Expansion Act of 1962, the courts concluded that imported finished articles are not like to directly competitive with domestic component parts thereof, *United Shoe Workers of America, AFL-CIO* v. *Bedell,* 506 F. 2d 174 (1974). (S. Rept. 93-1298, 93rd Cong., 2d Sess., 1974, p. 122). In that case, the court held that imported finished women's shoes were not like or directly competitive with shoe counters.

Similarly, specialty screws and bolts cannot be considered to be like or directly competitive with automobiles. Imports of specialty screws and bolts must be considered in determining import injury to workers producing specialty screws and bolts at the Mentor, Ohio plant of Russell, Burdsall, and Ward, Inc.

Production at the Mentor plant was changed from standard and specialty bolts and screws to only specialty bolts and screws in March 1978.

The Department surveyed some of the customers of Russell, Burdsall, and Ward. These customers indicated that they did not reduce purchases of bolts and screws from RB&W while increasing purchases of imports.

Conclusion

After careful review, I determine that all workers of Mentor, Ohio plant of Russell, Burdsall, and Ward Corporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 7th day of February 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-4787 Filed 2-14-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6698]

Samber Leather Fashions, Ltd., New York, N.Y.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on January 4, 1980 in response to a worker petition received on December 26, 1979 which was filed on behalf of workers and former workers producing men's leather garments at Samber Leather Fashions, Ltd., New York, New York. It is concluded that all of the requirements have been met.

U.S. imports of men's, boys', women's, misses', juniors', and children's leather coats and jackets increased both absolutely and relative to domestic production in 1978 compared to 1977. Imports of men's and boys' leather coats and jackets increased in the first three quarters of 1979 compared to the same period in 1978.

Samber Leather Fashions increased its purchases of imported men's leather grments in 1979 compared to 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the men's leather garments produced at Samber Leather Fashions, Ltd., New York, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Samber Leather Fashions, Ltd., New York, New York who became totally or partially separated from employment on or after March 30, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 7th day of February 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-4788 Filed 2-14-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6776]

Seacoast Tri Level, Inc., Newark, Del.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on January 14, 1980, in response to a worker petition received on January 8, 1980, which was filed on behalf of workers and former workers loading and unloading Chrysler automobiles onto railroad trains at Seacoast Tri Level, Incorporated, Newark, Delaware.

Seacoast Tri Level, Incorporated is engaged in providing the service of loading and unloading of Chrysler automobiles onto railroad trains.

Thus, workers of Seacoast Tri Level, Incorporated do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Seacoast Tri Level, Incorporated by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Seacoast Tri Level, Incorporated and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any other company.

All workers engaged in loading and unloading of Chrysler automobiles onto railroad trains at Seacoast Tri Level, Incorporated are employed by that firm. All personnel actions and payroll transactions are controlled by Seacoast Tri Level, Incorporated. All employee benefits are provided and maintained by Seacoast Tri Level, Incorporated. Workers are not, at any time, under employment or supervision by customers of Seacoast Tri Level, Incorporated. Thus, Seacoast Tri Level, Incorporated, and not any of its customers, must be considered to be the "workers' firm".

Conclusion

After careful review, I determine that all workers of Seacoast Tri Level, Incorporated, Newark, Delaware are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 7th day of February 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-4769 Filed 2-14-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6580 and TA-W-6580A]

Steffi Fashions, Inc., New York, N.Y., Paterson, N.J.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 10, 1979 in response to a worker petition received on November 20, 1979 which was filed by the International Ladies Garment Workers' Union on behalf of workers and former workers producing ladies' coats and suits at Steffi Fashions, Incorporated, New York, New York. The investigation revealed that the company produces ladies' coats and jackets. The investigation was expanded to include the Paterson, New Jersey plant of Steffi Fashions, Incorporated. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased both absolutely and relative to domestic production in 1978 compared to 1977.

The Department of Labor surveyed the customers of Steffi Fashions, Incorporated. The survey revealed that customers, representing a substantial portion of Steffi Fashions' sales, reduced their purchases from Steffi in the January through November period of 1979 compared to the same period in 1978. These customers also increased their purchases of imported ladies' coats and jackets in the same time period.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' coats and jackets produced at Steffi Fashions, Incorporated, Paterson, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant and at the New York, New York office of Steffi Fashions, Incorporated. In accordance with the provisions of the Act, I make the following certification:

All workers of the Paterson, New Jersey plant and of the New York, New York office of Steffi Fashions, Incorporated who became totally or partially separated from employment on or after November 14, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 7th day of February 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-4772 Filed 2-14-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-663]

Smithtown Manufacturing Co., Inc., Commack, N.Y.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 13, 1979 in response to a worker petition received on December 7, 1979 which was filed on behalf of workers and former workers producing ladies' blouses and sportswear at Smithtown Manufacturing Company, Incorporated, Commack, New York. The investigation revealed that the plant produces primarily ladies' blouses. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's blouses and shirts increased absolutely in each year from 1975 through 1978, as compared to the preceding year. The ratio of imports to domestic production of blouses increased from 1977 to 1978.

The Office of Trade Adjustment Assistance conducted a survey of the manufacturers for which Smithtown did contract work. A manufacturer whose reduced orders accounted for a significant proportion of Smithtown's sales decline, in the first eleven months of 1979 compared to the like period in 1978, reported that its own sales had declined in that time period. A survey of retailers who are this manufacturer's customers revealed that the retailers increased their reliance on imported blouses in the January–September 1979 period compared to the January–September 1978 period. Several retailers, who increased their purchases of imported blouses, reduced their purchases from this manufacturer as well as from other domestic sources in the first three quarters of 1979 compared to the like period of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' blouses produced at Smithtown Manufacturing Company, Incorporated, Commack, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Smithtown Manufacturing Company, Incorporated, Commack, New York who became totally or partially separated from employment on or after January 12, 1979 and before December 31, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 7th day of February 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-4771 Filed 2-14-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6579]

Slavin Products, Inc., Waterbury, Conn.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 10, 1979 in response to a worker petition received on December 4, 1979 which was filed on behalf of workers and former workers producing clocks and barometer plaques at Slavin Products, Incorporated, Waterbury, Connecticut. The investigation revealed that in addition to clocks and barometer plaques, Slavin Products also produced a variety of miscellaneous wood products. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that customers of Slavin Products, Incorporated did not purchase imports.

Slavin Products, Incorporated produced miscellaneous wood products, barometer plaques, table clocks and specialty clocks. The subject firm stopped producing table clocks in the second quarter of 1978 and sales of specialty clocks increased in 1979 compared with 1978. The Department conducted a survey of Slavin Products' customers who purchased miscellaneous wood products and barometer plaques. Customers responding to this survey represented a majority of Slavin Products' sales of these two items. None of these customers purchased any direct or indirect imports of the wood products or barometer plaques.

Conclusion

After careful review, I determine that all workers of Slavin Products, Incorporated, Waterbury, Connecticut are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 7th day of February 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-4770 Filed 2-14-80; 8:45 am]

BILLING CODE 4510-25-M

[TA-W-6417]

U.S. Steel Corp. Fairless Works, Fairless Hills, Pa.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 21, 1979 in response to a worker petition received on October 22, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers producing carbon steel rods, wire and wire products, cold rolled sheet, bar-size light shapes and galvanized sheet at the Fairless Works of the U.S. Steel Corporation in Fairless Hills, Pennsylvania. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Rod, Cold Rolled Sheet and Bar-Size Light Shapes

Imports of carbon steel rod, carbon steel cold rolled sheet and carbon steel bar-size light shapes declined both absolutely and relative to domestic shipments in 1978 compared to 1977 and in the first three quarters of 1979 compared to the like 1978 period.

Galvanized Sheet and Wire and Wire Products

Imports of galvanized sheet and wire and wire products declined both absolutely and relative to domestic shipments in the first three quarters of 1979 compared to the same period in 1978.

Sales and production of galvanized sheet at the Fairless plant increased in 1978 compared to 1977, before declining in the first three quarters of 1979 compared to the same period in 1978.

A Department of Labor survey of the Fairless plant's galvanized sheet customers revealed only one respondent that reduced purchases from the Fairless

plant and increased purchases of imported galvanized sheet in 1979 compared to 1978. This respondent, who also significantly increased purchases from other domestic sources, accounted for a negligible portion of the plant's decline in the sales of galvanized sheet in 1979 compared to 1978.

Sales and production of wire and wire products at the Fairless Hills plant increased in the first three quarters of 1979 compared to the same period in 1978, after declining slightly in 1978 compared to 1977.

A Department of Labor survey of the wire and wire products customers of the Fairless Hills plant revealed that the majority of the respondents did not purchase imported wire and wire products in 1978 and 1979. The respondents indicated a negligible reliance on imported wire and wire products in 1978 and 1979. The increased purchases of imports in 1979 compared to 1978 by respondents that reduced purchases from Fairless had a negligible impact on the plant's sales of wire and wire products.

Conclusion

After careful review, I determine that all workers of the Fairless Works of the U.S. Steel Corporation in Fairless Hills, Pennsylvania engaged in employment related to the production of carbon steel rods, cold-rolled sheet, galvanized sheet, bar-size light shapes and wire and wire products are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 7th day of February 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-4773 Filed 2-14-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6462]

U.S. Steel Corp., Gary Works, Gary, Ind.; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of investigations regarding certifications of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 27, 1979, in response to a worker petition received on November 21, 1979, which was filed by the United Steelworkers of America on behalf of workers and former workers producing galvanized steel products (coated sheet) at the Gary Works of the U.S. Steel Corporation. The investigation was expanded to include workers producing stainless steel sheet, and tin mill products. In the following determinations, at least one of the criteria has not been met for workers producing stainless steel sheet and tin mill products. All of the criteria have been met for workers producing coated sheet.

With respect to workers producing stainless steel sheet the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of stainless hot and cold rolled sheet declined both absolutely and relative to domestic shipments in the first three quarters of 1979 compared to the same period in 1978.

Sales and production of stainless steel sheet at the Gary Works remained stable in 1978 compared to 1977, before declining in the first eleven months of 1979 compared to the same period in 1978.

With respect to workers producing tin mill products, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Sales and production of tin mill products increased at the Gary Works in 1978 compared to 1977, and in the first eleven months of 1979 compared to the same period in 1978. Sales increased in every quarter, when compared to the same quarter in the previous year, from the first quarter of 1978 through the third quarter of 1979.

With respect to workers producing coated sheet, all of the requirements have been met.

U.S. imports of metallic coated steel sheet increased both absolutely and relative to domestic shipments in 1978 compared to 1977. Imports increased absolutely in the second and third quarters of 1979 compared to the same period in 1978.

A Department of Labor survey revealed that customers with decreased purchases from the Gary Works and increased purchases of imported coated sheet accounted for a major portion of the Gary Works' 1979 decline in the sales of coated sheet.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the coated sheet produced at the Gary Works of the U.S. Steel Corporation contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers producing coated sheet at the Gary Works of the U.S. Steel Corporation, Gary, Indiana who became totally or partially separated from employment on or after July 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 6th day of February 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-4774 Filed 2-14-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6555]

Valentino Fashions, Inc., North Bergen, N.J.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 6, 1979 in response to a worker petition received on November 29, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at Valentio Fashions, Incorporated, North Bergen, New Jersey. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased absolutely and relative to domestic production from 1977 to 1978. The ratio of imports to domestic production was 69.3 percent in 1978.

Valentio Fashions is a contractor for one manufacturer. Sales by this manufacturer decreased in value in 1979 compared to 1978.

The Department conducted a survey of some customers of the manufacturer. The results of this survey revealed that

customers reduced purchases of ladies' coats from this manufacturer and increased purchases of imports during the period under investigation.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' coats produced at Valentio Fashions, Incorporated, North Bergen, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Valentino Fashions, Incorporated, North Bergen, New Jersey who became totally or partially separated from employment on or after September 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 4th day of February 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-4775 Filed 2-14-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6485]

Wilton Corp., Winchester, Tenn.; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 29, 1979 in response to a worker petition received on November 23, 1979 which was filed on behalf of workers and former workers producing metalworking vises for home shop use, metalworking band saws, and drill presses at the Winchester, Tennessee plant of the Wilton Corporation. The investigation revealed that the plant also produced pressure sensitive tape, identification systems, and box handles.

In the following determinations, without regard to whether any of the other criteria have been met for workers in the Packaging Division, and for workers engaged in the production of wheel hubs, the following criterion has not been met:

That sales or production, or both, of the firm or appropriate subdivision have decreased absolutely.

Sales and production of the Packaging Division increased in 1978 compared to 1977 and in the first eleven months of 1979 compared to the same period in 1978.

Sales and production of wheel hubs increased in the last eight months of 1978 compared to 1977 and increased in the first eleven months of 1979 compared to the same period in 1978.

With respect to workers engaged in employment related to the production of band saws, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of band saws declined absolutely and relative to domestic production in 1978 compared to 1977 and in the first nine months of 1979 compared to the same period in 1978.

With respect to workers engaged in employment related to the production of drill presses and vises all of the criteria have been met.

U.S. imports of vises increased absolutely and relative to domestic production in 1978 compared to 1977. Imports as a percentage of production exceeded 900 percent in 1978. U.S. imports of drill presses increased absolutely and relative to shipments in 1978 compared to 1977 and increased abolutely in the first nine months in 1979 compared to the same period in 1978.

Wilton imported component parts for vises and drill presses in 1978 and 1979 and began importing completed vises and drill presses in 1979.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with vises and drill presses produced at the Wilton Corporation, Winchester, Tennessee contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Wilton Corporation, Winchester, Tennessee engaged in employment related to the production of vises and drill presses who became totally or partially separated from employment on or after September 9, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 7th day of February 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-4776 Filed 2-14-80; 8:45 am]

BILLING CODE 4510-28-M

Pension and Welfare Benefit Programs

Advisory Council on Employee Welfare and Pension Benefit Plans; Meeting

Pursuant to Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA) 29 U.S.C. 1142, a meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 9:30 a.m. on Wednesday, March 5, 1980, in Room N-4437C, U.S. Department of Labor, Third and Constitution Avenue, N.W., Washington, D.C.

The purpose of the meeting is to install new members, to discuss the items listed below and to invite public comment on any aspect of the administration of ERISA.

1. Administration of Oath to New Members.

2. Reports: Department of Labor Progress, Communications Work Group, Investment and Fiduciary Work Group, Collective Bargaining Work Group, and Legislation Work Group.

3. Statements from the public.

Members of the public are encouraged to file a written statement pertaining to any topic concerning ERISA, by submitting 30 copies on or before March 4, 1980, to the Administrator, Pension and Welfare Benefit Programs, U.S. Department of Labor, Room S-4522, Third and Constitution Avenue, N.W., Washington, D.C. 20216.

Persons desiring to address the Council should notify Edward F. Lysczek, Executive Secretary of the Advisory Council, in case of the above address or by calling (202) 523-8753.

Signed at Washington, D.C. this 11th day of February 1980.

Ian D. Lanoff,

Administrator of Pension and Welfare Benefit Programs.

[FR Doc. 80-5220 Filed 2-14-80; 11:43 am]

BILLING CODE 4510-29-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 80-11]

NASA Advisory Council (NAC), Space Science Advisory Committee; Meeting

The NAC Space Science Advisory Committee (SSAC) will meet at the Goddard Space Flight Center on March 3–4, 1980, and the National Aeronautics and Space Administration Headquarters on March 5–6, 1980. The meeting will be open to the public. The Meeting at Goddard Space Flight Center will be held in Building 26 Room 205 (which has a seating capacity of 100 including the Committee members and participants), in Greenbelt, MD 20771. The meeting will take place from 9:00 a.m.–5:30 p.m. on March 3 and 4, 1980. The meeting at NASA Headquarters will take place from 9:00 a.m. to 5:30 p.m. on March 5 and from 9:00 a.m. to 12:30 p.m. on March 6, 1980. The meeting will be held in Room 5026 (with a seating capacity of 60 persons including the Committee members and participants) in Federal Office Building #6, 400 Maryland Avenue, SW., Washington, DC 20546.

The NAC Space Science Advisory Committee consults with and advises the Council as a whole and NASA on plans for, work in progress on, and accomplishments of NASA's Space Science programs. Topics under discussion at this meeting will include a status report and overview of the Space Science programs. Also included will be a one and a half day review of the National Space Science Data Center (NSSDC) and of the Goddard Institutes For Space Studies (GISS). Following this activity the Committee will review the 10-Year Plan for Astronomy and Astrophysics, Planetary Programs, Solar Terrestrial Programs, Life Sciences and the Office of Space Science Spacelab Utilization.

March 3, 1980 GSFC—Building 26, Room 205

9:00 a.m. Introduction
9:15 a.m. Office of Space Science (OSS) Program Status
10:30 a.m. NSSDC Review
1:00 p.m. NSDC Review and Visit
5:00 p.m. Discussion
5:30 p.m. ADJOURN

March 4, 1980 GSFC—Building 26, Room 205

9:00 a.m. OSS Data Base Discussion
10:00 a.m. GISS Review
12:00 p.m. Discussion
1:30 p.m. Astronomy and Astrophysics 10-Year Plan
5:00 p.m. Discussion
5:30 p.m. ADJOURN

March 5, 1980 NASA HQS—FOB #6, Room 5026

9:00 a.m. Planetary Program 10-Year Plan
12:00 p.m. Discussion
1:30 p.m. Solar Terrestrial 10-Year Plan
4:30 p.m. Discussion
5:30 p.m. ADJOURN

March 6, 1980 NASA HQS—FOB #6, Room 5026

9:00 a.m. Life Sciences 10-Year Plan
10:30 a.m. Spacelab 10-Year Plan
12:00 p.m. Discussion
12:30 p.m. ADJOURN

For further information regarding this meeting, please contact Dr. Adrienne F. Timothy, Executive Secretary at Area Code 202/755–3653, National Aeronautics and Space Administration, Washington, DC 20546.

Russell Ritchie,
Deputy Associate Administrator for External Relations.
February 11, 1980.
[FR Doc. 80-4874 Filed 2-14-80; 8:45 am]
BILLING CODE 7510-01-M

NATIONAL COMMISSION ON SOCIAL SECURITY

Administration of the Social Security Programs; Meeting

February 7, 1980.

The National Commission on Social Security will hold a public meeting at Washington, D.C. on March 13, 1980 in Room 105, The Archives Reception Room of the Archives Building at 8th and Pennsylvania Avenue, N.W. The Commission will be discussing the administration of the social security programs.

The meeting will begin at 9:00 a.m. and continue until Commission business is completed but no later than 5:00 p.m. The meeting will be open to the public, in accordance with the Federal Advisory Committee Act.

Additional information about the meeting may be obtained from the Commission office: Room 126-Pension Building, 440 G Street, N.W., Washington, D.C. Phone: 376–2622.

Francis J. Crowley,
Executive Director.
[FR Doc. 80-4916 Filed 2-14-80; 8:45 am]
BILLING CODE 6820-AC-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Folk Arts Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Folk Arts Advisory Panel to the National Council on the Arts will be held March 6, 1980, from 9:00 a.m.–5:30 p.m.; March 7, 1980, from 9:00 a.m.–5:30 p.m.; and March 8, 1980, from 9:00 a.m.–5:30 p.m., in Room 1426, Columbia Plaza Office Complex, 2401 E St., N.W., Washington, D.C.

A portion of this meeting will be open to the public on March 8, 1980, from 9:00 a.m.–1:00 p.m., for the discussion of policy.

The remaining sessions of this meeting on March 6, 1980, from 9:00 a.m.–5:30 p.m.; March 7, 1980, from 9:00 a.m.–5:30 p.m.; and March 8, 1980, from 1:00 p.m.–5:30 p.m., are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 52b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

Dated: February 12, 1980.

John H. Clark,
Director, Office of Council and Panel Operations, National Endowment for the Arts.
[FR Doc. 80-4961 Filed 2-14-80; 8:45 am]
BILLING CODE 7537-01-M

Museum Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Museum Panel to the National Council on the Arts will be held March 11, 1980, from 9:00 a.m.–5:30 p.m., Room 1426, Columbia Plaza Office Complex, 2401 E St., N.W., Washington, D.C.

A portion of this meeting will be open to the public on March 11, 1980, from 9:00 a.m.–11:30 a.m., for the discussion of policy.

The remaining sessions of this meeting on March 11, 1980, from 11:30 a.m.–5:30 p.m., are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register March 17, 1977, these sessions will be closed to

the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

Dated: February 12, 1980.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 80-4959 Filed 2-14-80; 8:45 am]

BILLING CODE 7537-01-M

Music Advisory Panel (Centers); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Centers) to the National Council on the Arts will be held March 11, 1980, from 9:00 a.m.–5:30 p.m., and March 12, 1980, from 9:00 a.m.–5:30 p.m., Room 1422, Columbia Plaza Office Complex, 2401 E St., N.W., Washington, D.C.

A portion of this meeting will be open to the public on March 11, 1980 from 9:00 a.m.–11:00 a.m., for panel orientation.

The remaining sessions of this meeting on March 11, 1980 from 11:00 a.m.–5:30 p.m., and March 12, 1980 from 9:00 a.m.–5:30 p.m., are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register March 17, 1977, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

Dated: February 12, 1980.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 80-4960 Filed 2-14-80; 8:45 am]

BILLING CODE 7537-01-M

Office of Partnership (State Programs Section); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that a meeting of the Office of Partnership Panel (State Programs Section) to the National Council on the Arts will be held March 5, 1980 from 9:00 a.m.–5:00 p.m.; March 6, 1980 from 9:00 a.m.–5:00 p.m.; and March 7, 1980 from 9:00 a.m.–5:00 p.m., Shoreham Building, 806 15th Street, N.W., Washington, D.C.

This meeting will be open to the public on a space available basis. The topic for discussion will be Policy and Planning.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

Dated: February 12, 1980.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 80-4962 Filed 2-14-80; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Ad Hoc Subcommittee on Three Mile Island; Unit 2 Accident Bulletins and Orders; Meeting

The ACRS Ad Hoc Subcommittee on the Three Mile Island, Unit 2 Accident Bulletins and Orders will hold a meeting on March 3, 1980 in Room 1046, 1717 H St., NW, Washington, DC 20555 to continue its consideration of NRC Office of Inspection and Enforcement Bulletins and NRC Orders pertaining to the TMI–2 Accident.

In accordance with the procedures outlined in the Federal Register on October 1, 1979 (44 FR 56408), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Monday, March 3, 1980, 8:30 a.m. Until the Conclusion of Business

The Subcommittees may meet in Executive Session, with any of their consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, the nuclear industry, various utilities, and their consultants, and other interested persons.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act (Public Law 92–463), that, should such sessions be required, it is necessary to close these sessions to protect proprietary information. See 5 U.S.C. 552b(c)(4).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Paul A. Boehnert (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EST.

Background information concerning items to be discussed at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street, N.W., Washington, DC 20555 and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Street, Harrisburg, Pa. 17126.

Dated: February 14, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80-4950 Filed 2-14-80; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee on Babcock and Wilcox Water Reactors; Meeting

The ACRS Subcommittee on Babcock and Wilcox Water Reactors will hold a meeting on March 4, 1980 in Room 1046, 1717 H St., NW, Washington, DC 20555 to continue its discussion of the sensitivity to transients of once-through steam generators (OTSG) and other features of Babcock and Wilcox designed nuclear plants. Notice of this meeting was published January 22, 1980.

In accordance with the procedures outlined in the Federal Register on October 1, 1979, (44 FR 56408), oral or

written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Tuesday, March 4, 1980, 8:30 a.m. Until the Conclusion of Business

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, Babcock and Wilcox, their consultants, and other interested persons.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act (Public Law 92-463), that, should such sessions be required, it is necessary to close these sessions to protect proprietary information. See 5 U.S.C. 552b(c)(4).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. John C. McKinley (telephone 202/634-3265) between 8:15 a.m. and 5:00 p.m., EST.

Dated: February 11, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80-4949 Filed 2-14-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. PRM-51-4]

Boston Edison Co., et al.; Denial of Petition for Rulemaking

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Denial of Petition for Rulemaking, PRM-51-4.

SUMMARY: The Nuclear Regulatory Commission is denying a petition for rulemaking, dated February 8, 1978, submitted to the Nuclear Regulatory Commission by Mr. Robert Lowenstein on behalf of the Boston Edison Co., Florida Power and Light Co., and Yankee Electric Co. (43 FR 9542, published 3/8/78). The petitioners requested that the Commission's regulations be amended to limit the scope of environmental review at the operating license stage to "those matters of environmental significance which have not been resolved in the environmental review conducted at the construction permit stage."

In denying the petition, the Commission found that the petitioners' argument was based on an erroneous assumption concerning the scope of an operating license safety review. In addition, the Commission found that if the proposed amendments were adopted, the result would be to foreclose Commission consideration of even significant new information at the operating license stage, a result which would be undesirable as a matter of law and policy.

Commissioner Victor Gilinsky dissented from the denial. He state that a rulemaking proceeding should be initiated to determine which environmental matters can sensibly be excluded from reconsideration at the operating license stage.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Nuclear Regulatory Commission has denied a petition for rulemaking submitted by letter dated February 8, 1978 by Mr. Robert Lowenstein on behalf of the Boston Edison Co., Florida Power and Light Co., and Yankee Atomic Electric Co. A notice of the filing of the petition, Docket No. PRM-51-4, was published in the Federal Register on March 8, 1978 (43 FR 9542) and interested persons were invited to comment on the petition by May 8, 1978. Eleven letters of comment were received. Of these, eight supported the petition and three recommended denial. In addition, a comment recommending denial of the petition was received from the Council on Environmental Quality.

Background and Summary of Analysis

The petition requested that §§ 51.21 and 51.23(e) of the Commission's regulations [1] be amended to limit the scope of the environmental review conducted at the operating license stage to "those matters of environmental significance which have not been resolved in the environmental review conducted at the construction permit stage." [2] The petitioners' proposed amendments would specifically exclude from consideration at the operating license stage such matters as need for the plant, need for power, alternvative sites, and alternative energy sources.

The petitioners' proposed amendments are based largely upon an argument that the safety review performed by the Nuclear Regulatory Commission ("NRC" or "Commission") in an operating license proceeding is quite limited as compared to the safety review performed by the Commission in a construction permit proceeding. Petitioners argue that the scope of the review conducted pursuant to the National Environmental Policy Act [3] ("NEPA") in an operating license proceeding should be determined by the scope of the underlying safety review and concludes that the NEPA review at the operating license stage should be limited because the safety review at that stage is limited. However, as will be demonstrated below, petitioners' argument is premised upon the erroneous assumption that the operating license safety review is limited to a determination of "whether the plant was properly constructed, the adequacy of proposed technical specifications, the manner in which 'open items' were resolved, and the sufficiency of the final design." Contrary to petitioners' assumption, and as will be shown in greater detail below, basic questions of plant operating safety do remain to be finally determined at the operating license stage. Petitioners also cite the "rule of reason" under NEPA and the Presidential policy to expedite nuclear power plant licensing as additional justification for limiting the operating license NEPA review. Petitioners give no rational to support a conclusion that any and all consideration of the cited issues is unreasonable as a matter of law. While it might be legally possible to limit the NEPA review at the operating license stage to new information of significance to the ultimate decision, petitioners appear to go further and seek to foreclose Commission consideration of even significant new information. The Commission does not believe that, either as a matter of law or policy, significant new information can be ignored.

Thus, because the major underlying premise for the petition—that the operating license safety review is limited—is incorrect, and because the result which the petition would achieve—disregard for even significant new information at the operating license stage—is undesirable as a matter of law and policy—the Commission has decided to deny the petition.

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[1] 10 CFR §§ 51.21 and 51.23(e).

[2] Petition, at 1.

[3] 42 U.S.C. § 4321 *et seq.*

Analysis of Petition

A. Scope of Safety Review at Operating License Stage

Petitoners argue that the safety review at the operating license stage is far more limited than is the safety review at the construction permit stage. Petitioners reach this conclusion by first citing Section 185 of the Atomic Energy Act of 1954, as amended,[4] its legislative history, and the Commission's regulations for the proposition that issuance of a construction permit and operating license constitute only one proceeding. Petitioners argue that issuance of a construction permit requires the Commission to eventually issue an operating license upon making only limited additional findings since at the construction permit stage the Commission must find that the plant "can be constructed *and operated* without undue risk to the public health and safety." [5]

Section 185 of the Atomic Energy Act,[6] cited by petitioners states:

Upon the completion of the construction or modification of the facility, upon the filing of any additional information needed to bring the original application up to date, and upon finding that the facility authorized has been constructed and will operate in conformity with the application as amended and in conformity with the provisions of this Act and of the rules and regulations of the Commission, and in the absence of any good cause being shown to the Commission why the granting of a license would not be in accordance with the provisions of this Act, the Commission shall thereupon issue a license to the applicant.

Petitioners cite the legislative history of this provision for the proposition that the drafters of the legislation felt a need to give assurance at the construction permit stage that an operating license would issue if certain conditions were complied with. This same argument was addressed by the Supreme Court in *Power Reactor Development* v. *International Union of Electrical, Radio and Machine Workers.*[7] *In* PRDC, the Supreme Court looked at Section 185 and the very same provisions of the legislative history cited by the petitioners. It reached a conclusion contrary to petitioners':

Even a glance at § 185 suffices to show that issuance of a construction permit does not make automatic the later issuance of a license to operate. For that section sets forth three conditions, in addition to the completion of the construction, which must be met before an operating license is granted: (1) filing of any additional information necessary to bring the application up to date—information which will necessarily in this case include detailed safety data concerning the final design of petitioner's reactor; (2) a finding that the reactor will operate in accordance with the act and regulations—i.e., that the safety and health of the public will be adequately protected—and with the construction permit itself, which is expressly conditioned upon a full investigation and finding of safety before operation is permitted; and (3) the absence of any good cause why the granting of a license to operate would not be in accordance with the Act.[8]

Thus, under long-established judicial precedent, petitioners' assertion that under the Atomic Energy Act issuance of a construction permit requires the Commission to later issue an operating license upon making certain additional limited findings is incorrect.

Petitioners' second point is that the Commission's regulations themselves show that the Atomic Energy Act has been implemented in such a way that the safety review at the operating license stage is more limited than the review at the construction permit stage. Petitioner here cites the Commission's regulations in 10 CFR §§ 50.23 and 50.56.[9] 10 CFR § 50.23 merely refers one to 10 CFR § 50.56. In § 50.56 petitioners focus on language that says "the Commission will * * * issue license" and deemphasize the intervening words "the Commission will *in the absence of good cause shown to the contrary* issue a license." Yet, these words track the language of the Act and clearly show that the Commission is not obligated to issue an operating license.

In addition, petitioners' argument regarding practice under the regulations ignores another portion of the Commission's regulations, 10 CFR § 50.35c, which states:

(c) Any construction permit will be subject to the limitation that a license authorizing operation of the facility will not be issued by the Commision until (1) the applicant has submitted to the Commission, by amendment to the application, the complete final safety analysis report, portions of which may be submitted and evaluated from tme to time, and (2) the Commission has found that the final design provides reasonable assurance that the health and safety of the public will not be endangered by operation of the facility in accordance with the requirements of the license and the regulations in this chapter.

This provision indicates that issuance of an operating license entails much more than just a determination that the plant has been built in compliance with the construction permit. It indicates that major findings of plant operating safety are left to be finally made at the operating license stage.

In support of its argument that little remains to be resolved at the operating license stage, petitioners also assert that the list of outstanding issues in recent safety analysis reports is small. Whether the list is small or large is open to debate, depending on how one views the significance of some of the safety issues involved. What is clear is that it is quite common for resolution of at least some significant safety questions to be postponed until the operating license stage. It is not true that the operating license review is limited in the sense suggested by petitioners.

Finally, petitioners argue that Section 50.109 of the Commission's regulations regarding backfitting supports the view that the Commission considers most safety issues to be resolved at the construction permit state. That provision states:

As used in this section, "backfitting" of a production or utilization facility means the addition, elimination or modification of structures, systems or components of the facility after the construction permit has been issued.[10]

While petitioners' argument regarding this provision is not clearly set forth, it appears that petitioners are arguing that the backfitting rule reflects a licensing framework in which all major issues are finally resolved at the construction permit stage. This is not the case, as seen from the discussion above. The backfitting rule was never intended, and is not now used, to define the scope of review at the operating license stage.

In summary, petitioners' argument regarding the scope of the operating license safety review is without merit. The scope of the safety review at the operating license stage is *not* limited in the sense suggested by petitioners. Basic findings of the safety of plant operability

[4] 68 Stat. 921, 42 U.S.C. § 2011, § 2235 (1975).

[5] Petition, at 9 (Petitioner's emphasis).

[6] Note 4, *supra.*

[7] 367 U.S. 396 (1961) [hereinafter cited as PRDC.] Petitioners cite the *Commission's* decision in PRDC for the proposition that findings at that time at the construction permit stage were, themselves, limited and did not address issues of plant operating safety. This point supports the view that the construction permit and operating license proceedings were not meant by Congress to be one proceeding. Indeed, the Supreme Court in PRDC held that the Commission could defer consideration of plant operating safety issues until after the plant was constructed.

[8] PRDC, note 7, *supra*, at 411.

[9] 10 CFR § 50.23 reads as follows: "A construction permit . . . will be issued prior to the issuance of a license * * *, and will be converted upon due completion of the facility and Commission action into a [an operating] license as provided in Sec. 50.56". 10 CFR § 50.56 reads as follows: "Upon completion of the construction or alternation of a facility, in compliance with the terms and conditions of the construction permit and subject to any necessary testing of the facility for health or safety purposes, the Commission will, in the absence of good cause shown to the contrary issue a license of the class for which the construction permit was issued or an appropriate amendment of the license, as the case may be.

[10] 10 CFR § 50.109(a).

remain to be finally made at the operating license stage. In fact, the Commission must there make a full-fledged safety finding that it has "resonable assurance that the health and safety of the public will not be endangered by operation of the facility in accordance with the requirements of the license and the regulations * * *" [11]

B. Scope of NEPA Review at the Operating License Stage

Petitioners argue that the scope of the NEPA review at the operating license stage should not exceed the bounds of the underlying health and safety review of the application at this stage. Thus, as petitioners' argument goes, since the scope of the safety review at the operating license stage is limited, the scope of the NEPA review should be similarly narrowed. However, in the preceding section, petitioners' argument that the scope of the safety review is limited is shown to be incorrect. It would follow, then, that the NEPA review cannot be limited on these grounds to exclude consideration of issues such as need for power, alternate sites and alternate enegy sources.

There remains petitioners' argument based upon the "rule of reason." Our present regulations acknowledge that the NEPA review at the operating license stage must include consideration of new information or information different from that considered prior to issuance of a construction permit. Our present regulations also recognize that duplicating at the operating license stage the environmental review conducted at the construction permit stage is unnecessary. Thus, 51.23(e) of the Commission's regulations provides that:

> A draft environmental impact statement prepared in connection wih the issuance of an operating license will cover only matters which differ from, or which reflect new information in addition to, those matters discussed in the final environmental impact statement prepared in connection with the issuance of the construction permit.

Petitioners themselves recognize that NEPA requires that "each agency decision-maker has before him, and takes into proper account, all environmental impacts of a *particular project.*" [12] Courts have held that an adequate NEPA review must be based upon the best information reasonably available at the time of the proposed action [13] and that a new or supplemental environmental impact statement may need to be prepared where there are new or changed effects of significance to the environment associated with a proposed federal action.[14] Indeed, the D.C. Circuit in Calvert Cliffs [15] follows this view and states clearly that environmental impacts must be considered at the operating license stage but implies that this review need not duplicate the NEPA review at an earlier stage "absent new information or new developments, at the operating license stage." [16] While it might be possible to limit the NEPA review to new information of significance to the ultimate decision on the proposed action, petitioners appear to go further and seek to foreclose Commission consideration of even significant new information. Such a result would be reached if, as petitioners suggest, the NEPA review at the operating license stage were confined to issues left unresolved at the construction permit stage and no account could be taken of new information that had been developed on the issues considered to be resolved.

The premise here seems to be that no new information regarding these matters could ever be of any significance to the operating license decision. While this may be true, in some cases, petitioners offered no data or detailed argument to support the proposition, and we are reluctant to proceed on this matter without more information. While this would ordinarily lead us to defer action on the petition rather than to deny it, three special considerations here lead us to denial. First, present NEPA law allows the Commission to dismiss an alternative or other NEPA matter summarily if detailed consideration is not warranted, and new information regarding need for power, alternative fuels, and alternative sites could ordinarily be dealt with summarily at the operating license stage unless there is something about the case that suggests that a detailed review would produce some conclusions that would be of significance to the operating license decision. Second, the Commission does not now have resources to devote to the further study of these matters. We do have under separate consideration proposed rules that will address alternative site reviews at the construction permit and operating license stages. It is possible that, as a practical matter, there can be no significant new information as to alternate sites at the operating license stage. If we so conclude in the context of that rulemaking, we may then limit the scope of alternate site reviews in OL proceedings to the maximum extent permitted by law. While a reallocation of resources might be warranted at this time if the petition alleged that the promulgation of a new rule was required to protect health and safety or the environment, this is not the case here. Finally, the NEPA "rule of reason" argument is a subsidiary one in the petition. The heart of the petition is petitioners' argument regarding the scope of safety reviews at the operating license stage—an argument that we have rejected. Thus we are denying the petition. When the Commission's own proposed rules on NEPA alternative site reviews are published for comment, petitioners are of course free to present us with additional information regarding alternative site reviews at the operating license stage in that context.

By letter dated October 4, 1979 petitioners requested an oral hearing on the petition. The Commission believes that the various papers before it, which include the petition, several letters of comment thereon, and a staff analysis, provide a full discussion of the legal policy issues raised by the petition. In view of this, the Commission has decided that oral hearings would not serve a useful purpose, and is denying the request.[17]

Commissioner Gilinsky dissented in the denial of the petition, as follows:

> I am surprised that Commissioners who have so often called for regulatory reform have, when confronted by an opportunity to rationalize the Commission's procedures, opted to perpetuate a mindless bureaucratic exercise. I agree with the petitioners that it appears futile to reconsider matters such as the need for the plant and alternative sites at the operating license stage when the plant has been substantially completed. Preservation of this type of review seems to be a waste of time and money for the Commission and for those affected by our proceedings. I believe that we should grant the petition and initiate a rulemaking proceeding to determine which environmental matters can sensibly be excluded from reconsideration at the operating license stage.

Copies of the petition for rulemaking, the comments thereon, and the NRC's letter of denial with Commissioner Gilinsky's dissent are available for public inspection and copying in the

[11] 10 CFR §10 CFR § 50.35c.

[12] Petition at 17 citing *Environmental Defense Fund* v. *TVA*, 339 F. Supp. 806, 810 (E.D. Tenn., 1972) [Emphasis added].

[13] *State of Alaska* v. *Andrus*, 580 F.2d 465 (D.C. Cir. 1978).

[14] *Essex City Preservation Ass'n* v. *Campbell*, 536 F.2d 956, 961 (1st Cir. 1976).

[15] 449 F.2d 1109, 1128 (D.C. Cir. 1971).

[16] *Id.*

[17] Commissioner Kennedy would have preferred that petitioners be given the opportunity to present their arguments orally to the Commission.

NRC Public Document Room at 1717 H Street, NW., Washington, D.C.

Dated at Washington, D.C. this 11th day of February, 1980.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 80-4946 Filed 2-14-80; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-3, 50-247 and 50-286]

Consolidated Edison Co. et al.; Issuance of Director's Decision Under 10 CFR 2.206

In the matter of Consolidated Edison Company of New York (Indian Point, Unit Nos. 1 and 2) and Power Authority of the State of New York (Indian Point, Unit No. 3) [Docket Nos. 50-3, 50-247 & 50-286].

By petition dated September 17, 1979, the Union of Concerned Scientists (UCS) requested that the Nuclear Regulatory Commission revoke the license for Indian Point Unit No. 1 and order decommissioning of the plant and suspend operation of Indian Point Unit Nos. 2 and 3 pending resolution of various issues cited in the UCS petition. On October 26, 1979, the Commission referred the UCS petition to the NRC staff for treatment pursuant to 10 CFR 2.206 of the Commission's regulations.

Upon consideration of the UCS petition, various statements filed in support of the petition, and other pertinent information, I have granted in part and denied in part the UCS petition. The reasons for this decision are fully described in a "Director's Decision, Under 10 CFR 2.206," which is available for public inspection in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 and in the local public document room at the White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601. A copy of this decision will also be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c).

Dated at Bethesda, Maryland this 11th day of February, 1980.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 80-4948 Filed 2-14-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-285]

Omaha Public Power District; Dismissal of the Proceeding

In the Matter of Omaha Public Power District (Fort Calhoun Station, Unit 1), [Docket No. 50-285].

On August 30, 1979, the Commission published a notice (44 FR 52387) offering the opportunity of a hearing in the proposed license amendment for the Fort Calhoun Station, Unit 1. On October 8, 1979, Alan H. Kirshen and the Natural Resources Committee of the Citizens Advisory Board of the Metropolitan Area Planning Agency filed a petition for a hearing under 10 CFR 2.715(c). No other petition was filed.

On December 21, 1979, the Board was requested by the Licensee to delay its considerations of this matter since it was agreed there would be a public discussion of the Petitioners concerns. On January 30, 1980, the Board was informed by petitioner that Alan H. Kirshen and the Committee "hereby withdraw the requests for a hearing previously filed."

The proceeding is dismissed.

It is so ordered.

Dated at Bethesda, Maryland this 8th day of February, 1980.

For the Atomic Safety and Licensing Board.

Elizabeth S. Bowers,

Chairman.

[FR Doc. 80-4947 Filed 2-14-80; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 11042; 811-2722]

Capital Bond Fund; Filing of Application Investment Company Act of 1940 for an Order of the Commission Declaring That Applicant Has Ceased To Be an Investment Company.

February 11, 1980.

Notice is hereby given that Capital Bond Fund ("Applicant"), 2491 West Shaw Avenue, Fresno, California 93711, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on December 21, 1979, and amendments thereto on December 28, 1979, and January 31, 1980, pursuant to Section 8(f) of the Act, for an order of the Commission declaring that Applicant has ceased to be an investment company as that term is defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant was organized under the laws of the State of California. It registered under the Act on January 13, 1977, and on December 7, 1977, it filed a registration statement under the Securities Act of 1933 covering 500,000 shares of common stock (one dollar par value). This registration statement became effective on April 26, 1978, and Applicant commenced a public offering of shares of common stock. At December 20, 1979, Applicant had 9525 shares of its common stock outstanding, having an aggregate net asset of $75,845.49 or $7.96 per share.

Applicant states that its board of directors has determined that it would be in the best interests of Applicant and its shareholders if it took action to wind up its business affairs and dissolve in view of economic inefficiencies due to Applicant's small size and the current market situation for corporate and United States government bonds. On November 26, 1979, Applicant's board of directors adopted a plan to distribute all of Applicant's assets after paying all of Applicant's known debts and liabilities, and to dissolve the corporation. Applicant states that on December 6, 1979, the written consent of its shareholders authorizing Applicant's dissolution was obtained. The application states that pursuant to such plan of distribution all of Applicant's remaining assets were distributed on a pro-rata basis on December 31, 1979, to its last ten shareholders; that it currently has no securityholders, no assets, and no liabilities that have not been paid or provided for; and that it is not a party to any litigation or administrative proceedings except a court action with an unrelated party on a contract claim which was settled on December 18, 1979. The application also states that the final certificate of dissolution of Applicant has been filed with the Secretary of State of California, and thus Applicant has been formally dissolved. Finally, Applicant states that it has not transfered any of its assets to a separate trust, the beneficiaries of which were or are securityholders of Applicant.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than March 6, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by Rule O-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-4929 Filed 2-14-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16562; File No. SR-CSE-80-1]

Cincinnati Stock Exchange; Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on February 5, 1980 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Exchange's Statement of the Terms of Substance of the Proposed Rule Change

Rule 11.4 of the Rules of the Exchange is proposed to be amended by adding certain language. Given below is the text of the present section with those words to be added marked with italics:

Rule 11.4, Trading Ex-Dividend, etc.

(Except as noted below) transactions in stocks (except those made for "cash") shall be ex-dividend or ex-rights on the fourth business day preceding the record date fixed by the corporation or the date of the closing of transfer books, except in the case of a dually or multiply-traded security where the principal exchange on which a security is traded shall have a different rule or the Board of Trustees of the Exchange shall provide otherwise. Should such record date or such closing of transfer books occur upon a day other than a business day, this Rule shall apply for the fifth preceding business day. Transactions in stocks made for "cash" shall be ex-dividend or ex-rights on the business day following the said record date or date of closing of transfer books. *In respect to stock dividends and/or splits which are 25% or greater, the ex-dividend date shall be the first business date following the payable date, except in the case of a dually or multiply-traded security where the principal exchange on such a security is traded shall have a different rule or the Board of Trustees of the Exchange shall provide otherwise.*

Statement of Basis and Purpose

The purpose of the proposed rule change is to conform the rules of the Exchange dealing with ex-dividend dates of large stock dividends and stock splits to rules adopted by the National Association of Securities Dealers and other national securities exchanges.

The basis for the proposed change is Section 6(b)(5) of the Securities Exchange Act in that the principal purpose of the proposed rule change is to provide a uniform and fair treatment of ex-dividend dates with respect to large stock dividends and stock splits. In the past, such dividends or stock splits have often resulted in deficiencies in customers' margin accounts between the ex-dividend date, when the market price of the issue was reduced, and the payable date, when the customer was credited with the additional shares. The proposed rule change will permit customers' accounts to be made whole immediately, without creating a temporary margin deficiency in the accounts during the period between the ex-dividend date and the payable date. Accordingly, the proposed rule change is designed to promote just and equitable principles of trade, to facilitate transactions in securities, and to improve impediments to and perfect the mechanisms of a free and open market in a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the proposed rule change thereby relates to Subitems (a)(i) and (a)(v) of 4 of Form 19-b-4A. The Exchange does not feel that the proposed rule change relates to any of the other Subitems of Item 4 of Form 19-b-4A.

No comments on the proposed rule change have been solicited or received.

The Exchange believes that the proposed rule change imposes no burden on competition.

On or before March 20, 1980, or within such longer period (1) as the Commission may designate up to ninety days after such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before March 7, 1980.

For the Commission, by the Division of Market Regulations, pursuant to delegated authority.

Dated: February 11, 1980.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-4931 Filed 2-14-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16563; File No. SR-NASD-80-1]

National Association of Securities Dealers, Inc.; Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975) notice is hereby given on January 7, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

The NASD's Statement of the Terms of Substance of the Proposed Rule Change

Text of Proposed Rule Change

The following is the full text of the proposed revision of Schedule C under Article I, Section 2(d) of the By-Laws of the National Association of Securities Dealers, Inc. ("Association"). (New language is indicated by italics, deleted language by brackets. Material omitted by ellipses is unchanged.)

Schedule C*

This schedule has been prepared pursuant to the provisions of Section 2(d), of Article I of these By-Laws and contains the requirements of registration with the Corporation of persons associated with a member, including the requirements for qualification examinations to be given. [There shall be two categories of registration—registration of principals and registration of representatives.]

I

Registration of Principals[*]

* * * * *

(2) Categories of Principal Registration

(a) *General Securities Principal*—

(i) Each person associated with a member who is included within the [scope] *definition* of *principal in* Part I, Section (1) hereof, shall be required to register with the Corporation as a General Securities Principal and shall pass an appropriate Qualification Examination before such registration may become effective unless his activities are so limited as to qualify him for one or more of the limited categories of principal registration specified hereafter. A person whose activities in the investment banking or securities business are so limited is not, however, precluded from attempting to become qualified for registration as a General Securities Principal, and, if qualified, may become so registered. Each person [required to] *seeking to* register and qualify as a General Securities Principal must, prior to or concurrent with such registration, become registered, pursuant to Part II hereof, as a General Securites [r] *R*epresentative.

(ii) Except as provided in Part I, section (1)(c) hereof, a person who was registered with the Corporation as a Principal or a Financial Principal, shall not be required to pass a Qualification Examinatin for General Securities Principal and shall be qualified [to be registered with the Corporation] as a General Securities Principal.

* * * * *

(c) *Limited Principal—Investment Company and Variable Contracts Products*

(i) Each person associated with a member who is included within the [scope] *definition* of *principal in* Part I, Section (1) hereof, may register with the Corporation as a Limited Principal—Investment Company and Variable Contracts Product if:

a. his activities in the investment banking and securities business are limited [solely] to [transactions involving] *the solicitation, purchase and/or sale* of:

1. redeemable securities of companies registered pursuant to the Investment Company Act of 1940;

2. securities of closed-end companies registered pursuant to the Investment Company Act of 1940 during the period of original distribution only; and,

3. variable contracts and insurance premium funding programs registered pursuant to the Securities Act of 1933; and

b. he is registered, pursuant to Part II hereof, as either a General Securities Representative or a Limited Representative—Investment Company and Variable Contract Products.

[b.]*c.* he passes an appropriate Qualification Examination for Limited Principal—Investment Company and Variable Contract Products. [and is qualified for registration as a Registered Representative or as a representative selling only those products described in Part I, Section 2(c)(i)a. hereof.]

* * * * *

(d) *Limited Principal—Direct Participation Programs*—

(i) Each person associated with a member who is included within the [scope] *definition* of *principal* in Part I, Section (1) hereof, may register with the Corporation as Limited Principal—Direct Participation Program if:

* * * * *

b. he is registered pursuant to Part II hereof, as either a General Securities Representative or a Limited Representative—Direct Participation Programs.

[b.]*c.* he passes an appropriate Qualification Examination for Limited Principal—Direct Participation Programs. [and is qualified for registration as a Registered Representative or as a representative selling only those products described in Part I, Section 2(d)(ii) hereof.]

(e) Registered Options Principals—

* * * * *

(iv) Each person required to register and qualify as a Registered Options Principal must, prior to or concurrent with such registration, be *or become* qualified [to become registered,] pursuant to Part II hereof, as a [Registered] *General Securities* Representative.

(v) A person registered solely as a Registered Options Principal shall not be qualified to function in a principal capactiy with responsibility over any area of business actively not prescribed in Part I, Section [(1)(e)] (2)(e)(i).

II

Registration of Representatives

(1) Registration Requirements

[(1)] (a) *All Representatives Must be Registered*—All persons associated with a member who are [designated] *to function* as [R] representatives [must] *shall* be registered [and must pass a Qualification Examination for Registered Representatives before their registration can become effective:] *as such with the Corporation in the category of registration appropriate to the function to be performed as specified in Part II, Section (2) hereof. Before their registrations can become effective, they shall pass a Qualification Examination for Representatives appropriate to the category of registration as specified by the Board of Governors.*

[(a)] (b) *Definition of Representative*—[Employees] *Persons associated with a member,* including assistant officers other than principals, who are engaged in the investment banking or securities business for the member including the functions of supervision, solicitation or conduct of business in securities or who are engaged in the training of persons with a member for any of these functions are designated as Representatives.

[(b)] (c) *Requirement for Examination on Lapse of Registration*—Any [Representative] *person* whose most recent registration *as a representative or principal* has been terminated for a period of two (2) or more years immediately preceding the [filing] *date of receipt by the corporation* of a new application shall be required to pass a Qualification Examination for Representatives *appropriate to the category of registration as specified in Part II, Section 2 hereof.*

(Part II, Sections 2 and 3 are deleted in their entirety and replaced with the following new language)

(2) *Categories of Representative Registration*

(a) *General Securities Representative*—

(i) Each person associated with a member who is included within the definition of a Representative in Part II, Section (1) hereof, shall be required to

*Parts I *and II* of Schedule C shall expire *on* May 31, 1981.

register with the Corporation as a General Securities Representative and shall pass an appropriate Qualification Examination before such registration may become effective unless his activities are so limited as to qualify him for one or more of the limited categories of representative registration specified hereafter. A person whose activities in investment banking or securities business are so limited is not, however, precluded from attempting to become qualified for registration as a General Securities Representative, and if qualified, may become so registered.

(ii) Except as provided in Part II, Section (1)(c) hereof:

(a.) Any person who was registered with the Corporation as a Representative prior to September 1, 1974, shall be qualified to be registered with the Corporation as a General Securities Representative.

(b.) A person who applied for registration as a Representative prior to September 1, 1974, and who became registered as a Representative prior to April 1, 1975 by virtue of having passed the Qualification Examination for Representatives (Test Series 1) shall be qualified to be registered as a General Securities Representative.

(c.) A person who applied for registration as a Representative on or after September 1, 1974, or who was registered as a Representative on or after April 1, 1975 by virtue of having passed the Qualification Examination for Registered Representatives (Test Series 1) shall be qualified to be registered only as a Limited Representative—Investment Company and Variable Contracts Products and as a Limited Representative—Direct Participation Programs as defined in Part II, Sections 2(b) and 2(c) hereof.

(d.) A person who was registered as a Representative after September 1, 1974 by virtue of having passed the General Securities Representative Examination (Test Series 7) shall be qualified to be registered as a General Securities Representative.

(e.) A person who was registered as a Registered Representative For Sale of Variable Contracts Only shall be qualified to be registered as a Limited Representative—Investment Company and Variable Contracts Products.

(iii) A person registered as a General securities Representative shall not be qualified to function as a Registered Options Representative unless he is also qualified and registered as such pursuant to the provisions of Part II, Section 2(d) hereof.

(b) Limited Representative—Investment Company and Variable Contracts Products—

(i) Each person associated with a member who is included within the definition of a Representative in Part II, Section (1) hereof may register with the Corporation as a Limited Representative—Investment Company and Variable Contract Products if:

a. his activities in the investment banking or securities business are limited to those activities enumerated in Part I, Section 2(c)(i)a. hereof, and,

b. he passes an appropriate Qualification Examination for Limited Representative—Investment Company Variable Contracts Products.

(ii) A person qualified solely as a limited Representative—Investment Company and Variable Contracts Products shall not be qualified, to function as a representative in any area not prescribed in Part I, Section 2(c)(i)a. hereof, except that a person registered as such may effect occasional unsolicited transactions in securities other than these enumerated in Part I, Section 2(c)(i)a. hereof for the accounts of public customers.

(c) Limited Representative—Direct Participation Programs

(i) Each person associated with a member who is included within the definition of a Representative in Part II, Section (1) hereof may register with the Corporation as a Limited Representative—Direct Participation Programs if:

a. *his activities in the investment banking or securities business are limited to the solicitation, purchase and/or sale of direct participation programs as defined in Part I, Section (2)(d) hereof, and,*

b. *he passes an appropriate Qualification Examination for Limited Representative—Direct Participation Programs.*

(ii) A person qualified solely as a Limited Representative—Direct Participation Programs shall not be qualified to function in any area not prescribed by Part II, Section 2(c)(i) hereof.

[(4)](d) *Registered Options Representative* (text unchanged)

* * * * *

[III]

Summary Suspension

(redesignated as Part VIII, below, text unchanged)

[IV] *III*

Persons Exempt From Registration

(1) The following persons associated with a member are not required to be registered with the Corporation:

[(1)](a)[P]persons associated with a member whose functions are solely and exclusively clerical or ministerial [.] ;

(b) *persons associated with a member who are not actively engaged in the investment banking or securities business;*

[(2)] (c); [P]persons associated with a member whose functions are related solely and exclusively to the member's need for nominal corporate officers or for capital participation [only, as in the case of limited partners.] ; *and,*

[(3)] (d) [P]persons associated with a member whose functions are related solely and exclusively to:

[(a)] (i) *effecting* transactions on *the floor of* a national securities exchange and who are registered *as floor members* with such exchange;

[(b)] (ii) transactions in exempted securities or,

[(c)] (iii) transactions in commodities.

[V] *IV*

Qualification examinations and Waiver of Requirements

* * * * *

V [VII]

Confidentiality of Examinations

(Part VII redesignated as Part V, text remains unchanged)

* * * * *

VI

Transfer From SECO Members

(1) Current Registration with SECO—Each person who becomes associated with a member who was most recently qualified with the Securities and Exchange Commission under SEC Rule 15b8–1 (SECO Program) to engage directly or indirectly in securities activities with a nonmember broker/dealer and whose association with such broker/dealer has not been terminated for a period of two (2) years or more preceding the date of receipt by the Corporation of an applicant for registration will be subject to the following provisions of this Part VI.

(a) *Each person who was qualified with SECO prior to September 1, 1974, may be registered in any category of representative registration specified in Part II, Section (2) hereof other than Registered Options Representatives, without the need to take and pass a Qualification Examination.*

(b) *Each person who was qualified with SECO on or after September 1, 1974, and prior to (the effective date of this Amendment) may be registered in either or both of the two limited categories of representative registration specified in Part II, Sections (2)(b) and*

(2)(c) hereof without the need to take and pass a qualifying examination. Such persons who intend to register with the Corporation as General Securities Representatives and/or Registered Options Representatives will be required to take and pass the appropriate qualifying examination(s).

(c) Each person who was qualified with SECO on or after (the effective date of this amendment) and who intends to register with the Corporation as a representative in any of the categories or representative registration specified in Part II, Section 2 will be required to take and pass the appropriate qualifying examination.

(d) Each person who was qualified for registration with SECO in any capacity and who intends to register with the Corporation as a principal pursuant to Part I will be required to take and pass the appropriate qualifying examination.

(2) SECO Grace Period

(a) In the case of a broker/dealer applicant for membership in the Corporation which, at the time of its application for membership is registered under the SECO program, the President of the Corporation or his delegate shall have the discretion to grant a grace period to allow persons associated with the member who were qualified with SECO to continue to function as representatives or principals pending their qualifications pursuant to Part VI Section (1), hereof.

(b) Any such grace period shall be of a stated duration which shall not exceed one year from the effective date of membership. If any person associated with the member does not qualify pursuant to Schedule C by the date of the expiration of the grace period, he shall no longer be permitted to function as a representative or principal until he so qualifies.

(c) At all times, an applicant for membership shall comply with the requirements of Part I, Section (1)(e) of Schedule C and no grace period shall be granted pursuant to Part VI, Section (2)(a) hereof to permit persons not qualified with the Corporation for principals to be considered in determining compliance with that Section.

[VI] *VII*

Foreign Associates

(Part VI redesignated as Part VII, text remains unchanged)

* * * * *

[III] *VIII*

Summary Suspension

(Part III redesignated as Part VIII, text remains unchanged)

* * * * *

(Explanation by the Board of Governors "Details of Qualification Examination" and "Note—see Schedule CII(3)(a) (Paragraph 1102A)" are deleted in their entirety)

The NASD's Statement of Purpose of Proposed Rule Change

The proposed amendments to Schedule C are designed primarily to permit the creation of two new classes of limited representatives. In addition, the proposed rule change contains conforming language to reflect these new categories, corrections of ambiguous language to better reflect Association practice, and technical editorial amendment; as well as restructures the Schedule into a more logical sequence.

This rule change is an interim measure designed to permit implementation of the limited categories of representatives pending Commission action on the complete revision of Schedule C. As an interim measure, the proposed rule change specifically provides that Parts I and II of Schedule C shall expire on May 31, 1981. As such, the Association is not withdrawing its application in File No. SR-NASD-75-6.

A section by section analysis, excepting minor editorial changes, of the proposed change follows:

Changes to Part I, Section (2)(c) state more clearly the product a Limited Principal—Investment Company and Variable Contract Products may handle. It also restates the prerequisits for registration as a Limited Principal—Investment Company and Variable Contracts Products.

Changes to Part I, Section (2)(d) restates the prerequisites for registration as a Limited Principal—Direct Participation Programs.

Part I, Section (2)(e) is changed to reflect that the prerequisite for registration as a Registered Options Principal is qualification as a General Securities Representative. An erroneous cross-reference is corrected.

Part II, Section 1(a) is recast to permit the several categories of registration. The language, like much of the proposed language in Part II of Schedule C, is designed to parallel the language already approved by the Commission for Part I of Schedule C in File No. SR-NASD-78-16. Section (1)(b) of Part II is amended to include specifically independent contractors as persons who must be registered. Section (1)(c) parallels the language found in Part I.

Section (2) is completely rewritten to permit the four classes of registered representatives. The proposed rule change follows the same pattern as Part I, in that a General Securities Representative may also function in either of the limited categories, but limited representatives may only function in the areas in which they are registered. It should be noted, however, that the rule change specifically prohibits, in Section (2)(a)(iii), General Securities Representatives from functioning as Registered Options Representatives without qualifying and registering as such. The grandfathering provisions of Section (2)(a)(ii) are designed to reflect the development and implementation of various qualification examinations and to insure that persons previously qualified with the Association do not face new restrictions on the areas in which they are qualified to do business by virtue of this proposed rule change.

Parts III through VII have been reordered to provide a more logical presentation of the material contained therein.

Former Part IV, "Persons Exempt from Registration", now Part III, has been amended to conform it stylistically to the outline format contained in the rest of Schedule C. In addition, it has been amended to state clearly that a member need not register those persons not actively engaged in the securities industry, but must register all securities personnel except for floor traders. In addition, it has been amended to reflect the Commission's jurisdiction over municipal securities dealers.

Proposed Part VI is a new Part, designed to state the Association's procedure for transfer of registration from the SECO program.

The Explanation by the Board of Governors regarding Details of Qualification Examination is being deleted from the Schedule. The Association intends, however, to replace it with up-to-date guide to Association services to assist members in the qualification and registration area.

The NASD's Statement of Basis Under the Act for the Proposed Rule Change

It is the responsibility of the Association under Section 15A(g)(3) of the Securities Exchange Act of 1934, as amended, to implement appropriate qualification standards for persons seeking entrance into the securities industry. Pursuant to this statutory obligation, the Association has developed examinations which are administered to establish that entrance

levels of competence and knowledge have been achieved by applicants for positions in the securities industry.

Comments Received From Members, Participants, or Others on Proposed Rule Change

Article I, Section 2 of the Association's By-Laws does not require membership approval of changes to Schedule C. Therefore, no comments were solicited or received regarding this new examination. Comments were received by the Association and submitted to the Commission in connection with File No. SR–NASD–75–6, some of which may be considered relevant by the Commission in connection herewith.

The NASD's Statement on Burden on Competition

As noted above, Section 15A of the Securities Exchange Act places on the Association the responsibility for determining qualifications for persons seeking registration with members of the Association. The creation of these new classes of limited representative may facilitate entry into the securities industry of persons seeking to sell a limited product line. Thus, it appears that the direct effect on competition will be salutary and that any incidental burdens caused by the proposed rule change are fully consistent with the purposes of the Act.

[Release No. 34–16563; File No. SR–NASD–80–2]

Proposed Rule Change by National Association of Securities Dealers, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on January 29, 1980 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

The NASD'S Statement of the Terms of Substance of the Proposed Rule Change

Text of Proposed Rule Change

The National Association of Securities Dealers, Inc. is submitting plans and specifications for its Investment Company Products/Variable Contracts Representative Examination for approval by the Commission. These are attached as Exhibit 1 to this filing.

The NASD's Statement of Purpose of Proposed Rule Change

The purpose of the rule change is to provide a Qualification Examination for Investment Company Products/Variable Contracts Representatives.

The NASD's Statement of Basis Under the Act for the Proposed Rule Change

It is the responsibility of the Association under Section 15A(g)(3) of the Securities Exchange Act of 1934, as amended, to implement appropriate qualification standards for persons seeking entrance into the securities industry. Pursuant to this statutory obligation, the Association has developed examinations which are administered to establish that entrance levels of competence and knowledge have been achieved by applicants for positions in the securities industry.

Comments Received From Members, Participants or Others on Proposed Rule Change

Article I, Section 2 of the By-Laws does not require membership approval of changes to Schedule C. Therefore, no comments were solicited or received regarding this new examination.

The NASD's Statement of Burden on Competition

As noted above, Section 15A of the Securities Exchange Act places on the Association the responsibility for determining qualifications for persons seeking registration with members of Association. Thus, it is felt there is no significant burden on competition imposed by the proposed rule change, and that any incidental burden is in furtherance of the purposes of the Act.

On or before March 21, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to file number reference in the caption above and should be submitted on or before March 17, 1980.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

February 11, 1980.

[FR Doc. 80-4330 Filed 2-14-80; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice CM-81271]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea; Meeting

The working group on standards of training and watchkeeping of the Subcommittee on Safety of Life at Sea, a part of the Shipping Coordinating Committee, will conduct an open meeting to be held at 9:30 a.m. on Wednesday, February 27, 1980 in Room 6332 of the Nassif Building, Department of Transportation, 400 7th St. SW., Washington, D.C.

The purpose of the meeting is to duscuss the following:

—Manning for seagoing ships;
—Consideration of resolutions adopted by the International Conference on Training and Certification of Seafarers, 1978;
—Training in the use of automatic radar plotting aids;
—Training and certification of crews of fishing vessels;
—Training, qualifications and operational procedures for maritime pilots;
—Training and qualifications of crews serving on mobile offshore units.

Requests for further information should be directed to Captain D.E. Hand, U.S. Coast Guard Headquarters (G–MVP/TP14), 2100 2nd Street SW., Washington, D.C. 20593. Telephone (202) 426–1500.

The Chairman will entertain comments from the public as time permits.

John Todd Stewart,

Chairman, Shipping Coordinating Committee.

February 6, 1980.

[FR Doc. 80-4333 Filed 2-14-80; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 111 (Rev. 6)]

Delegation of Authority

AGENCY: Internal Revenue Service.

ACTION: Delegation of authority.

SUMMARY: Authority for administrative collection, compromise, termination, or suspension of agency collection action under the Federal Claims Collection Act of 1966 is delegated to the District Directors and Service Center Directors in the Western Region. The text of the delegation order appears below.

EFFECTIVE DATE: February 6, 1980 (Except for Effective Date in 1(a)).

FOR FURTHER INFORMATION CONTACT: Marge Trice, RM:F:S, 1111 Constitution Avenue NW., Room 3205, Washington, D.C. 20224, 202-566-4854 (Not Toll Free).

Note.—This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the Federal Register for Wednesday, November 8, 1978.

Marge Trice,

Acting Chief, Financial Systems Branch.

Date of issue: February 6, 1980.

Federal Claims Collection Act of 1966

1. Pursuant to authority vested in the Commissioner of Internal Revenue by 31 CFR Part 5, the authority for administrative collection, compromise, termination, or suspension of agency collection action under the Federal Claims Collection Act of 1966 is hereby delegated as follows:

(a) The Chief, Fiscal Management Branch, each Regional Office; the Chief, Accounting Section, National Office; and the Chief, Fiscal/Personnel Processing Division, Data Center, shall take aggressive action, on a timely basis, with effective follow-up, to collect claims of the United States (except claims arising from damage to, or loss of, Government property, breach of contract cases, or other damages arising from tortious acts against the Service) for money or property arising out of the activities of, or referred to, the Service. Each Chief is authorized to compromise, terminate, or suspend collection action on such claims that do not exceed $20,000, exclusive of interest, upon written recommendation of Chief Counsel or Chief Counsel's designee, and may terminate collection action on such claims up to $100 without the recommendation of Chief Counsel. Effective April 1, 1980 through March 31, 1982, the authority in this paragraph is also delegated to District Directors and Service Center Directors in the Western Region.

(b) The Chief, Facilities Management Branch, each Regional Office, shall take aggressive action on a timely basis with effective follow-up, to collect claims arising from damage to, or loss of, Government property, breach of contract cases, or other damages arising from tortious acts against the service up to $5,000, exclusive of interest and costs, of the United States for money or property arising out of the field activities of the Service. Each Chief is authorized to compromise such claims or terminate, or suspend collection action on such claims up to $5,000 upon written recommendation of Regional Counsel, and may terminate collection action on such claims up to $100 without the recommendation of Regional Counsel.

(c) The Safety Management Officer, Space and Property Branch, National Office, shall take aggressive action, on a timely basis with effective follow-up, to collect claims of the United States for money or property arising out of the activities of, or referred to, the Service, for damage to, or loss of, Government property, breach of contract cases, or other damages arising from tortious acts against the Service. The Safety Management Officer is authorized to compromise, terminate, or suspend collection action on such claims that do not exceed $20,000 upon written recommendation of Chief Counsel and may terminate collection action on such claims up to $100 without recommendation of Chief Counsel.

2. This Order does not apply to tax claims nor any claim where there is an indication of fraud or misrepresentation on the part of the debtor.

3. The authority delegated herein may not be redelegated.

4. This Order supersedes Delegation Order No. 111 (Rev. 5), issued March 28, 1979.

Jerome Kurtz,

Commissioner.

[FR Doc. 80-4865 Filed 2-14-80; 8:45 am]

BILLING CODE 4830-01-M

Proposal To Designate a Depository for Annual Reports of Private Foundations; Action on Proposal

AGENCY: Internal Revenue Service, Treasury.

ACTION: Action on proposal.

SUMMARY: As a result of a Notice published August 27, 1979, in the Federal Register at page 50128 (44 FR 50128), 188 persons or organizations commented on the proposal to designate The Foundation Center as a depository for certain private foundation annual reports. The comments, both pro and con, have been given careful consideration by the Internal Revenue Service. For the reasons discussed below it has been decided not to implement this proposal.

FOR FURTHER INFORMATION CONTACT: Edmund J. Butler of the Exempt Organizations Technical Branch, Office of the Assistant Commissioner (Employee Plans and Exempt Organizations): 202-566-4050 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Rationale for Decision

Implementation of the proposal would result in conferring a private benefit on a non-governmental entity at the expense of other private organizations. While the expense to an individual organization that would result from designating The Foundation Center as a depository might be minor, no assurance can be given that other depositories or libraries would not request a similar designation. The Service would be obligated to give equal consideration to all such requests. If several organizations were to be designated as depositories, the additional paperwork burden on affected private foundations will be increased to an unwarranted degree.

The principal public benefit accruing from implementation of the proposal is alleged to be quicker access to grant-maker information if the annual reports were sent directly to a depository. However, each I.R.S. regional service center microfilms three copies of the annual reports, keeps one and sends the others to the Philadelphia Service Center and to the National Office Freedom of Information Reading Room. The microfiche cards must be shipped within thirty days of receipt of the report. The Service will provide photocopies from or film copies of these microfiche cards for a fee to any citizen who requests them. Allowing for delays in mailing and processing, annual reports of any foundation can be in the hands of interested parties within 60 days of the time they are filed. Direct filing of these reports with a depository would not speed up this process sufficiently to provide an appreciable public benefit.

Section 6652(d)(3) of the Code requires a penalty to be assessed against any organization that does not meet the filing requirements of section 6056. This penalty would apply to failure to file with a designated depository. Enforcement of this provision would be

impractical in the light of the funds available to the Service for handling exempt organization matters.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the Federal Register for Wednesday, November 8, 1978.

Jerome Kurtz,

Commissioner.

[FR Doc. 80-4856 Filed 2-14-80; 8:45 am]

BILLING CODE 4830-01-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 33
Friday, February 15, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

February 13, 1980.

COUNCIL ON ENVIRONMENTAL QUALITY.

TIME AND DATE: 10:30 a.m., Friday, February 22, 1980.

PLACE: Conference Room, 722 Jackson Place NW., Washington, D.C. 20006.

STATUS: Open meeting.

MATTERS TO BE CONSIDERED:

1. Old Business.
2. Acid Rain: The Federal Program.
3. Briefing on Status of Agencies' NEPA Procedures.

CONTACT PERSON FOR MORE INFORMATION: John F. Shea, III, (202) 395–4616.

[S–307–80 Filed 2–13–80; 3:32 pm]

BILLING CODE 3125–01–M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 3 p.m. (eastern time), Tuesday, February 19, 1980.

PLACE: Commission Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street, N.W., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED.

1. Recommendation that the Commission request the assistance of the Internal Revenue Services in Locating Members of the Plaintiff Class in *Polston* v. *Metropolitan Life Insurance Co.*
2. Modification of a contract with the Jacksonville (Florida) agency.
3. Regulations for Coordination of Federal Equal Employment Opportunity Programs.
4. Report on Commission Operations by the Executive Director Closed to the public:

Litigation authorization; General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Marie D. Wilson, Executive Officer, Executive Secretariat at (202) 634–6748.

This notice issued February 12, 1980.

[S–305–80 Filed 2–13–80; 3:32 pm]

BILLING CODE 6570–06–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 1:00 p.m. on Wednesday, February 20, 1980, to consider the following matters:

Disposition of minutes of previous meetings.

Memorandum and Resolution re: Amendments to Part 344 of the Corporation's rules and regulations governing recordkeeping and confirmation requirements for securities transactions.

Memorandum and Resolution re: Final Amendments to Part 348 of the Corporation's rules and regulations implementing the Depository Institution Management Interlocks Act.

Memorandum re: Contracts for outside computer programming services.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Audit Report: Payroll Audit.

Audit Report: Washington Office Cash Activities.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W. Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: February 13, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–308–80 Filed 2–13–80; 3:32 pm]

BILLING CODE 6714–01–M

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 1:30 p.m. on Wednesday, February 20, 1980, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of title 5, United States Code, to consider the following matters:

Application for Federal deposit insurance:

Republic Bank of Irving, a proposed new bank, to be located at 201 East John W. Carpenter Freeway, Irving, Texas, for Federal deposit insurance.

Applications for consent to establish a branch:

Eastern Savings Bank, New York, New York, for consent to establish a branch (public accommodation office) at 2198 White Plains Road, New York, New York.

Roig Commercial Bank, Humacao, Puerto Rico, for consent to establish a branch at KK–60 Alturas de Rio Grande, Rio Grande, Puerto Rico.

Application for consent to establish a drive-in facility:

Merritt Square Bank, Merritt Island, Florida, for consent to establish a drive-in facility at 1250 Garden Street, Titusville, Florida.

Application for consent to relocate main office:

Midtown State Bank, Milwaukee, Wisconsin, for consent to move its main office from 3405 West Lisbon Avenue to 740 North Water Street, both locations within Milwaukee, Wisconsin.

Application for Federal deposit insurance and for consent to exercise limited trust powers:

Borel Bank and Trust Company, a proposed new bank, to be located at 35 Bovet Road, San Mateo, California, for Federal deposit insurance, and for consent to exercise limited trust powers.

Application for consent to merge and establish branches:

Northwest Pennsylvania Bank & Trust Co., Oil City, Pennsylvania, an insured State nonmember bank, for consent to merge, under its charter and title, with The Merchants and Manufacturers National Bank of Sharon, Sharon, Pennsylvania, and to establish the two existing offices and one approved, but unopened office, of The Merchants and Manufacturers National Bank of Sharon as branches of the resultant bank.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assest:

Case No. 44,221-L. Southern National Bank, Birmingham, Ala.

Case No. 44,226-L. Franklin National Bank, New York, N.Y.

Case No. 44,228-L. Banco Credito y Ahorro Ponceno, Ponce, P.R.

Case No. 44,233-SR. Citizens State Bank, Carrizo Springs, Tex.

Case No. 44,234-SR. Citizens State Bank, Carrizo Springs, Tex.

Memorandum re: Centennial Bank, Philadelphia, Pa.

Two memorandums re: Northern Ohio Bank, Cleveland, Ohio.

Memorandum re: Authorization to Pay Receivership Certificates.

Request for waiver of penalties for premature withdrawal of time deposits pursuant to section 329.4(d) of the Corporation's rules and regulations.

Legal Division memorandum in connection with an appeal from an initial partial denial of a request for records under the Freedom of Information Act.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: February 13, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-310-80 Filed 2-13-80; 3:32 pm]

BILLING CODE 6714-01-M

5

FEDERAL ELECTION COMMISSION.

FEDERAL REGISTER NO. 270.

PREVIOUSLY ANNOUNCED DATE AND TIME: Wednesday, February 13, 1980 at 10 a.m.

CHANGE IN MEETING: Continuation of executive session (closed) from Tuesday, February 12, 1980 to follow open session.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, February 14, 1980 at 10 a.m.

CHANGE IN MEETING: Special meeting for discussion of regulations to follow regular open session.

DATE AND TIME: Wednesday, February 20, 1980 at 10 a.m.

PLACE: 1325 K Street NW, Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Compliance. Personnel.

DATE AND TIME: Thursday, February 21, 1980 at 10 a.m.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings.
Correction and approval of minutes.
Certifications.
First quarter management report.
Regulations.
1980 election and related matters.
Appropriations and budget.
Pending legislation.
Classification actions.
Routine administrative matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, public information officer, telephone: 202-523-4065.

Lena L. Stafford,

Acting Secretary to the Commission.

[S-306-80 Filed 2-13-80; 3:32 pm]

BILLING CODE 6715-01-M

6

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., February 20, 1980

PLACE: Hearing room 1, 1100 L Street, N.W., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions Open to the Public

1. Monthly Report of actions taken pursuant to authority delegated to the Managing Director.
2. Philippines North America Conference—Order of conditional approval and petition for reconsideration thereof.
3. Agreement No. 10320-2: Amendment to equal access agreement in Brazilian trade to reallocate shares.
4. Fact Finding Investigation to determine the carrier status of parcel tanker operators.
5. Docket No. 79-58: Dual Rate Contract Systems in the Foreign Commerce of the United States—Rate Increase on Less than 90 Days' Notice—Proposed final rules.
6. Proposed revision of Commission General Order 4.
7. Informal Docket No. 646(I):SCM Corporation v. Compania Sud-Americana De Vapores—Review of Settlement Officer decision.
8. Informal Docket No. 566(I): Excam Inc. v. Lykes Lines Agency, Inc. and Costa Line—Review of Settlement Officer decision.
9. Informal Docket No. 574(I): S.C. Johnson & Son, Inc. v. Overseas Shipping Company—Agent, East Asiatic Company, Ltd.—Review of Settlement Officer decision.
10. South American Trade Study.

Portions Closed to the Public

1. Request of Carnival Cruise Lines, Inc. to qualify as a self-insurer for its Certificate (Performance) No. P-142 covering the Mardi Gras, Carnivale and Festivale.
2. Docket No. 79-10: Rates of Far Eastern Shipping Company—Consideration of the record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523-5725.

S. 293-80 Filed 2-13-80; 9:47 am]

BILLING CODE 6730-01-M

7

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: February 8, 1980, 45 FR 8788.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., February 13, 1980.

CHANGE IN THE MEETING: Withdrawal of the following item from the open session:

2. Agreements Nos. 50-34 and 50-35: Modifications of the Pacific Coast/Australasian Tariff Bureau Agreement to provide for rationalization of sailings and discussion of reduction of tonnage in the trade.

[S-303-80 Filed 2-13-80; 3:32 pm]

BILLING CODE 6730-01-M

8

FEDERAL RESERVE SYSTEM. (Board of Governors).

TIME AND DATE: 2:30 p.m., Tuesday, February 19, 1980.

PLACE: 20th Street and Constitution Avenue, N.W., Washington D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED: The Board will consider the following item in addition to those previously announced for this meeting:

Applications of (a) Cleveland Trust Company, Cleveland, Ohio, to acquire shares of the successor by merger to Columbus Trust Company, Cleveland, Ohio; Lakeshore Trust Company, Painesville, Ohio; and First Lorain Trust Company, Lorain, Ohio; and to establish a branch in Cleveland; and (b) Ameri-Trust Corporation (formerly the Cleveland-Trust Corporation), Cleveland, Ohio, to acquire shares of Cincinnati Trust Company, Cincinnati, Ohio.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: February 13, 1980

Griffith L. Garwood,

Deputy Secretary of the Board.

[S-311-80 Filed 2-13-80; 3:50 pm]

BILLING CODE 6210-01-M

9

FEDERAL TRADE COMMISSION.

TIME AND DATE: 2:30 p.m., Thursday, February 14, 1980.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED: Consideration of recommendation that the Commission authorize staff comments to the Department of Energy concerning its Proposed Modifications to the Resellers' and Reseller-Retailers' Price Rules for Gasoline.

CONTACT PERSON FOR MORE INFORMATION: Ira J. Furman, Office of Public Information: (202) 523-3830; Recorded Message: (202) 523-3806.

[S-299-80 Filed 2-13-80; 9:47 am]

BILLING CODE 6750-01-M

10

FEDERAL TRADE COMMISSION.

TIME AND DATE: 2 p.m., Thursday, February 21, 1980.

PLACE: Room 532, (open); Room 540 (closed) Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, N.W. Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the Public.

MATTERS TO BE CONSIDERED:

Portions Open to Public

(1) Oral Argument in AMREP Corporation, Docket 9018.

Portions Closed to the Public

(2) Executive Session to discuss Oral Argument in AMREP Corporation, Docket 9018.

CONTACT PERSON FOR MORE INFORMATION: Ira J. Furman, Office of Public Information: (202) 523-3830; Recorded Message: (202) 523-3806.

[S-300-80 Filed 2-13-80; 9:47 am]

BILLING CODE 6750-01-M

11

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Friday, February 22, 1980.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED: Presentation on selecting a media strategy by the Association of National Advertisers and the American Association of Advertising Agencies, with question and answer period to follow.

CONTACT PERSON FOR MORE INFORMATION: Ira J. Furman, Office of Public Information: (202) 523-3830; Recorded Message: (202) 523-3806.

[S-301-80 Filed 2-13-80; 9:47 am]

BILLING CODE 6750-01-M

12

[USITC SE-80-10A]

INTERNATIONAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 9151; February 11, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Tuesday, February 19, 1980.

CHANGES IN THE MEETING: Additional item added to the agenda as follows:

4. Petitions and complaints, if necessary:
a. Plastic flower holders (Docket No. 624).

Commissioners Bedell, Alberger, Moore, Stern, and Calhoun determined by unanimous consent that Commission business requires the change in subject matter by addition of the agenda item, and affirmed that no earlier announcement of the addition to the agenda was possible, and directed the issuance of this notice at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

[S-297-80 Filed 2-13-80; 8:49 am]

BILLING CODE 7020-02-M

13

INTERSTATE COMMERCE COMMISSION.

STATUS: Proposed schedule for open Commission conferences.

March 11—Bus industry policy.
March 18—Coal rates and regulatory burdens.
March 25—Fuel surcharge.
April 8—Rail Rate Bureaus.
April 16—Fitness policy review.

CONTACT PERSON FOR MORE INFORMATION: Douglas Baldwin, Director, Office of Communications, Telephone: (202) 275-7252.

[S-302-80 Filed 2-13-80; 10:17 am]

BILLING CODE 7035-01-M

14

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: February 19, 1980.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open

MATTERS TO BE CONSIDERED:

Tuesday, February 19

10 a.m.—Discussion of Commission's decisionmaking role in emergency response (approximately 2 hrs—public meeting).

2 p.m.—Continuation of briefing on status of Sequoyah licensing review (continued from February 12—public meeting, approximately 2 hrs).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

Roger M. Tweed,

Office of the Secretary.

February 12, 1980.

[S-304-80 Filed 2-13-80; 3:32 am]

BILLING CODE 7590-01-M

15

SECURITIES AND EXCHANGE COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: (To be published).

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, February 5, 1980.

CHANGES IN THE MEETING: Additional items.

The following additional items will be considered at a closed meeting scheduled for Wednesday, February 13, 1980, following the 10:00 a.m. open meeting.

Litigation matter.

Institution of injunctive action.

Regulatory matter bearing enforcement implications.

Chairman Williams and Commissioners Loomis and Evans determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted, or postponed, please contact: John Granda at (202) 272–2091.

February 13, 1980.

[S-303-80 Filed 2-13-80; 3:32 pm]

BILLING CODE 8010-01-M

Federal Register

Friday
February 15, 1980

Part II

Department of Commerce

National Oceanic and Atmospheric Administration

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Hearing; Appointment of Administrative Law Judge; Expedited Hearing Procedures; Proposed Regulations and Availability of Draft Environmental Impact Statement

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

Taking of Marine Mammals Incidental to Commercial Fishing Operations

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

ACTION: Notice of Hearing; Appointment of Administrative Law Judge; Notice of Expedited Hearing Procedures; Notice of Proposed Regulations; Notice of Availability of Draft Environmental Impact Statement.

SUMMARY: On August 27–31, 1979, the National Marine Fisheries Service (NMFS) convened a workshop to consider the population status of eastern tropical Pacific Ocean porpoise stocks. The workshop report contained new information concerning the status of these porpoise stocks, some of which suggested that another stock of porpoise may be depleted. Before NMFS can modify the existing regime governing the incidental taking of porpoise in a manner consistent with this new information, the new information must be reviewed in a formal hearing before an Administrative Law Judge. This notice announces the dates of the formal hearing, the appointment of an Administrative Law Judge, expedited procedures governing the hearings, the proposed regulatory amendments that NOAA considers appropriate, and the availability of a draft environmental impact statement discussing these proposed amendments.

DATES: NOAA/NMFS has scheduled formal hearings to begin at 9:30 a.m. local time on Monday, March 17, 1980, in San Diego, California, and to continue in Washington, D.C. if required.

ADDRESSES: The exact location of the hearing in the San Diego area will be announced shortly in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Dean Swanson, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20235. Telephone: 202/634–1792. Office location: Room 412A, Page Building 2, 3300 Whitehaven St., N.W., Washington, D.C.

SUPPLEMENTARY INFORMATION:

Background

A general permit and regulations governing the taking of marine mammals incidental to commercial fishing operations are required by the Marine Mammal Protection Act of 1972 (MMPA). On December 27, 1977, NMFS issued a general permit to the American Tunaboat Association. This general permit is subject to regulations promulgated on December 23, 1977 (42 FR 64548), codified at 50 CFR 216.24. The existing permit and regulations expire at 2400 hours, December 31, 1980, unless amended.

In anticipation of an industry request for a general permit and regulations to be applicable beyond 1980, the agency announced a scoping-planning meeting and its intent to prepare a draft environmental impact statement on August 9, 1979 (44 FR 46903). At the public scoping meeting, the agency also made known its intent to convene a workshop in La Jolla, California, August 27–31, 1979, to consider the current population status of eastern tropical Pacific porpoise stocks. The workshop was intended to be similar to the one held in 1976, the results of which formed the scientific basis for the existing general permit and regulations. The 1979 workshop was expected to form the scientific basis for any general permit and regulations to be proposed for 1981 and beyond.

As in 1976, it was expected that any regulatory regime proposed by the agency as a result of the 1979 workshop would be subject to a formal hearing on the record before an Administrative Law Judge as required by section 103(d) of the MMPA.

The 1979 Status of Porpoise Stocks (SOPS) Workshop of scientific experts took place as scheduled and the availability of the report of the workshop (the Report) was announced on November 7, 1979 (44 FR 64480).

The Report contained important new information, some of which suggested that the northern offshore spotted porpoise stock may now be depleted. Because of its obligation to review new information periodically and modify existing regulations as necessary to carry out the purposes of the MMPA, the agency published an Advance Notice of Proposed Rulemaking on November 23, 1979 (44 FR 67194). In the Advance Notice, the agency noted that the existing regulations contemplate mid-course adjustments to the existing regime as a result of new information and that the public may request a hearing to consider the new information (50 CFR 216.24(d)(2)(i)(D)). Because the consequences of the review of the Report and other relevant information to be submitted may be considerable, the agency announced that a formal hearing before an Administrative Law Judge (ALJ) was the best means of reviewing the Report and other relevant information and affording full due process rights for all interested parties.

The agency noted that the formal hearing must consider amendment to the existing permit and regulations as well as a regime that may be appropriate beyond 1980. A tentative schedule, including the anticipated date of availability of a draft environmental impact statement discussing all of these matters, was announced in the November 23, 1980 Advance Notice. A final schedule is announced today.

If the presentation of evidence at the hearing continues for four weeks and absent any adjustments of time periods by the Administrative Law Judge, the schedule calls for original briefs to be filed on April 25, 1980; reply briefs to be filed on May 5, 1980; the recommended decision of the Administrative Law Judge to be filed on June 2, 1980; exceptions to this decision to be filed on June 10, 1980; and the final decision of the NOAA Administrator to be filed on July 1, 1980.

Notice of Hearing; Appointment of Administrative Law Judge

The formal hearing will begin at 9:30 am local time on Monday, March 17, 1980, in San Diego, California and continue in Washington, D.C., if required. The exact location of the hearing in the San Diego area will be announced shortly in the Federal Register. The Honorable Hugh Dolan, Administrative Law Judge, Department of Commerce, has been appointed as the presiding officer for the hearing. The hearing will be conducted in accordance with procedural rules announced in this notice.

Procedural Rules

This notice establishes procedural rules to be used in the formal hearings that will consider proposed amendments to the existing regulatory regime governing the taking of porpoise incidental to commercial fishing in the eastern Pacific Ocean and the regime that may be appropriate for 1981. The procedures are similar to those utilized in the 1977 formal hearings that reviewed the existing general permit and regulations.

Although NMFS has adopted permanent regulations governing formal hearings held under section 103(d) of the MMPA, 50 CFR 216.70–216.90, such procedures may take up to six months to complete. Because a potential

determination of this year's formal hearing is a finding that a major target porpoise stock is depleted, the agency cannot fulfill in a timely manner its statutory mandate to protect marine mammals if there is a lengthy hearing schedule. Similarly, in 1977, expedited procedures were adopted so that the tuna fishermen could be permitted appropriately at the start of the fishing season. For this reason, it is hereby for good cause found that the advance notice, public procedures, and delayed effectivness provision of 5 U.S.C. 553 are impracticable and contrary to the public interest; therefore, these procedural rules are effective immediately.

Highlights of the procedural rules are as follows: Notices of intent to participate as an active party in the formal hearing must be submitted to the Assistant Administrator no later than Monday, February 25, 1980.

Written direct expert testimony must be prepared in advance of the hearings and submitted to all parties no later than Friday, March 14, 1980.

The hearing is expected to last 2–4 weeks, beginning in San Diego, California, on March 17, 1980, and continuing in Washington, D.C., if required. There is an allowance of 14 days for the filing of original briefs after the close of the presentation of evidence; 10 days for the filing of reply briefs; a limit of 28 days after the close of the briefing period for the ALJ's recommended decision; 8 days for filing exceptions to the ALJ's recommended decision; and, 21 days after the filing of exceptions to the ALJ's recommended decision for the final decision by the Administrator of NOAA.

The ALJ is permitted to hold prehearing conferences, allow for oral argument if necessary, and vary any of the above time periods upon the mutual consent of all active parties. The procedural rules require the ALJ to make every effort to conduct the hearing in a fashion which permits the Administrator of NOAA to render a final decision by July 1, 1980; or, if this deadline cannot be met, by July 15, 1980.

The docket number assigned to this case is MMPAH 1980–1. All notices, copies of written evidence, and other documents to be filed or submitted should be sent to the following address and bear the designated docket number: Judge Hugh Dolan, Presiding Officer MMPAH 1980–1, c/o Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20235.

Records and documents relative to the proposal will be maintained in the offices of the National Marine Fisheries Service, and may be reviewed during normal working hours, 8 a.m. to 4:30 p.m., in the Page Building 2, Room 412A, 3300 Whitehaven Street N.W., Washington, D.C.

Proposed Amendments

The incidental taking of porpoise under the MMPA requires permits and accompanying regulations. Before permits may be issued, two operative tests must be satisfied. First, any incidental taking must not be to the disadvantage of the affected species and population stocks, and must not reduce affected species and population stocks below their optimum sustainable populations (OSP). Second, the "immediate goal" test requires that "in any event it shall be the immediate goal that the incidental kill or incidental serious injury of marine mammals permitted in the course of commercial fishing operations be reduced to insignificant levels approaching a zero mortality and serious injury rate." Once the "disadvantage" test is satisfied, the "immediate goal" test requires that mortality be lowered to levels that are achievable through the use of the best practicable technology. It is only after the interests of the marine mammals are assured, that the interests of the industry can be served.

A general overriding consideration is that, except for scientific research, the MMPA does not allow any incidental take permits to be issued if the subject species or population stock is designated as depleted. In this regard, the Administrator of NOAA has concluded as a matter of law that a species or population stock is depleted when the number of individuals of the species or population stock is below its OSP (42 FR 64549, December 23, 1977).

The proposal is to amend the existing regulatory regime regarding incidental taking of porpoise in the eastern tropical Pacific Ocean tuna fishery to: (1) Authorize the reissuance of a general permit for the remainder of 1980 and 1981; (2) establish a revised allowable take schedule for non-prohibited species only for the remainder of 1980 and 1981; (3) restate the enforcement policy for accidental takings of depleted species/stocks; and (4) amend gear, fishing procedure, and other requirements. The proposal accepts the findings presented in the 1979 SOPS Workshop Report.

(a) *Depletion.* The proposal would designate the stock of northern offshore spotted dolphin as depleted in addition to the eastern spinner dolphin stock. The designation of depletion is necessary because this stock is below OSP. Quotas would be set for only those other non-depleted stocks known to yield tuna.

(b) *Quotas.* The proposed regulations would set quotas for individual porpoise stocks for the U.S. fleet for 1981, and the current 1980 quota would be amended (50 CFR 216.24(d)(2)(i)(A)). These quotas would be based on the revised population estimates, reproductive biology, and associated OSP criteria determined at the 1979 SOPS Workshop and represent the U.S. share of the total allowable take for eight target species/stocks that are within OSP.

The method used to establish the existing quota schedule considered the aggregate total number of porpoise that could be taken as a result of technological improvements by 1980 in order to maintain the 1972–76 average catch of yellowfin on porpoise. Once the aggregate quota was determined, individual stock quotas were apportioned according to their average contribution to porpoise mortality less the projected foreign mortality and allowance for the depleted eastern spinner dolphin stock. The designation of depletion for the northern offshore spotted dolphin stock and the prohibition on encircling pure schools of northern whitebelly spinner alter the normal species composition of porpoise taken on yellowfin. Therefore, the method used to derive the proposed quota schedule has been revised.

The 1981 quota schedule considers the allowable take for individual stocks according to their population status and reproductive ability independent of their ability to sustain the present level of yellowfin catch on porpoise. The method determines the total number of porpoise that can be taken form each stock with reasonable assurance that the population will not fall below the mid-point (72.5 percent) of the range of maximum net productivity level values determined by the 1979 SOPS Workshop. The maximum net productivity level is the lower boundary of OSP. The method also utilizes the mid-point (2.0 percent) of the range of maximum net reproductive rate values determined by the 1979 SOPS Workshop to establish a replacement yield. In order to provide a margin of safety, the total allowable take for U.S. and non-U.S. vessels is 90 percent of the replacement yield. The U.S. quota from the total allowable take is based on the proportion of the estimated U.S. and non-U.S. porpoise mortality for each target species/stock in 1978. For stocks with no porpoise mortality in 1978, the U.S. quota was based on 50 percent of the total allowable take.

The proposed quota for 1980 (16,850) represents a transition quota between

the current 1980 schedule, i.e., 31,150 total allowable take, and the proposed 1981 schedule of 18,640 animals. Using the proposed 1981 quota as a limit, the projected U.S. mortality through June 30, 1980, has been calculated on a stock by stock basis.

The proposed quota schedule was selected because of its simplicity of administration and direct relationship to the status of individual popoise stocks. Consideration was given to proposing quotas extending through the 1983 fishing season to minimize administrative and other costs and inconveniences to all of the parties involved in the process. The decision to limit the proposed action to 1½ years is based on uncertainties in establishing quotas for the period following 1981. Most of the porpoise stocks included in the proposed quota schedule have not been fished on extensively in previous years, and it is anticipated that the experience gained through the proposed regulatory period will provide additional data and insight on which to establish future quotas.

The agency believes that the proposed quotas satisfy the "disadvantage" test of the MMPA and prevent the subject, non-depleted stocks from falling below OSP levels. The quotas insure that the interests of the marine mammals are satisfied first. The proposed 1980 and 1981 quotas also continue the progress toward insignificant levels of porpoise mortality, already achieved by the industry under the prior regulatory regime.

(c) *Accidental take policy.* The accidental take enforcement policy would continue to apply to all species/stocks with the exception of the northern offshore spotted dolphin stock. The northern offshore spotted dolphin stock would be excluded from the agency's accidental take enforcement policy because it has been the primary target species sought by the tuna fleet in the capture of yellowfin tuna. Other porpoise stocks are found mixed with the offshore spotted schools or occur as independent "pure" schools. Any taking of offshore spotted dolphin would be considered intentional because they are not known to occur as occasional individuals mixed with other stocks. The familiarity of certificate holders with this stock and the establishment of geographical stock boundaries are considered reasonable means for avoiding unintentional taking. Due to the current prohibition on encircling pure schools of any spinner dolphin stocks, northern whitebelly spinners are taken legally only as part of mixed schools with northern offshore spotted dolphins. With the proposed regulations prohibiting sets on any northern offshore spotted dolphins, no northern whitebelly spinners should be taken. Therefore, no quota is assigned to the northern whitebelly spinner dolphin stock.

This action maintains the original intent of the policy which was to recognize: (1) That small numbers of non-target species or less distinguishable species or stocks may occur occasionally in larger schools of target species and (2) the difficulty of aborting porpoise sets after they are initiated and prohibited species/stocks are discovered in the net.

(d) *Gear and procedural regulations.* The gear and procedural regulations would remain unchanged during the new permit period with four exceptions: (a) Reinspections for gear modifications; (b) prohibition on "sundown" sets; (c) substitution for the number of bow bunches pulled; and (d) clarification on the use of speedboats.

Purse seine nets and other gear and equipment are subject to inspection and examination at least once annually under existing regulations. During the fishing year, replacements, repairs, and modifications may occur to the purse seine net that can alter its effectiveness. The proposed regulations would require vessel certificate holders to notify the NMFS concerning adjustments to the purse seine nets in order to determine whether a reinspection is required.

Porpoise mortality has continued to be higher than average for sets in which backdown occurs after dark. The proposed regulations would prohibit the release of a net skiff after one and one-half hours before sunset to prevent "sundown" sets.

Current regulations stipulate that "* * * exactly three bow bunches shall be pulled * * * " It has been determined that clearly marked tie-down points can be established on the perimeter of the net in lieu of the present requirement which would insure that the apex of the purse seine is adequately covered by the porpoise safety panel during backdown. This new requirement would allow fishermen greater flexibility in determining the best net configuration for retrieving their nets and releasing porpoise.

The use of speedboats is effective in preventing canopies and net collapse. Current regulations require two manned speedboats in the water and allow discretion by the operator on when towing should occur. Compliance reviews now are based on the presence or absence of two manned speedboats without regard to whether or not towing was required. The proposed regulations would clarify this language to require towing on all sets involving canopies and net collapse by at least two speedboats in the water. Henceforth, compliance reviews would focus on whether or not towing occurred when required and not on presence or absence of manned speedboats. A limit on the number of speedboats allowed aboard non-certificated vessels would be proposed which is less than that needed for efficient fishing on porpoise.

Language in § 216.24(f) of the current regulations would be amended to clarify the responsibilities of the vessel operator coancerning: (a) Individual NMFS observers while assigned to a vessel and (b) the duties of the NMFS observer while on board, with particular reference to processing porpoise specimens. New language also would be proposed to clarify NMFS observer responsibilities associated with the International Porpoise Research Program currently under the auspices of the Inter-American Tropical Tuna Commission.

Observers on U.S. tuna purse seine vessel trips would be required throughout the entire period to: (1) Collect scientific information; (2) monitor quotas established for non-prohibited stocks; and (3) deter setting on depleted and other prohibited stocks.

(e) *Import Findings.* The proposed regulations would require the submission of additional information before the necessary findings could be made to authorize importation of tuna. Specifically, foreign countries would be required to submit the following information by September 1 of each year to be considered for a finding covering the next calendar year: (a) A statement of specific actions taken to prohibit their flag vessels from setting on depleted stocks (i.e., northern offshore spotted and eastern spinner stocks); (b) documentation on the time, place, and results of annual vessel gear and equipment inspections by vessel name; and (c) all documentation currently required under § 216.24(e)(5)(ii) and in the proposed regulations. For example, documentation received by September 1, 1980 would be considered for a finding covering calendar year 1981. In addition, a bill of lading, in addition to a Yellowfin Tuna Certificate of Origin, would be required to accompany every foreign shipment of yellowfin tuna into the U.S.

Required Statements

At the time proposed making regulations are published, section 103(d) of the MMPA requires the concurrent publication of (a) a statement of the estimated existing levels of the species

and population stocks of the marine mammals concerned; (b) a statement of the expected impact of the proposed regulations on the optimum sustainable population (OSP) of such species or population stocks; (c) a statement describing the evidence before the agency on which the proposed regulations are based; and (d) any studies made by or for the agency and any recommendations made by or for the agency or the Marine Mammal Commission which relate to the establishment of such regulations. these required statements are as follows:

(a) *Estimated existing population levels.*

Species	Stock	Estimated existing population level
Spotted	Coastal	183,100
	N. Offshore	2,761,000
	S. Offshore	557,000
Spinner	Costal Rica	9,100
	Eastern	305,400
	N. Whitebelly	401,300
	S. Whitebelly	223,200
Common	N. Tropical	182,000
	Central Tropical	746,000
	S. Tropical	412,100
Striped	N. Tropical	44,900
	Central Tropical	191,300
	S. Tropical	338,000

(b) *Expected impact on OSP.* Optimum sustainable population (OSP) of the species and stocks involved is defined as a population which falls in a range from the population level which is the largest supportable within the ecosystem, to the population that results in maximum net productivity. (See 41 FR 55536, December 21, 1976). Maximum net productivity is the greatest net annual increment in the population due to reproduction and growth less losses due to natural mortality. Maximum net productivity is interpreted as being the lower limit of the range of optimum sustainable population. The lower bound of OSP has been determined to be in the range of 65 percent to 80 percent of initial unexploited populations. If a popoulation is below the lower bounds of OSP, it is considered to be depleted.

Species and stock	Estimated current OSP status[1]	Expected OSP status at close of 1981 [1]
Spotted:		
Coastal	[2]0.99	[2]0.99
Northern offshore	[3]0.45	[3]0.45
Southern offshore	[2]0.95	[2]0.95
Spinner:		
Eastern[4]	[3]0.19	[3]0.19
Northern Whitebelly	[3]0.73	[3]0.73
Southern Whitebelly	[2]0.89	[2]0.89
Common:		
Northern tropical[5]	[2]0.97	[2]0.97
Central tropical	[2]0.85	[2]0.85
Southern tropical	[2]1.00	[2]1.00
Striped:		
Northern tropical	[2]1.00	[2]1.00
Central tropical	[2]0.99	[2]0.99
Southern tropical	[2]1.00	[2]1.00

All other stocks are estimated to be within OSP range.

[1] These point estimates are the ratio of current stock size to the stock's equilibrium unharvested population level. Estimates that fall within 65 to 80% of pre-exploitation levels are judged to be within OSP.

[2] Within.

[3] Below.

[4] Eastern Spinner includes the non-target Costa Rican stock.

[5] The 1979 Workshop participants noted the large standard errors associated with the ratio estimates and suggested that further research is needed on the status of this stock before a final determination can be made.

[6] Baja Neritic and N. Tropical are combined for management purposes although Baja Neritic stocks are infrequently involved in the fishery.

The 1979 SOPS Workshop concluded that the maximum net productivity (NMP) level or the lower bound of OSP is between 65 and 80 percent of the "initial" (unexploited) population level. This represents a change from the 1976 SOPS Workshop Report which had tentatively concluded that the lower bound of this range was between 50 and 70 percent. The 1979 workshop recognized that there has been a shift of scientific opinion based on findings in recent studies toward accepting the idea that relative net productivity in large mammals is a non-linear function of population size. This shift in opinion represents a lessening of earlier emphasis on the results of the symmetrical logistic curve and the dependence on data for smaller mammals.

(c) and (d). *Evidence and Studies.* These two statements (3) and (4), are combined: The National Marine Fisheries Service, in cooperation with other Federal agencies, private organizations, and individuals, has conducted an extensive research program since 1973 regarding the status of porpoise stocks and, particularly, the mortality of marine mammals taken incidental to yellowfin tuna purse seine fishing. The purpose of the research has included the determination of the extent of the mortality incidental to purse seine fishing, the status of the marine mammal populations, and the identification and implementation of measures to reduce mortality. Pertinent information available to the National Marine Fisheries Service has been published and made available in connection with regulatory and congressional public hearings.

Available information upon which proposed regulations were based in 1974 and 1975 was listed in 39 FR 9686, March 31, 1974: 40 FR 41531, September 8, 1975; and 41 FR 45015, October 14, 1976.

Additional material was submitted for the record at public hearings held May 15 and 16, 1974, in Seattle, Washington; December 10 and 11, in Washington, D.C.; October 24 and 25, 1975, in San Diego, California; November 15, 16, 17, 18, 19, 1976 and December 1, 2, 3, 4, and 22, 1976, in Washington, D.C.; and, November 22, 23, 24, and 26, 1976, in San Diego, California.

Additional evidence and the basis for the 1977 regulations were cited in the recommended decisions as amended by the Director's final decision published at 42 FR 12015, March 1, 1977.

Available information upon which the present regulations were based was listed in 42 FR 37214–20, July 20, 1977, submitted in the formal hearing held August 22–30, 1977, in San Diego, California, and September 6–8, 1977 Washington, D.C., and cited in the Administrator's final decision on December 23, 1977, 42 FR 64548–60.

In addition to the records compiled in public hearings and cited above, the following scientific documents and reports specifically contain the evidence upon which the current proposal is based:

Alverson, F. G., 1963. The food of yellowfin and skipjack in the eastern tropical Pacific Ocean. Inter-Am. Trop. Tuna Comm. Bull. 7. 293–396.

Au, D., 1979. Porpoise distribution maps. Southwest Fisheries Center internal memo (SOPS/79/14).

Au, D. et al., 1979. Dolphin distribution and the relationship to environmental features in the eastern tropical Pacific (SOPS/79/30).

Bennett, E. B. 1963. An oceanographic atlas of the eastern tropical Pacific Ocean, based on data from Eastropic Expedition, October-December 1955 (in English and Spanish). Inter-Amer. Trop. Tuna Comm., Bull., 9(2): 31–165.

Blackburn, M., 1965. Oceanography and the ecology of tunas. Oceanogr. Mar. Biol., Ann. Rev., 3: 299–322.

——— 1968. Relationships between standing crops at three successive trophic levels in the eastern tropical Pacific. Pacific Science, 20(1): 36–59.

——— and associates, 1962. Tuna oceanography in the eastern tropical Pacific. U.S. Fish Wildl. Service., Spec. Sci. Rep. Fish., No. 400: 48p.

Department of Commerce, 1979. *Fisheries of the United States, 1978.* Current Fisheries Statistics No. 7800, Washington, D.C.

Flagg, V. G., 1977. *Alternative Management Plans for Yellowfin Tuna in the Eastern Tropical Pacific,* Center for Marine Studies. San Diego State University, 49 pp.

Fleming, R. H., 1935. Oceanographic studies in the central American Pacific. Ph.D. Dissertation, Univ. of Calif. 167 p. + 55 Figs.

Forsbergh, E. D., 1963. Some relationships of meteorological, hydrographic, and biological variables in the Gulf of Panama

(in English and Spanish). Inter-Amer. Trop. Tuna Comm., Bull., 7(1): 1–109.
——— and J. Joseph, 1964. Biological production in the eastern pacific Ocean (in English and Spanish). Ibid., 8(9): 477–527.
——— and W. W. Broenkow, 1965. Oceanographic observations from the eastern Pacific Ocean collected by the R/V *Shoyo Maru*, October 1963-March 1964 (in English and Spanish). Ibid., 10(2): 83–237.
Fowler, C. W., 1979. Non-linearity in population dynamics with species reference to large mammals (SOPS/79/15).
Holt, R. S. and J. E. Powers, 1979. Abundance estimation of dolphin stocks involved in the Eastern tropical Pacific yellowfin tuna fishery determined from aerial and ship survey (SOPS/79/29).
IATTC, 1979. the Bi-Monthly Report July-August of the Inter-American Tropical Tuna Commission.
——— 1979b. Summary minutes of the Thirty-seventh Meeting.
Joseph, J., 1979. Possible effects of prohibition of fishing on porpoise associated with schools of porpoise by U.S. vessels. Unpublished manuscript.
King, D., Unpublished manuscript.
NMFS, 1976. *Report of the Workshop on Stock Assessment of Porpoises Involved in the Eastern Tropical Pacific Yellowfin Tuna Fishery*, Southwest Fisheries Center, La Jolla, California. (SWFC AR No. LJ–76–29; also SOPS/79/1).
NMFS, 1976a. Progress of research on porpoise mortality incidential to tuna purse-seine fishing for fiscal year 1976. Southwest Fisheries Center, La Jolla, California, September 7 (SWRC AR No. LJ–76–17).
NMFS, 1977. Final Environmental Impact Statement-Promulgation of Regulations and Proposed Issuance of Permits to Commercial Fishermen Allowing the Taking of Marine Mammals in the Course of Yellowfin Tuna Purse Seining Operations from 1978 through 1980. NMFS, NOAA, Dept. of Commerce, November.
NMFS, 1979. *Report of the Status of Porpoise Stocks Workshop, August 27–31, 1979*, Southwest Fisheries Center, La Jolla, California 120 pps. (SWFC AR No. LJ–79–41).
Orbach, M. K., 1977. *Hunters, Seamen and Entrepreneurs—The Tuna Seinermen of San Diego.* Univ. of California Press, Los Angeles.
Perrin, W. F., et al., 1973. Stomach contents of porpoises, *Stenella spp.* and yellowfin tuna, *Thunnus albacares*, in mixed-species aggregations. Fish. Bull. 71(4): 1077–1092.
Rockland, S., 1978. The San Diego Tuna Industry and Its Employment Impact on the Local Economy, *Marine Fisheries Review*, Volume 40, No. 7:5–11.
Sverdrup, H. U. et al., 1942. *The Oceans*, Prentice-Hall, Inc., Englewood Cliffs, New Jersey.

Issues To Be Considered at the Formal Hearing

The hearing will be limited to the following issues and facts. Evidence relevant to other issues may be submitted at the hearing subject to the rulings of the presiding officer on the relevance and materiality of such issues.

(a) Estimates of existing levels of the species and population stocks of the marine mammals involved in purse seinging yellowfin tuna.

(b) The expected impact of the proposed regulations on the optimum sustainable populations of the species or population stocks invovled.

(c) The economic feasibility of implementing the proposed regulations.

(d) The technological feasibility of implementing the proposed regulations.

(e) The impact of implementing the proposed regulations on the tuna stocks.

Ex Parte Communications

Section 4 of the Government in the Sunshine Act (Pub. L. 94–409), dealing with *ex parte* communications is applicable to this hearing. The following persons are those employees of the agency who may reasonably be expected to be involved in the decision process of the proceeding, and are, therefore, hereby identified to all interested persons outside the agency in order that the provisions of Section 4 can be complied with:

Code and name	Title
Doc—Philip Klutznick	Secretary of commerce.
A—Richard A. Frank	Administrator, NOAA.
DA—James P. Walsh	Deputy Administrator, NOAA.
EE—Martin H. Belsky	Director, Office of Ecology and Marine Conservation, NOAA.
AA—George S. Benton.	Associate Administrator, NOAA.
GC—Eldon V.C. Greenberg.	General Counsel, NOAA.
GCF—Jay Johnson	Assistant General Counsel—Fisheries, NOAA.
F—Terry L. Leitzell	Assistant Administrator for Fisheries, NOAA.
F—Jack W. Gehringer	Deputy Assistant Administrator for Fisheries, NOAA.
Fx3—Winfred H. Meibohm.	Executive Director, NMFS.
F/MM—William Aron	Director, Office of Marine Mammals and Endangered Species, NMFS.
F/MM—Richard B. Roe.	Deputy Director, Office of Marine Mammals and Endangered Species, NMFS.
F/CM—William G. Gordon.	Director, Office of Resource Conservation and management, NMFS.
F/IA—Carmen J. Blondin.	Acting Director, Office of International Fisheries Affairs, NMFS.
F/SWC—Izadore Barrett.	Director, SW Fisheries Ctr, NMFS.
F/SWC—John Carr	Deputy Director, SW Fisheries Ctr, NMFS.
F/SWCI—Gary T. Sakagawa.	Chief, Oceanic Fisheries, Resources Division, SW Fisheries Ctr, NMFS.
F/SWR—Gerald V. Howard.	Regional Director, Southwest Region, NMFS.
F/SWR3—J. Gary Smith.	Chief, Fisheries Management Division, SW Region, NMFS.
F/SWR34—Norman Mendes.	Chief, Tuna Porpoise Management Branch, NMFS.
ALJ—Hugh Dolan	Administrative Law Judge.

Ex parte communications relevant to the merits of the proceeding to or from the above named persons from or to any interested person outside the Department of Commerce are prohibited from the date of this notice until the date the final regulations resulting from the proceeding are published in the Federal Register Section 4 provides mechanisms for enforcing this prohibition, including (1) the requirement that an employee making or receiving prohibited communications disclose them and all responses to them for the public record of the proceeding; and (2) authorization of dismissal or other adverse action against the claim of the party to the proceeding who makes or causes prohibited communication. *"Ex parte communication" means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, but it shall not include requests of status reports on the matter of proceeding.*

Because of the *ex parte* communications rules, there will not be a special consultation period for the Marine Mammal Commission. However, the MMPA requires consultation with the Commission on any taking regulations, and this will occur by the Commission participating as an active party in the formal hearing.

Draft Environmental Impact Statement

On this same date, the Environmental Protection Agency announces the availability of a draft environmental impact statement concerning the proposed amendments noted above.

Drafting Information

The principal author of these regulations is Ron Naveen, NOAA Office of General Counsel, with the participation of the NMFS Office of Marine Mammals and Endangered Species, the NMFS Southwest Fisheries Center, and NMFS Southwest Regional Office.

(Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361–1407))

Dated: February 8, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Services.

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

The proposed amendments to 50 CFR Part 216 are as follows:

§ 216.24 [Amended]

1. 50 CFR 216.24(a) is redesignated as 50 CFR 216.24(a)(1).

2. 50 CFR 216.24 is amended by adding a new paragraph (a)(2), reading as follows:

(a) * * *

(2) A vessel engaged in commercial fishing operations involving the utilization of purse seines to capture yellowfin tuna and which does not

operate under a general permit and certificates of inclusion shall not carry more than two speedboats.

* * * * *

3. 50 CFR 216.24(c)(1) is revised to read as follows:

* * * * *

(c) *Certificates of inclusion.*—(1) *Vessel Certificates of Inclusion.* The owner or managing owner of a vessel that participates in commercial fishing operations for which a general permit is required under this subpart shall be the holder of a valid vessel certificate of inclusion under that general permit. Such certificates shall not be transferable and shall be renewed annually. Provide five (5) days advance written notice is given, a vessel certificate holder may surrender his certificate to the Regional Office from which the certificate was issued. However, once surrendered the certificate shall not be returned nor shall a new certificate be issued before the end of the calendar year. This provision shall not apply when a change of vessel ownership occurs.

4. 50 CFR 216.24(c)(3) is revised to read as follows:

* * * * *

(c) * * *

(3) A vessel certificate issued pursuant to paragraph (c)(1) of this section shall be aboard the vessel while it is engaged in fishing operations and the operator's certificate issued pursuant to paragraph (c)(2) of this section shall be in the possession of the operator to whom it was issued. Certificates shall be shown upon request to an enforcement agent or other designated agent of the National Marine Fisheries Services. However, vessels and operators at sea on a fishing trip on the expiration date of their certificate of inclusion, to whom or to which a certificate of inclusion for the next year has been issued, may take marine mammals under the terms of the new certificate. The vessel owners or operators are obligated to obtain physically or to place the new certificate aboard, as appropriate, when the vessel next returns to port.

* * * * *

5. 50 CFR 216.24(d)(2)(i)(A) is revised to read as follows:

* * * * *

(d) * * *

(2) *Encircling gear, purse seining involving the intentional taking of marine mammals*—(i) *Quotas.* (A) A certified vessel may take marine mammals so long as the taking is an incidental occurrence in the course of normal commercial tuna purse seine fishing operations, and the fishing operations are under the immediate direction of a person who is the holder of a valid operator's certificate of inclusion; except that a vessel shall not encircle:

(*1*) Pure schools of the coastal spotted dolphin (*Stenella attenuata*) stock, the Costa Rican spinner and the eastern spinner dolphin (*Stenella longirostris*) stocks, the northern stock of offshore spotted dolphin (*Stenella attenuata*), or mixed schools including these stocks;

(*2*) Pure schools of any species of dolphin except the southern stock of offshore spotted dolphin (*Stenella attenuata*), the striped dolphin (*Stenella coeruleoalba*) species, and the common dolphin (*Dephinus delphis*) species; or

(*3*) Any other species or stocks of marine mammals that do not have an allowable take as listed below or whose allowable take has been exceeded. The numbers of marine mammals that may be taken by U.S. vessels in the course of commercial fishing operations will be limited as follows:

Species/stock management unit	Take	Encirclement	Mortality (1980)[1]	Mortality 1981
Spotted dolphin (southern offshore)	3,799,000	2,370,000	4,340	4,700
Spinner dolphin (southern whitebelly)	487,000	282,000	2,110	2,150
Common dolphin (northern tropical)	234,000	183,000	700	770
Common dolphin (central tropical)	1,139,000	365,000	3,210	3,500
Common dolphin (southern tropical)	737,000	238,000	1,090	2,090
Striped dolphin (northern tropical)[2]	16,000	12,000	220	220
Striped dolphin (central tropical)	62,000	47,000	960	960
Striped dolphin (southern tropical)	260,000	195,000	4,000	4,000
Total			16,850	18,640

[1] Transition quota represents expected mortality through June 30, 1980 under 1978–1980 schedule subtracted from the proposed 1981 quota schedule.

[2] Includes Baja neritic dolphin stock.

* * * * *

6. 50 CFR 216.24(d)(2)(i)(C) is revised to read as follows:

* * * * *

(d) * * *

(2) * * *

(i) * * *

(C) With the exception of the northern offshore spotted dolphin stock, if at the time the net skiff attached to the net is released from the vessel at the start of a set, and species or stocks that are prohibited from being taken are not reasonably observable, the fact that individuals of that species or stock are subsequently taken will not be cause for issuance of a notice of violation provided that all procedures required by the applicable regulations have been followed.

* * * * *

7. 50 CFR 216.24(d)(2)(i)(D) is revised to read as follows:

* * * * *

(1) * * *

(d) * * *

(2) * * *

(i) * * *

(D) The general permit will be valid for a period ending no later than December 31, 1981. The Assistant Administrator may, upon receipt of new information which in his opinion is sufficient to require modification of the general permit or regulations, propose to modify such after consultation with the Marine Mammal Commission. These modifications shall be consistent with and necessary to carry out the purposes of the Act. Any modifications proposed by the Assistant Administrator involving changes in the quotas shall include the statements required by section 103(d) of the Act. Modifications shall be proposed in the Federal Register and a public comment period shall be allowed. At the request of any interested person within 15 days after publication of the proposed modification in the Federal Register, the Assistant Administrator may hold a public hearing to receive and evaluate evidence in those circumstances where he has determined it to be consistant with and necessary to carry out the purposes of the Act. Such request may be for a formal hearing on the record before an Administrative Law Judge. Within 10 days after receipt of the request for a public hearing, the Assistant Administrator shall provide the requesting party or parties with his decision. If a request is denied, the Assistant Administrator shall state the reasons for the denial. Within 10 days after receipt of a decision denying a request for a formal hearing, the requesting person may file a written

notice of appeal with the Administrator. Based upon the evidence presented in the notice, the Administrator shall render a decision within 20 days from receipt of the notice. In addition, the Assistant Administrator may take emergency action to modify or revoke the general permit or regulations, which is consistent with and necessary to carry out the purposes of the Act, before taking request from any interested preson for a public hearing.

* * * * *

8. 50 CFR 216.24(d)(2)(ii)(A) is revised to read as follows:

* * * * *

(d) * * *
(2) * * *

(ii) *General Conditions:* (A) Marine mammals incidentally taken shall be immediately returned to the environment where captured without further injury. In addition to the specific porpoise rescue requirements established in § 216.24(d)(2), the operators of purse seine vessels shall take every possible precaution to refrain from causing or permitting incidental mortality and serious injury or marine mammals. Operators shall not set on marine mammals when conditions of wind, sea state, visibility, or the number of marine mammals and/or fish prevent the effective use of backdown and other required porpoise rescue procedures.

* * * * *

9. 50 CFR 216.24(d)(2)(ii)(B) is revised to read as follows:

* * * * *

(d) * * *
(2) * * *
(ii) * * *

(B) Operators may take such steps as are necessary to protect their gear or person from damage or personal injury. However, all marine mammals taken in the course of commercial fishing operations shall be subject to the definition of "Incidental catch" in § 216.3 above and may not be retained except where a specific permit has been obtained authorizing the retention.

10. 50 CFR 216.24(d)(2)(iii)(A) is revised to read as follows:

* * * * *

(d) * * *
(2) * * *

(iii) *Reporting Requirements:* In accordance with § 216.24(f) of these regulations, the following specific reporting procedures shall be required;

(A) The vessel certificate holder of each certificated vessel, who has been notified via certified letter from the National Marine Fisheries Service that his vessel is required to carry an observer, shall notify the field office, Southwest Region, National Marine Fisheries Service, San Diego, California, telephone 714–293–6540 at least five (5) days in advance of the vessel's departure on a fishing voyage to allow for observer placement. After a fishing voyage is initiated, the vessel is obligated to carry an observer until the vessel returns to port and one of the following conditions are met: (*1*) Unloads more than 400 tons of any species of tuna; or (*2*) unloads any amount of any species of tuna equivalent to one half of the vessel's carrying capacity; or (*3*) unloads its tuna catch after 40 days or more at sea from the date of departure. Further, the Regional Director, Southwest Region, may consider special circumstances for exemptions to this definition, provided written requests clearly describing the circumstances are received at least ten (10) days prior to the termination or the initiation of a fishing voyage. A response to the written request will be made by the Regional Director within five (5) days after receipt of the request. A vessel whose vessel certificate holder has failed to comply with the provisions of this section may not engage in fishing operations for which a general permit is required.

* * * * *

11. 50 CFR 216.24(d)(2)(iii)(B) is revised to read as follows:

* * * * *

(d) * * *
(2) * * *
(iii) * * *

(B) Masters of all certificated vessels carrying National Marine Fisheries Service observers shall allow observers to report, in coded form, information by radio concerning the accumulated take of marine mammals and other observer collected data at such times as specified by the Regional Director, Southwest Region. Individual vessel names and coded information reported by radio by the National Marine Fisheries Service observers shall remain confidential unless their release is authorized in writing by the operator of the vessel.

* * * * *

50 CFR 216.24(d)(2)(iv)(A) is revised to read as follows:

* * * * *

(d) * * *
(2) * * *
(iv) * * *

(A) Porpoise Safety Panel-Class I and II Vessels: For Class I purse seiners (400 short tons carrying capacity or less) and for Class II purse seiners (greater than 400 short tons carrying capacity, built before 1961), the porpoise safety panel shall be a minimum of 100 fathoms in length (as measured before installation), except that the minimum length of the panel in nets deeper than 10 strips shall be determined at a ratio of 10 fathoms in length for each strip that the net is deep. It shall be installed beginning 75 to 100 fathoms from the bow ortza, and shall extend toward the stern of the net protecting the perimeter of the backdown area. The perimeter of the backdown area is the length of corkline which begins at the outboard end of the last bow bunch pulled and continues to at least two-thirds the distance from the backdown channel apex to the stern tiedown point. The porpoise safety panel shall consist of small mesh webbing not to exceed 1¼" stretch mesh, extending from the corkline downward to a minimum depth equivalent to one strip of 100 meshes of 4¼" stretch mesh webbing.

* * * * *

13. 50 CFR 216.24(d)(2)(iv)(B) is revised to read as follows:

* * * * *

(d) * * *
(2) * * *
(iv) * * *

(B) Porpoise Safety Panel-Class III Vessels: For Class III purse seiners (greater than 400 short tons carrying capacity, built after 1960), the porpoise safety panel shall be a minimum of 160 fathoms in length (as measured before installation). It shall be installed beginning 60 to 100 fathoms from the bow ortza and shall extend toward the stern of the net protecting the perimeter of the backdown area. The perimeter of the backdown area is the length of corkline which begins at the outboard end of the last bowbunch pulled and continues to at least two-thirds the distance from the backdown channel apex to the stern tiedown point. The porpoise safety panel shall consist of small mesh webbing not to exceed 1¼" stretch mesh extending downward from the corkline and the base of the porpoise apron to a minimum depth equivalent to two strips of 100 meshes of 4¼" stretch mesh webbing.

* * * * *

14. 50 CFR 216.24(d)(2)(iv)(D) is revised to read as follows:

* * * * *

(d) * * *
(2) * * *
(iv) * * *

(D) Porpoise Apron Approval: The porpoise apron shall be installed under the supervision of a National Marine Fisheries Service designated representative: A trail set(s) shall be conducted under supervision of a National Marine Fisheries Service designated representative after installation of the porpoise apron to insure proper installation and operation

of the apron. During the trial set(s), the stern tiedown point and outboard bow bunchline mark shall be determined and permanently marked so as to be clearly visible from the vessel. Each time a super apron is reinstalled after removal from a net or the net depth is altered, another trial set(s) must be made for proper apron alignment and adjustment. The vessel certificate holder shall provide at least five (5) days advance notification to the field office, Southwest Region, National Marine Fisheries Service, 1140 North Harbor Drive, Room 7, San Diego, California 92101, telephone 714–293–6540, of the time and place of installation of the porpoise apron system. The certificate of inclusion for any vessel whose certificate holder has failed to notify the National Marine Fisheries Service of the date of installation, shall be invalid until completion of the apron inspection and trial set(s).

* * * * *

15. 50 CFR 216.24(d)(2)(v) is revised to read as follows:

* * * * *

(d) * * *

(2) * * *

(v) *Vessel Inspection:* (A) Annual: at least once during each calendar year, purse seine nets and other gear and equipment required by these regulations shall be made available for inspection by an authorized National Marine Fisheries Service inspector as specified by the Regional Director, Southwest Region.

(B) Reinspection: Purse seine nets and other gear and equipment required by these regulations shall be made available for reinspection by an authorized National Marine Fisheries Service inspector as specified by the Regional Director, Southwest Region. The vessel certificate holder shall notify the Fleet Assistance Section, Southwest Region, National Marine Fisheries Service, 1140 N. Harbor Dr., Room 7, San Diego, CA 92101, telephone 714–293–6540 of any net modification at least five (5) days prior to departure of the vessel on its next scheduled trip in order to determine whether a reinspection or trial set would be required.

(C) Failure to Pass Inspection: A certificate of inclusion for a vessel with gear which is not in compliance with these regulations or maintained in a functional and seaworthy condition, shall be invalid until such deficiencies in gear or conditions are corrected and approved by an authorized National Marine Fisheries Service inspector.

* * * * *

16. 50 CFR 216.24(d)(2)(vi) is revised to read as follows:

* * * * *

(d) * * *

(2) * * *

(vi) *Operator Training Requirements.* All operators shall maintain proficiency sufficient to perform the procedures required herein, and must attend and satisfactorily complete a formal training session conducted under the auspices of the National Marine Fisheries Service in order to obtain their certificate of inclusion. At the training session an attendee shall be instructed concerning the provisions of the Marine Mammal Protection Act of 1972, the regulations promulgated pursuant to the Act, and the fishing gear and techniques which are required or will contribute to reducing serious injury and mortality of porpoise incidential to purse seining for tuna. Operators who have received a written certificate of satisfactory completion of training and who possess a current or previous calendar year certificate of inclusion will not be required to attend additional formal training sessions unless there are substantial changes in the Act, the regulations, or the required fishing gear and techniques. Additional training may be required for any operator who is found by the Regional Director, Southwest Region, to lack proficiency in the procedures required.

* * * * *

17. 50 CFR 216.24(d)(2)(vii) is revised to read as follows:

* * * * *

(d) * * *

(2) * * *

(vii) *Marine Mammal Release Requirements:* All operators shall use the following procedures during all sets involving the incidential taking of marine mammals in association with the capture and landing of tuna.

(A) Use of Speedboats: On every set involving marine mammals, two speedboats equipped for towing shall be in the water and ready for use until backdown commences. To prevent marine mammal entrapment, speedboats shall tow on bunchlines whenever net collapse begins or on the corkline if canopies of loose webbing form.

(B) Backdown Procedure: Backdown shall be performed following a purse seine set in which marine mammals are captured in the course of catching and landing tuna, and shall be continued until it is no longer possible to remove live marine mammals from the net by this procedure. Thereafter, other release procedures required shall be continued until all live animals have been released from the net.

(C) Hand Rescue: During backdown, a minimum of two rescuers shall aid with the release of marine mammals. If live marine mammals remain in the net after backdown, a minimum of two rescuers shall hand release them.

(D) Prohibited Use of Sharp of Pointed Instrument: The use of a sharp or pointed instrument to remove any marine mammal from the net is prohibited.

(E) Use of Rubber Raft, Facemask, and Snorkel: A rubber raft suitable as a propoise observation and rescue platform, shall be launched inside the net near the time of tying down for the backed maneuver and shall be used by a crewman to assist the other rescuer(s) in disentangling and releasing live marine mammals from the net. The crewman in the raft shall use the facemask and snorkel to determine whether all live marine mammals are out of the net and make every effort to remove them before backdown is terminated. Taking into consideration the safety of all personnel, all live marine mammals that remain in the net after backdown shall be herded to areas where they can be easily released.

(F) Prohibited Brailing of Live Marine Mammal: All release procedures shall continue until all live marine mammals are removed from the net prior to initiating brailing operation. Brailing live marine mammals from the net is prohibited.

(G) Prohibited Setting at Sundown: On every set involving marine mammals, the net skiff shall be released at least one and one-half hours before sunset; release of the net skiff after this time is prohibited.

(H) Use of Lights: If the backdown maneuver or other required release procedures continue past one-half hour after sunset, lights shall be used to insure that release procedures are properly performed and that all live marine mammals are removed from the net. Floodlights shall be used to attract fish toward the main vessel. A spotlight shall by intermittently used to illuminate the backdown channel and apex until all live marine mammals are removed from the net.

* * * * *

18. 50 CFR 216.24(d)(2)(vii) *Penalties* is corrected by redesignating it as 50 CFR 216.24(d)(2)(viii).

19. The first sentence and introductory clause of the second sentence of 50 CFR 216.24(e)(3) is amended to read as follows:

* * * * *

(e) * * *

(3) Salmon, Halibut, and Pilchards from South Africa. All fish and

categories of fish listed in paragraph (e)(2)(i) of this section shall be denied entry into the United States unless accompanied by a separate Fisheries Certificate of Origin (Standard Form 369–1) and a bill of lading from each country whose flag vessels caught fish involved in the importation. The Fisheries Certificate of Origin should include the following information:

* * * * *

20. 50 CFR 216.24(e)(4)(i)(A) through the introductory clause of (H) is amended to read as follows:

* * * * *

(e) * * *

(4) *Yellowfin tuna:* All shipments of fish and products listed paragraph (e)(2)(ii) of this section, from any nation, shall not be entered into the United States for consumption or withdrawn from warehouse for consumption unless a finding has been made pursuant to paragraph (e)(5)(i) of this section, and unless accompained by the following documentation: (i) A separate Yellowfin Tuna Certificate of Origin (Standard Form 370–1) and a bill of lading from each country whose flag vessels caught yellowfin tuna involved in the importation. The Yellowfin Tuna Certificate or Origin must include the following information: (A) Country of origin of the fishing vessel(s) involved; (B) Exporter (name and address); (C) Consignee (name and address); (D) Identity and quantity of the yellowfin tuna to be imported, listed by U.S. Tariff Schedule Number; (E) Name of vessel(s) which caught the yellowfin tuna; (F) Fishing method used (i.e., purse seine, longline, pole and line, etc.); (G) Other documentation as may be required by the Assistant Administrator, subsequent to granting a finding in paragraph (e)(5) of this section; (H) Must be signed by either a responsible government official of the country whose flag vessel caught the fish or the vessel master, below the following certification statements:

* * * * *

21. 50 CFR 216.24(e)(5)(ii) (A)–(E) is revised to read as follows:

* * * * *

(e) * * *

(5) * * *

(ii) Countries of origin desiring to obtain a finding which will allow the importation of products listed in paragraph (e)(2)(ii) of this section must submit, by appropriate government official, to the Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20235, the following information by September 1 preceding the calendar year for which a finding is requested: (A) A statement of the quantity and type (identified by tariff schedule numbers listed in paragraph (e)(2)(ii) of this section) of fish or fish products expected to be imported into the U.S.; (B) A detailed description of the fishing technology and procedures utilized in tuna purse seine fishing to protect marine mammals so that a determination of conformance with § 216.24(d)(2) of these regulations can be made, or the effectiveness of any other equivalent technology or procedures can be assessed; (C) A statement of the number of marine mammals killed or seriously injured (by species) incidental to the yellowfin tuna purse seine operations on porpoise for the previous year, and the manner in which the information was obtained (logbooks, observers, interviews, or other procedures); (D) A statement of the number of marine mammals which will be allowed to be killed or seriously injured annually, incidental to yellowfin tuna purse seine operations; (E) A statement of the procedures to by required, including quotas and other controls, which will meet the U.S. requirements to limit the level of mortality with specific reference to any species or stock designated as depleted.

* * * * *

22. 50 CFR 216.24(f)(3) is redesignated as 50 CFR 216.24(f)(4).

23. 50 CFR 216.24(f) is amended by adding a new paragraph (3), reading as follows:

* * * * *

(f) * * *

(3) Marine mammals killed during fishing operations which are accessible to crewmen and requested from the certificate holder or master by the observer shall be brought aboard the vessel and retained for biological processing, until released by the observer for return to the ocean. Whole marine mammals designated as biological specimens by the observer shall be retained in cold storage aboard the vessel until retrieved by authorized personnel of the National Marine Fisheries Service when the vessel returns to port for unloading

* * * * *

24. 50 CFR 216.24(f) is amended by adding a new paragraph (5), reading as follows:

* * * * *

(f) * * *

(5) It is unlawful for any person to forcibly assault, impede, intimidate, interfere with, influence or attempt to influence an observer placed aboard a vessel.

Appendix [Revised]

25. 50 CFR Part 216, Apendix, is revised to read as follows:

Appendix

1. *Basis and purpose.* (a) Sections 101(a)(2) and 103(e) of the Marine Mammal Protection Act, 16 U.S.C. 1371(a)(2) and 1373(e), and these regulations, including 50 CFR 216.24(d)(2)(i)(D), authorize the amendment of regulations governing the taking of marine mammals incidental to commercial fishing operations.

(b) The purpose of these regulations is to establish rules of practice and procedure for proceedings to commence on or about March 17, 1980 concerning the amendment of existing regulations and quotas regarding the taking of marine mammals incidental to commercial fishing operations and regulations and quotas that may be necessary when the existing regulations and quotas expire.

2. *Definitions.* Definitions shall be the same as in 50 CFR 216.3 except as follows:

(a) "Party" means for purposes of these regulations:

(1) The Assistant Administrator or his representative;

(2) The Marine Mammal Commission or its representative;

(3) A person who has, pursuant to paragraph 5, notified the Assistant Administrator by February 25, 1980 of his or her intent to participate in the hearing.

(b) "Active Party" means a party who intends to introduce significant evidence at the hearing or who intends to cross-examine a number of witnesses.

(c)(1) "Witness" means, for the purposes of these regulations, any expert or other person who delivers testimonial evidence, or who identifies real or documentary evidence under paragraphs 11 (d) and (e). A person may be both a party and a witness.

(2) "Expert" means one possessing knowledge not acquired by ordinary persons, with reference to a particular subject.

(d) "Assistant Administrator" means, for the purposes of these regulations, the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration.

3. *Scope of regulations.* These procedural regulations govern the practice and procedure in hearings described in paragraph 1(b). These hearings will be governed by the provisions of 5 U.S.C. 556 and 557 of the Administrative Procedure Act. They shall be construed to secure the just, speedy, and inexpensive determination of issues raised with respect to amending the regulations governing the taking of marine mammals incidental to commercial fishing operations and developing new regulations for this purpose, with full protection for the rights of all persons affected thereby.

4. *Notice of hearing.* (a) A notice of hearing on any proposed regulations on the taking of marine mammals incidental to commercial fishing operations shall be published in the Federal Register.

(b) The notice shall state:

(1) The intention to propose amendments to the regulations governing the taking of porpoise incidental to commercial fishing

operations in the eastern tropical Pacific Ocean;

(2) The nature of the hearing;

(3) The place and date of the hearing. The date shall not be less than thirty (30) days after publication of notice of the hearing;

(4) The legal authority under which the hearing will be held;

(5) The proposed regulations;

(6) A summary of the statement and studies described in section 103(d)(1)–(4) of the Act.

(7) Issues of fact which may be involved in the hearing, together with the express statement that the hearing will not necessarily be limited to these issues and that evidence relevant to other issues may be submitted at the hearing, subject to rulings of the presiding officer on the relevance and materiality of such issues;

(8) The date of publication of any draft environmental impact statement, and the place where the draft and comments thereon may be viewed and copied;

(9) Any written advice received from the Marine Mammal Commission;

(10) The place where records and documents submitted prior to the hearing will be kept for public inspection;

(11) A list of employees of the United States who will or may reasonably be expected to be involved in the decisional process on the regulations, including the Assistant Administrator, to whom and by whom *ex parte* communications relevant to the merits of the proceeding by or to parties to the proceeding are prohibited under the provisions of section 4 of the Government in the Sunshine Act of 1976, Pub. L. 94–409;

(12) The final date for filing with the Assistant Administrator a notice of intent to participate in the hearing pursuant to paragraph 5;

(13) The document number assigned to the case which shall be used in all subsequent proceedings;

(14) The name of the presiding officer;

(15) The final date for submission of direct expert testimony.

5. *Notification by interested persons.* Any person desiring to participate as a party shall notify the Assistant Administrator by certified mail on or before Monday, February 25, 1980, at the address listed in paragraph 8. Persons who fail to notify the Assistant Administrator shall be deemed to have waived their right to participate in any part of the proceeding.

6. *Presiding officer.* (a) The Assistant Administrator shall designate a presiding officer pursuant to 5 U.S.C. 3105. No individual who has any conflict of interest, financial or otherwise, shall serve as presiding officer in such proceeding.

(b) The presiding officer, in any proceeding under this subpart, shall have power to:

(1) Adjourn the hearing, but not to change the time and place of the hearing specified in the notice of hearing without the consent of all active parties;

(2) Rule upon motions, requests, and admissibility of real, documentary, and testimonial evidence;

(3) Administer oaths and affirmations, question witnesses, and direct witnesses to testify;

(4) Modify or waive any rule or time period with consent of all active parties;

(5) Receive evidence and exhibits; written arguments, comments, and briefs; hear oral argument if necessary; and, hold a pre-hearing conference;

(6) Render a recommended decision and certify the record of the proceeding to the Assistant Administrator;

(7) Do all acts and take all measures, including regulation of media coverage, for the maintenance of order at and the efficient conduct of the proceeding.

(c) The presiding officer shall make every effort to conduct the hearing in a fashion which permits the Administrator of NOAA to render his final decision by July 1, 1980; or, if this deadline cannot be met, by July 15, 1980.

(d) In case of the absence of the original presiding officer or his inability to act, the power and duties to be performed by the original presiding officer under this part in connection with a proceeding may, without abatement of the proceeding, be assigned to any other presiding officer as ordered by the Assistant Administrator.

(d) The presiding officer may upon his own motion withdraw as presiding officer in a proceeding if he deems himself to be disqualified.

(e) A presiding officer may be requested to withdraw at any time by a party prior to the recommended decision. Upon the filing in good faith of a timely and sufficient affidavit alleging the presiding officer's personal bias, malice, conflict of interest, or other basis which might result in prejudice to a party, the hearing shall recess. The Assistant Administrator shall immediately determine the matter as a part of the record and decision in the proceeding, after making such investigation or holding such hearings, or both, as he may deem appropriate.

7. *Submission of evidence before the start of the hearing.* (a) All direct testimony of experts, including accompanying exhibits, must be submitted to the presiding officer and all parties in writing no later than Friday, March 14, 1980. Eight (8) copies of such direct expert testimony shall be submitted to the presiding officer and the Assistant Administrator at the address listed in paragraph 8 and one (1) copy shall be submitted to all other parties. Such testimony need not be in affidavit form. Direct testimony by other witnesses and real and documentary evidence is encouraged, but is not required, to be submitted before the start of the hearing.

(b) The direct testimony submitted shall contain:

(1) A concise statement of the witness' interest in the proceeding and his/her position regarding the issues presented. If the direct testimony is presented by a witness who is not a party, the witness shall state his/her relationship to the party;

(2) Facts that are relevant and material.

(c) No objections or motions concerning the relevance of evidence submitted prior to the hearing or the materiality of the issue to which it relates shall be entertained by the presiding officer before such evidence is introduced into the record at the hearing.

8. *Mailing address.* All evidence shall be addressed to the Presiding Officer, MMPAH 1980–1, c/o Assistant Administrator for Fisheries, National Marine Fisheries, National Oceanic and Atmospheric Administration (NOAA), Department of Commerce, Washington, D.C. 20235. Each item of real or documentary evidence and all written direct testimony shall be clearly marked with the document number of the proceedings.

9. *Inspection and copying of evidence and other documents forming part of the record of the hearing.* Any evidence submitted by the parties at any point in a proceeding under these regulations may be inspected and, to the extent feasible, copied at such times and places as the presiding officer may designate. Other documents forming part of the record of the proceeding shall be made available for inspection and copying on the same basis. Any such documents not in the custody of the presiding officer may be inspected and copied in Room 412A, National Marine Fisheries Service, Page Building No. 2, 3300 Whitehaven Street, NW., Washington, D.C.

10. *Ex parte communications.* The provisions of section 4 of the Government in the Sunshine Act of 1976, Pub. L. 94–409, shall be adhered to in any proceeding conducted under these regulations.

11. *Conduct of the hearing.* (a) The hearing shall be held at the time and place fixed in the notice of hearing, unless the presiding officer, with the consent of all active parties, changes the time or place. If a change occurs, the presiding officer shall publish the change in the Federal Register and shall expeditiously notify all parties by telephone or by mail. If the change in time or place of hearing is made less than five (5) days before the date previously fixed for the hearing, the presiding officer shall also announce the change at the time and place previously fixed for the hearing.

(b) At the commencement of the hearing, the presiding officer shall introduce into the record: (1) The notice of hearing and the proposed regulations as published in the Federal Register;

(2) All subsequent notices pertaining to the proceeding published in the Federal Register;

(3) The draft environmental impact statement, any comments thereon, and any agency responses to the comments. If additional comments and agency responses are made at any later point in the proceeding, they shall be introduced into the record after notice to all parties by the presiding officer until he certifies the record to the Assistant Administrator, and thereafter by the Assistant Administrator;

(4) A list of all parties;

(c) Each party shall have the opportunity to introduce evidence into the record at the hearing in the order determined by the presiding officer, but the Assistant Administrator shall introduce his evidence before any other party.

(d)(1) Testimonial evidence of experts shall be presented through their written statements after such experts are placed under oath. Such direct testimony shall not be read into evidence but shall become a part of the record subject to exclusion of irrelevant and immaterial parts thereof. The presiding officer, in his discretion, may allow a limited period for oral statements on direct evidence to explain parts of an expert's written statement.

(2) Testimonial evidence of lay witnesses may be presented either by written or oral statements. The presiding officer may, in his discretion, limit the length of such testimony.

(3) The presiding officer may directly examine a witness under oath, and may propound to the witness questions submitted by parties other than the party that called the witness which he determines to be suitable for direct examination.

(e) Real and documentary evidence shall be admitted into the record only if the party introducing it or another person called by the party as a witness identifies such evidence, the issue to which it relates, the introducing party's position regarding that issue, and the manner in which the evidence support that position. This identification shall be made under oath, and shall be required whether or not such real or documentary evidence was submitted to the presiding officer prior to the hearing under paragraph 7.

(f) Any witness who introduces testimonial evidence or identifies real or documentary evidence shall: (1) State his or her name, address, and occupation;

(2) State qualifications for delivering or identifying such evidence. If an expert, the witness shall briefly state the scientific or technical training by which he or she qualifies as an expert;

(3) Submit to appropriate cross-examination in accordance with subparagraph (g).

(g) Each party shall have the opportunity, in the order determined by the presiding officer, to cross-examine any witness by whom another party has introduced testimonial evidence; and to cross-examine any other party, as well as any identifying witnesses, about real and documentary evidence which such other party has introduced. Such cross-examination may be conducted by a party either in person or by the party's authorized counsel or representative. Cross-examiners shall be assumed to be familiar with all testimony previously delivered by the witnesses at the hearing. The presiding officer may:

(1) Require the cross-examiner to outline the intended scope of the cross-examination;

(2) Limit the number of times any party or parties may cross-examine a party or other witness on the same matter;

(3) Exclude cross-examination questions that are irrelevant, concern immaterial issues, or are unduly repetitious.

(h) Scientific, technical, or commercial publications may only be used for impeaching witnesses under cross-examination unless previously introduced as evidence in accordance with these regulations.

(i) The first time counsel conducts the direct or cross-examination of a party or other witness, such counsel shall state for the record his or her authority to act as counsel and the party granting that authority. A party shall be assumed to have waived the right to introduce evidence if such party fails to produce a witness to present or identify such evidence under oath. Any party or party's counsel who fails to appear at the hearing to cross-examine a witness shall be assumed to have waived the right to cross-examine that witness.

(j) The hearing shall be publicly conducted and reported verbatim by an official reporter.

(k) If a party objects to the admission or rejection of any evidence or to any other ruling of the presiding officer during the hearing, he shall state briefly the grounds of such objection, whereupon an automatic exception will follow if the objection is overruled by the presiding officer. The ruling of the presiding officer on any objection shall be part of the record and shall be subject to review at the same time and in the same manner as the Administrator's final decision. Only objections made before the presiding officer may subsequently be relied upon in the proceedings.

(l) All motions and requests shall be addressed to, and ruled on by, the presiding officer if made before his certification of the record, and by the Assistant Administrator if made thereafter.

12. *Admissible evidence; official notice.* (a) Any evidence introduced by a party in accordance with these regulations shall be admitted into the record unless the presiding officer determines that such evidence is irrelevant to any material issue in the proceeding, or that it is unduly repetitious.

(b) Official notice may be taken of such matters as are judicially noticed by the courts of the United States.

13. *Written and oral arguments.* (a) For a period of fourteen (14) days after the close of the presentation of evidence, any party may file with the presiding officer an original written brief on the proposed regulations, including proposed findings, conclusions, and written arguments based on the record and which cite, if practicable, the relevant page or pages of the transcript. If a party filing a brief desires the presiding officer to reconsider any objection made by the presiding officer, that party shall state its arguments thereon as part of the brief. For a period of ten (10) days after the deadline for filing original briefs, any party may file a reply brief with the presiding officer.

(b) The presiding officer may allow for oral argument immediately following the period allowed for briefs. Any such argument may be limited by the presiding officer to the extent necessary for the expeditious disposition of the proceeding.

(c) Oral or written arguments shall be limited to issues arising from evidence in the record.

14. *Recommended decision; certification of the record.* (a) Within twenty-eight (28) days after the deadline for filing reply briefs, the presiding officer shall make a recommended decision based on the record and transmit the decision to the Assistant Administrator and all other parties. The recommended decision shall include:

(1) A description of the history of the proceedings;

(2) Findings on the issues of fact with reasons therefore; and

(3) Rulings on issues of law with the reasons therefore.

(b) The presiding officer shall also transmit to the Assistant Administrator the entire record of the proceeding, accompanied by the presiding officer's certificate stating that, to the best of his knowledge and belief, the record is a complete and accurate compilation of all the evidence and other documents in the proceeding, except in such particulars as are specified.

(c) The recommended decision may be reviewed and copied in Room 412A, National Marine Fisheries Service, Page Building No. 2, 3300 Whitehaven Street, NW., Washington, D.C.

(d) Within eight (8) days after the Administrative Law Judge's recommended decision, any party may file exceptions to the recommended decision with the Assistant Administrator. No reply exceptions will be allowed.

15. *Administrator's decision.* (a) Following the period allowed for exceptions, the Administrator of NOAA shall make a final decision of the proposed regulations. The Administrator's decision may affirm, modify, or set aside in whole or in part the recommended findings, conclusions, and decision of the presiding officer. The Administrator may also remand the hearing record to the presiding officer for a fuller development of the record. The Administrator's decision shall be filed within twenty-one (21) days of the deadline for filing exceptions to the recommended decision of the presiding officer.

(b) The Administrator's decision shall include: (1) A description of the history of the proceeding;

(2) Findings on the issue of fact with the reasons therefore; and

(3) Rulings on issues of law, with the reasons therefore.

(c) The Administrator's decision, together with the final adopted regulations, shall be published in the Federal Register.

16. *Effective date.* These regulations, pertaining to 50 CFR Part 216, Appendix, become effective immediately and shall terminate on the date of publication in the Federal Register of the Administrator's final decision.

(Secs. 101, 103, Marine Mammal Protection Act, (16 U.S.C. 1371, 1373).)

[FR Doc. 80-4657 Filed 2-14-80; 8:45 am]

BILLING CODE 3510-22-M

Friday
February 15, 1980

Part III

Department of Labor

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage & Hour Division, Office of Government Contract Wage Standards, Division of Construction Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

New General Wage Determination Decisions

New York.—NY80–3015.
Texas.—TX80–4015.

Modifications to General Wage Determination Decisions

Colorado:	
CO79–5117	June 15, 1979.
Georgia:	
GA79–1014	Jan. 5, 1979.
GA79–1122	Aug. 31, 1979.
Illinois:	
IL79–2062	July 6, 1979.
Indiana:	
IL79–2062	July 6, 1979.
Iowa:	
IA78–4105	Nov. 24, 1978.
Louisiana:	
LA80–4014	Jan. 25, 1979.
Maryland:	
MD79–3031	Nov. 30, 1979.
Michigan:	
MI79–2012	May 4, 1979.
MI79–2013	May 4, 1979.
IL79–2062	July 6, 1979.
Minnesota:	
IL79–2062	July 6, 1979.
Mississippi:	
MS80–1031	Jan. 11, 1980.
New York:	
IL79–2062	July 6, 1979.
North Carolina:	
NC78–1061	July 7, 1979.
Ohio:	
IL79–2062	July 6, 1979.
Pennsylvania:	
IL79–2062	July 6, 1979.
West Virginia:	
WV77–3083	Sept. 30, 1979.
Wisconsin:	
IL79–2062	July 6, 1979.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the Federal Register are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Georgia:	
GA78–1023 (GA80–1056)	Mar. 10, 1978.
Iowa:	
IA79–4064 (IA80–4016)	May 18, 1979.
New York:	
NY79–3019 (NY80–3008)	July 13, 1979.
NY79–3018 (NY80–3007)	July 6, 1979.
Pennsylvania:	
PA78–3014 (PA80–3012)	Mar. 24, 1978.

Cancellation of General Wage Determination Decisions

None.

Signed at Washington, D.C. this 8th Day of February 1980.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

NEW DECISION

STATE: NEW YORK COUNTY: Jefferson
DECISION NO. NY80-3015 DATE: Date of Publication
DESCRIPTION OF WORK: Building (does not include single family homes and apartments up to and including 4 stories), Heavy and Highway Construction Projects.

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	$13.28	.90	.68		.06
Bricklayers & Cement Masons	12.06	.60	.80	a	
Carpenters:					
Carpenters	9.60	.87			
Millwrights	10.95	.55	.90	c	.005
Electricians	11.90	.65	3%+.78		
Glaziers	9.05	.60			.01
Ironworkers:					
Antwerp, Philadelphia, Leray, Wilna & Champion	10.87	1.11	1.02		.04
Remainder of County	10.86	.77	.92		.15
Laborers: Unskilled	6.76				
Laborers: Power Tool	7.75	.55	.90		
Painters	7.90	.25	.45		
Plasterers	12.06	.60	.80		
Plumbers, Pipefitters & Steamfitters	10.80	.92	.50		.05
Roofers	5.00				
Sheet Metal Workers	12.55	1.01	.44		.08
Sprinkler Fitters	13.54	.75	1.05		.08
Tile Setters	12.06	.60	.80	a	
Truck Drivers	5.06				
POWER EQUIPMENT OPERATORS:					
Backhoe	10.20				
Bulldozer	10.04	.55	.60	.40	
Crane	12.78	1.05	.75	d	.15
Loader	11.78	1.05	.75	d	.15
Fork Lift	9.53	.95	.60		.10

FOOTNOTES:
a. Paid Holidays: Memorial Day, Independence Day, and Labor Day provided the employee has been on the payroll 5 days prior to the holiday and reports to work the day following the holiday.

c. Paid Holidays: Memorial Day, Labor Day and Thanksgiving Day provided the employee was on the payroll the week before the holiday or on the payroll the week after the holiday.

d. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day and Christmas Day, provided the employee has worked 5 consecutive working days before and the working day after the holiday.

HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	$13.28	.90	.68		.06
Boilermakers	11.80	1.05	10%		.02
Bricklayers	12.06	.60	.80	a	.02
Carpenters & Piledrivers	10.40	.55	.90		.025
Cement Masons	10.10	.70	.90		
Electricians:					
Electricians	11.90	.65	3%+.78		.8%
Cable Splicers	12.15	.65	3%+.78		.8%
Ironworkers:					
Antwerp, Philadelphia, Leray, Wilna & Champion:					
Structural, Ornamental, Reinforcing, Machinery Movers, Rodmen, Riggers, Fence Erectors & Stone					
Derrickmen	10.87	1.11	1.02		.04
Sheeters	11.12	1.11	1.02		.04
Sheeters, Bucker-up	10.995	1.11	1.02		.04
Remainder of County:					
Structural, Ornamental, Reinforcing, Machinery Movers, Rodmen, Riggers, Fence Erectors & Stone					
Derrickmen	10.86	.77	.92		.15
Sheeters	11.11	.77	.92		.15
Sheeters, Bucker-up	10.98	.77	.92		.15
Painters:					
Brush	9.20	.80	.45		
Spray	9.70	.80	.45		

FOOTNOTES:
a. Paid Holidays: Memorial Day, Independence Day, and Labor Day provided the employee had been on the payroll 5 days prior to the holiday and reports to work the day following the holiday.

LABORERS: HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$8.54	.60	1.10	a	
CLASS B	8.74	.60	1.10	a	
CLASS C	8.94	.60	1.10	a	
CLASS D	9.14	.60	1.10	a	
PAID HOLIDAY: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.					

FOOTNOTE:
a. Paid Holidays: A through F, provided the employee has worked the day before and after the holiday.

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION

CLASS A
Laborers, drill helpers, flagmen, outboard and hand boats.

CLASS B
Bull float, chain saw, concrete aggregate, bin concrete bootman, gin buggy, hand or machine vibrator, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw op., on asphalt paver, water pump op. (½" and single diaphram), nozzle (asphalt, gunnite, seeding and sandblasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.

CLASS C
All rock or drill machine operators (except quarry master and similar type), acetylene torch op., asphalt raker, powderman.

CLASS D
Blasters, form setter, stone or granite curb setters.

POWER EQUIPMENT OPERATORS: HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$11.48	1.15	.85	a	.15
GROUP II	11.09	1.15	.85	a	.15
GROUP III	10.01	1.15	.85	a	.15
GROUP IV	9.05	1.15	.85	a	.15
PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.					

FOOTNOTE:
a. Paid Holidays: A through F, providing the employee works the day before and the day after the holiday.

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION
GROUP I - Automated concrete spreader (CMI), automatic fine grader (except tractor mounted, rubber tired), belt placer (CMI type), blacktop plant (automated), cableway, caisson auger, central mix concrete plant (automated), cherry picker, (over 5 tons capacity) concrete pump (8" or over) crane, cranes and derricks (steel erection), dragline, dredge, dual drum paver, excavator (all purpose-hydraulically operated) (gradall or similar), fork lift (factor rated 15 ft. and over), front end loader (4 c.y. and over), head tower (sauerman or equal) hoist (2 or 3 drum), mine hoist, mucking machine or mole, over head crane (gantry or straddle type), pile-driver, power garder, quarry master (or equivalent), scraper, shovel, sideboom, slip form paver (if second man is needed, he shall be an oiler), tractor drawn belt-type loader, truck crane, tunnel shovel.
GROUP II - Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer, blacktop plant (non-automated), blast or rotary drill (truck or tractor mounted), boring machine, cage-hoist, central mix plant (non-automated) and all concrete batching plants, cherry picker (5 tons capacity and under), compressors (4 or less) exceeding 2000 C.F.M. combined capacity concrete paver (over 16S), concrete pump (under 8"), crusher, diesel power unit, drill rigs (tractor mounted), front end loader (under 4 c.y.), hi-pressure-boiler (15 lbs. and over), hoist (one drum) Kolman plant loader and similar type loaders (if another man is required

POWER EQUIPMENT OPERATORS: HEAVY & HIGHWAY CONSTRUCTION (CONT'D)

GROUP II (Cont'd) - to clean screen or to maintain the equipment, he shall be an oiler), locomotive, maintenance engineer/greaseman/welder, mixer (for stabilized base self-propelled), monorail machine, plant engineer, pump crete, ready mix concrete plant, refrigeration equipment (for soil stabilization), road widener, roller (all above subgrade), tractor with dozer and/or pusher, trencher, tugger-hoist, winch, winch cat.

GROUP III - A-frame truck, compressors (4 not to exceed 2000 C.F.M. combined capacity; or 3 or less with more than 1200 C.F.M. but not to exceed 2000 C.F.M.), compressors (any size but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (4 of any type of combination), concrete pavement and finishers, conveyor, drill-core, drill-well, electric pumps used in conjunction with well point system, farm tractor with accessories, fine grade machine, fork lift (under 15 ft.), gunnite machine, hammers (hydraulic-self-propelled), post hole digger and post driver, power sweeper, roller (grade and fill), submersible electric pump (when used in lieu of well point system), tractor with towed accessories, vibratory compactor, vibro tamp, well point.

GROUP IV - Aggregate plant, boiler (used in conjunction with production), cement and bin operator, compressors (3 or less not to exceed 1200 C.F.M. combined capacity), compressor (any size, but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (3 or less of any type or combination), concrete or mixer (16S and under), concrete saw (self-propelled), fireman, form tamper, hydraulic pump (jacking system). light plants, mulching machine, oiler, parapet-concrete or pavement grinder, power broom (towed), power heaterman, revinius widener, shell winder, steam cleaner, tractor.

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$9.13	1.01	.75	a	
CLASS 2	9.18	1.01	.75	a	
CLASS 3	9.23	1.01	.75	a	
CLASS 4	9.38	1.01	.75	a	
CLASS 5	9.53	1.01	.75	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Paid Holidays: A through F, provided the employee has worked the day before and after the holiday.

TRUCK DRIVERS: HEAVY & HIGHWAY CONSTRUCTION

CLASS 1 - Warehouseman, yardmen, truck helpers, pickups, panel trucks, flatboy material trucks (straight jobs), single axle dump trucks, dumpsters, material checkers and receivers, greasers, truck tiremen, mechanic helpers and parts chaser.

CLASS 2 - Tandems, batch trucks, mechanics and dispatcher.

CLASS 3 - Semi-trailers, low-boy trucks, asphalt distributors trucks, agitator, mixer trucks and dumpcrete type vehicles, truck mechanic.

CLASS 4 - Specialized earth moving equipment-euclid type or similar off-highway equipment, where not self loaded, and straddle (ross) carrier.

CLASS 5 - Off-highway tandem back-dump, twin engine equipment and double hitched equipment where not self loaded.

LINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Electrical Overhead & Underground distribution work:					
Lineman & Technicians	$11.00	1.40	3%+.75	k	
Cable Splicers	14.45	1.40	3%+.75	k	
Groundman Digging Machine Operator & Groundman Dynamite man	9.90	1.40	3%+.75	k	
Groundman Mobile Equipment Operator, Mechanic 1st Class, Groundman Truck Driver	8.80	1.40	3%+.75	k	
Groundman Truck Driver (Tractor Trailer)	9.35	1.40	3%+.75	k	
Driver Mechanic, Groundman-Experienced	8.25	1.40	3%+.75	k	
All Overhead Transmission Line Work & Lighting for Athletic Fields:					
Lineman & Technician	12.50	1.40	3%+.75	k	
Groundman Digging Machine Operator, Groundman Dynamite Man	11.25	1.40	3%+.75	k	
Groundman Mobile Equipment Operator, Mechanic 1st Class, Groundman Truck Driver	10.00	1.40	3%+.75	k	
Groundman Truck Driver (tractor Trailer Unit)	10.625	1.40	3%+.75	k	
Driver Mechanic, Groundman-Experienced	9.375	1.40	3%+.75	k	
Sub-Station, Switching Structures (when not in line), Traffic signal, Street Lighting & Electrical, Telephone or CATV Commercial Work:					
Lineman & Technicians	13.15	1.40	3%+.75	k	
Cable Splicers	14.465	1.40	3%+.75	k	
Groundman Mobile Equipment Operator, Mechanic 1st Class, Groundman Truck Driver	10.52	1.40	3%+.75	k	

LINE CONSTRUCTION (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Groundman Truck Driver (Tractor Trailer Unit)	11.1775	1.40	3%+.75	k	
Driver Mechanic, Groundman-Experienced	9.8625	1.40	3%+.75	k	
Groundman Digging Machine Operator, Groundman Dynamite Man	11.835	1.40	3%+.75	k	
Telephone & other Communication Systems, Both Overhead & Underground:					
Linemen & Installer Repairmen	8.34	.40	3%+.25	k	1%
Splicers	8.89	.40	3%+.25	k	1%
Groundman Digging Machine Operator	7.73	.40	3%+.25	k	1%
Groundman	5.72	.40	3%+.25	k	1%
Groundman Truck Driver	6.82	.40	3%+.25	k	1%
Groundman Dynamiteman	6.60	.40	3%+.25	k	1%

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:

k. Paid Holidays: A through F, Washington's Birthday, Good Friday, and Election Day for President of the United States and Governor of New York State, provided the employee works the day before after the holiday.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

NEW DECISION

STATE: Texas COUNTY: Tarrant
DECISION NO.: TX80-4015 DATE: Date of Publication
DESCRIPTION OF WORK: Residential construction consisting of single family homes and apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING MECHANICS	$4.50				
BRICKLAYERS	10.00				
CARPENTERS	6.04				
CEMENT MASONS	6.90				
ELECTRICIANS	5.86				
IRONWORKERS	5.50				
INSULATION INSTALLERS	5.64				
LABORERS:					
Laborers	4.35				
Asphalt rakers	5.50				
Mason tenders	5.50				
PAINTERS	8.85				
PLUMBERS	6.84				
ROOFERS	7.34				
SHEET METAL WORKERS	7.63				
TRUCK DRIVERS	4.50				
POWER EQUIPMENT OPERATORS:					
Backhoes	5.00				
Front end loaders	6.05				
Graders	6.00				
Spreader operators	5.50				
Tractors	6.00				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

MODIFICATION PAGE 1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #CO79-5117-Mod. #3 (44 FR 24719-June 15, 1979) Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Eagle, Elbert, Gilpin, Grand, Jefferson, Lake, Larimer, Morgan, Park, Summit and Weld Counties, Colorado					
Change:					
Electricians:					
Larimer, Morgan and Weld Counties	$13.00	.70	3%+1.25		3/10%
DECISION #GA79-1014 - Mod. #7 (44 FR 1632 - January 5, 1979) Clayton, DeKalb, & Fulton Counties, Georgia					
CHANGE:					
Carpenters, Drywall hangers, & Resilient floor layers	$10.95	.60	.45		.02
Carpet layers	9.00	.60	.45		.02
Piledrivermen	11.10	.60	.45		.02
DECISION #GA79-1122 - Mod. #3 (44 FR 51491 - August 31, 1979) DeKalb & Fulton Counties, Georgia					
CHANGE:					
Carpenters	$10.95	.60	.45		.02
Piledrivermen	11.10	.60	.45		.02
Sheet metal workers	11.50	.70	.91		.07

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. IL79-2062 - MOD. #1 (44 FR 39904 - July 6, 1979) Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin					
Change:					
DRILL BOATS:					
Engineers	12.02	.73	.70	c	
Blasters	12.16	.73	.70	c	
Firemen	11.62	.73	.70	c	
Driller, Welders or Machinists	12.03	.73	.70	c	
Oilers	11.41	.73	.70	c	
Decision NO. IA78-4105-Mod. #5 (43 FR 55168-November 24, 1978) Building Johnson County, Ia					
CHANGE:					
Laborers:					
Group 1-Common Laborers	$9.45	.40	.80		.05
Group 2-Machine Rock Drill Vibrator;Air,Electric, or Gasoline Powered Jack Hammers;Tampers; Chipping Hammers, Power Driven Buggies; Cutting Torches; Chain Saws; & Mason Mortar Makers	9.80	.40	.80		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #LA80-4014-Mod. #1 (45 FR 6294-January 25, 1980) Statewide, Louisiana					
Change:					
Carpenters (Building Construction):					
Zone 1:					
Carpenters	$10.35	.50			
Millwrights	11.07	.50			
Piledrivermen	11.25	.50			
Power Equipment Operators (Building Construction):					
Zones 2 and 4:					
Group 1	11.27	.65	.72		.05
Group 2	9.54	.65	.72		.05
Group 3	9.15	.65	.72		.05
Group 4	9.07	.65	.72		.05
Group 5	8.66	.65	.72		.05
Group 6	8.25	.65	.72		.05
Sheet Metal Workers:					
Zone 3	12.97	.55	.80		.16

MODIFICATION PAGE 4

DECISION #MD79-3031 - Mod. #1

(44 FR 69110 - November 30, 1979) Counties of Anne Arundel (excluding the D.C. Training School), Baltimore, and Baltimore City, Maryland, and for Heavy Construction Projects in Harford and Howard Counties, Maryland	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Add:					
Divers and Tenders:					
Zone 2 - Anne Arundel (remainder of county), Baltimore, Baltimore City, Harford, & Howard Counties:					
Divers (footage of up to 60 feet)	20.80	.75	.69		.07
Additional basic depth rates 60 to 70 feet - extra $5.00 per day; 70 to 80 feet - extra $10.00 per day; 80 to 90 feet - extra $15.00 per day; 90 to 100 feet - extra $20.00 per day;					
Divers Tenders	10.80	.75	.69		.07
Change:					
Asbestos Workers	11.30	1.00	.95		.02
Bricklayers	11.38	.80	.50		.07
Carpenters, Soft Floor Layers, Millwrights, & Piledrivers:					
Zone 1					
Carpenters and soft floor layers	11.28	.80	.65		.05
Millwrights	11.81	.80	.65		.05
Piledriver	11.53	.80	.65		.05
Zone 2					
Carpenters, soft floor layers, resilient floor layers, and pile drivers	10.80	.75	.69		.07
Millwrights	11.20	.75	.69		.07
Divers and Tenders					
Zone 1					
Divers	21.79	.80	.65		.05
(Depth rate: From 60' to 100' the diver shall receive an extra 50¢ per foot per day)					
Divers Tenders	21.15	.80	.65		.05

MODIFICATION PAGE 5

DECISION NO. MI79-2012 - MOD. #3 (44 FR 26435 - May 4, 1979) Alcona, Alpena, Charlevoix, Emmet, Grand Traverse, Leelanau, Mason, Montmorency, Muskegon, Oceana, Oscoda & Presque Isle Counties, Michigan	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos Workers	$12.60	1.05	1.78		
Boilermakers	13.065	1.28	1.30	2.00	.03
Bricklayers:					
Remaining Counties Bricklayers; Stonemasons; Plasterers & Marble Masons	10.58	.85	.25		.02
Terrazzo & Tile Workers	10.02	.85	.25		.02
Cement Masons:					
Remaining Counties	10.13	.85	.25		.02
Electricians:					
Charlevoix, Grand Traverse, Leelanau & Emmet (except Wawatan Twp.) Counties & (Grant, Freesoil & Mead Twps.) in Mason County	12.30	.60	3%+.40		.1 of 1%
Muskegon, Oceana & the Remainder of Mason County	12.36	.60	3%+.45		.03
Remainding Counties & (Wawatan Township) in Emmet County:					
Contracts $35,000 or less	10.55	.60	3%+.30		.1 of 1%
Contracts over $35,000	12.50	.60	3%+.30		.1 of 1%
Elevator Constructors:					
Remaining Counties	10.88	.89	.69	a	.02
Glaziers:					
All Counties	9.50	.65	.30	3%	

DECISION NO. MI79-2012 (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Ironworkers:					
Alcona, Alpena, Montmorency, Oscoda & Presque Isle Cos.					
Structural & Ornamental	12.59	9%	17%	18%	.09
Fence Erectors	11.59	9%	17%	18%	.09
Remaining Counties	13.08	6%	8%		.10
Plumbers and Steamfitters:					
Alcona & Oscoda Cos.	13.93	.95	.70		
Alpena, Montmorency and Presque Isle Counties	13.05	.45	.70		
Mason, Muskegon & Oceana Counties	12.05	1.19	1.46		
Sprinkler Fitters	13.33	.75	1.05		
Truck Drivers:					
Alcona, Alpena, Montmorency, Oscoda & Presque Isle Counties:					
Regular Truck Driver	8.75	b28.00	b37.00	.50	
8 Cubic Yards & over euclid Type Bottom & end dump	8.85 9.05	b28.00	b37.00	.50	
Charlevoix, Emmet, Grand Traverse & Leelanau Counties:		b28.00	b37.00	.50	
Regular Truck Driver	8.55	b28.00	b20.00	c	
8 Cubic Yards & Over	8.65	b28.00	b20.00	c	
Semi-Driver	8.75	b28.00	b20.00	c	

DECISION NO. MI79-2013 - MOD. #3 (44 FR 26436 - May 4, 1979) Alger, Baraga, Chippewa, Dickinson, Gogebic, Houghton, Keweenaw, Mackinac, Marquette & Ontonagon Counties, Michigan	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos Workers:					
Chippewa & Mackinac Cos.	$12.60	1.05	.178		
Gogebic & Ontonagon Cos.	12.80	.50	.75		
Boilermakers	13.065	1.28	1.30	2.00	.03
Bricklayers:					
Chippewa & Mackinac Cos. Bricklayers; Stonemasons; Plasterers; Tile & Terrazzo Workers	11.41	.75	.60		.02
Remainder of Counties: Bricklayers; Stonemasons; Plasterers; Marble-Tile & Terrazzo Workers	11.41	.75	.60		.02
Cement Masons:					
Chippewa & Mackinac Cos.	10.91	.75	.60		.02
Remainder of Counties	10.91	.75	.60		.02
Electricians:					
Chippewa & Mackinac Cos.	10.90	.60	3%+1.00		15.00p/y
Remainder of Counties:					
Contracts $45,000 & over	11.19	.60	3%+1.00		½ of 1%
Contracts up to 45,000	8.40	.60	3%+1.00		½ of 1%
Painters:					
Alger & Marquette Cos.:					
Brush & Glaziers	10.00	.60			.05
Bridges, Water Tanks, Radio & T. V.	12.25	.60		.05	
Baraga, Houghton, Keweenaw & the Norhthern portion of Ontonagon Co.					
Brush, Paperhangers, Tapers, & Glaziers	9.10				
Spay & Sandblasting	9.65				

	Basic Hourly Rates	Fringe Benefits Payments			
		H.& W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. MI79-2013 (Cont'd)					
Roofers	$11.05	.70	.50		
Sheet Metal Workers	10.47	.70+.11	.99	1.50	.05
Sprinkler Fitters	13.33	.75	1.05		.08
DECISION NO. MS80-1031 - MOD. #2 (45 FR 2492 - January 11, 1980) Hancock, Harrison, Jackson and Pearl River Counties, Mississippi					
Change:					
Electricians:					
Electricians	$12.00	5%	3%+2%		1/8 of 1%
Ironworkers:					
Hancock & Pearl River Counties & Western 2/3 of Harrison Co.					
Structural, Ornamental & Reinforcing	11.66	.63	.35		.04
Decision # NC78-1061-Mod # 3 (43 FR-29463-July 7, 1978) Statewide, North Carolina					
Change:					
Power Equipment Operators:					
Tractor, utility	3.10				
Truck Drivers:					
Heavy duty	3.10				

DECISION #WV77-3083 - Mod. #10 (42 FR 53172 - September 30, 1977) Statewide, West Virginia

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Omit:					
All areas and rate for Plumbers and Pipefitters					
Add:					
Plumbers and Pipefitters:					
AREA 1 - Harrison, Marion, and Monongolia Counties	11.57	.65	1.00	1.157	.04
AREA 2 - Barbour, Doddridge, Lewis, Preston, Taylor, and Upshur Counties	11.82	.65	1.00	1.182	.04
AREA 3 - Braxton, Gilmer, Randolph, and Tucker Counties	12.07	.65	1.00	1.207	.04
AREA 4 - Grant, Hampshire, Hardy, Mineral, and Pendleton Counties	12.32	.65	1.00	1.232	.04
AREA 5 - Brooke (south of Buffalo Creek), Marshall, Ohio, and Wetzel Counties	11.79	.75	1.06	1.18	.05
AREA 6 - Brooke (remainder of county) and Hancock Counties	12.61	.50	8%	8%	.12
AREA 7 - Calhoun, Jackson, Pleasants, Ritchie, Tyler, Wirt, and Wood Counties	12.63	.50	.80		
AREA 8 - Cabell, Lincoln, Logan, Mason, Mingo, and Wayne Counties:					
Zone 1 - Within 8 mile radius of Cabell County Courthouse	10.88	.60	1.40		.02
Zone 2 - 8 to 15 miles from the Courthouse	11.08	.60	1.40		.02
Zone 3 - 15 to 25 miles from the Courthouse	11.28	.60	1.40		.02
Zone 4 - Over 25 miles from the Courthouse	11.53	.60	1.40		.02

Decision #WV77-3083 Cont'd

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA 9 - McDowell, Mercer, Monroe, Raleigh, Summers, and Wyoming Counties:					
Contracts $75,000 or less	8.55	.55	.60		.09
Contracts over $75,000	12.33	.55	.60		.09
AREA 10 - Boone, Clay, Fayette, Greenbrier, Kanawha, Nicholas, Pocohontas, Putnam, Roane, and Webster Counties	12.95	.65	.80		.05
AREA 11 - Berkeley, Jefferson, and Morgan Counties	7.82	.60	.80	d	
Change:					
AREA 2 - under Areas Covered by Line Construction to cover Raleigh County except for Clear Fork and Marsh Fork Townships					
AREA 12 - under Areas Covered by Line Construction to cover Fayette County except for Falls and Kanawha Townships					
AREA 1 - under Areas Covered by Line Construction to include Falls and Kanawha Townships in Fayette County and Clear Fork and Marsh Forks Townships in Raleigh County					
Bricklayers & Stonemasons					
Area 2	11.53	.55	.50		.03
Area 4	12.53	.65			.03
Area 5	13.23	.75	.40		
Area 6	12.25	.70			
Area 7	11.19	.65	.40		

Decision #WV77-3083 Cont'd

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters:					
Heavy Construction:	10.44	.80	.50		.05
Highway Construction	10.24	.80	.50		.05
Cement Masons:					
Heavy Construction	11.42	.50			
Highway Construction	11.21	.50			
Electricians:					
Area 1					
Wiremen	13.50	.50	3%+.75		.04
Cable Splicers	14.85	.50	3%+.75		.04
Area 2					
Contracts $15,000 or less:					
Wiremen	9.17	.50	3%+.67	.77	.06
Cable Splicers	9.47	.50	3%+.67	.77	.06
Contracts over $15,000:					
Wiremen	12.07	.50	3%+.67	.77	.06
Cable Splicers	12.37	.50	3%+.67	.77	.06
Area 3					
Wiremen	10.95	.50	3%+.50	2.00	.03
Cable Splicers	12.045	.50	3%+.50	2.00	.03
Area 4					
Wiremen	12.60	.50	3%+.35	1.00	.04
Cable Splicers	12.85	.50	3%+.35	1.00	.04
Area 5					
Wiremen	13.50	7%	10%	10%	1/2%
Area 6					
Contracts under $12,000:					
Wiremen	6.15	.50	3%+.50	2.00	.02
Contracts $12,000 or more:					
Wiremen	11.35	.50	3%+.50	2.00	.02
Cable Splicers	11.50	.50	3%+.50	2.00	.02
Area 7					
Wiremen	11.75	.50	3%+1.25	1.50	.04
Cable Splicers	12.00	.50	3%+1.25	1.50	.04
Area 8					
Wiremen	12.52	.50	3%+1.02	1.02	.04
Cable Splicers	13.15	.50	3%+1.02	1.20	.04
Area 9					
Wiremen	12.97	.50	3%+1.02	1.02	.04
Cable Splicers	13.62	.50	3%+1.02	1.02	.04
Area 10					
Wiremen	12.72	.50	3%+1.02	1.02	.04
Cable Splicers	13.36	.50	3%+1.02	1.02	.04

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Decision #WV77-3083 Cont'd

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Area 11	11.40	.80	3%+.70		1%
Area 12	11.40	.80	3%+.70		1%
Area 13	12.00	.80	3%+.70		1%
Area 15					
Contracts $15,000 or less:					
Wiremen	9.47	.50	3%+.67	.77	.06
Cable Splicers	9.77	.50	3%+.67	.77	.06
Contracts over $15,000:					
Wiremen	12.37	.50	3%+.67	.77	.06
Cable Splicers	12.67	.50	3%+.67	.77	.06
Area 16					
Contracts $15,000 or less:					
Wiremen	9.67	.50	3%+.67	.77	.06
Cable Splicer	9.97	.50	3%+.67	.77	.06
Contracts over $15,000:					
Wiremen	12.57	.50	3%+.67	.77	.06
Cable Splicers	12.87	.50	3%+.67	.77	.06
Ironworkers:					
Area 1	12.25	1.00	1.45		.09
Area 2	12.60	.90	1.75		.05
Area 3	11.95	1.00	1.45		.03
Area 4					
Zone 1 - 10 miles from Union Hall	12.07	.90	1.05		.01
Zone 2 - 10 to 15 miles from Union Hall	12.22	.90	1.05		.01
Zone 3 - 15 to 20 miles from Union Hall	12.32	.90	1.05		.01
Zone 4 - Over 20 miles from Union Hall	12.42	.90	1.05		.01
Area 6	10.55	.80	.85		.03
Laborers:					
Heavy Construction:					
Group 1	10.04	.60	.60		.05
Group 2	9.62	.60	.60		.05
Group 3	9.32	.60	.60		.05
Group 4	8.99	.60	.60		.05
Group 5	8.75	.60	.60		.05
Group 6	8.25	.60	.60		.05
Highway Construction					
Group 1	9.86	.60	.60		.05
Group 2	9.45	.60	.60		.05
Group 3	9.13	.60	.60		.05
Group 4	8.81	.60	.60		.05
Group 5	8.51	.60	.60		.05
Group 6	8.05	.60	.60		.05

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Decision #WV77-3083 Cont'd

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Line Construction:					
Area 1					
Linemen	13.68	.60	3%+.50	.90	1/2%
Cable Splicer and Linemen Welder	15.05	.60	3%+.50	.90	1/2%
Mechanized Equipment Operators	10.94	.60	3%+.50	.90	1/2%
Groundmen	8.89	.60	3%+.50	.90	1/2%
Area 2					
Linemen and operators (all mechanized equipment)	11.97	.70	3%+.67	.77	1/2%
Cable Splicers	12.27	.70	3%+.67	.77	1/2%
Groundmen	9.58	.70	3%+.67	.77	1/2%
Area 3					
Linemen and Equipment Operators	11.65	.60	3%+1.25	1.50	1/2%
Cable Splicers	12.82	.60	3%+1.25	1.50	1/2%
Groundmen	9.32	.60	3%+1.25	1.50	1/2%
Area 4					
Linemen and Equipment Operators	10.95	.50	3%+.50	2.00	1/2%
Cable Splicers	12.045	.50	3%+.50	2.00	1/2%
Groundmen and Truck Drivers	8.76	.50	3%+.50	2.00	1/2%
Area 6					
Linemen and Equipment Operators	13.50	7%	10%	10%	
Cable Splicers	14.00	7%	10%	10%	
Groundmen	8.78	7%	10%	10%	
Area 12					
Linemen and operators (all mechanized equipment)	12.27	.70	3%+.67	.77	1/2%
Cable Splicers	12.57	.70	3%+.67	.77	1/2%
Groundmen	9.82	.70	3%+.67	.77	1/2%
Area 13					
Linemen and operators (all mechanized equipment)	12.47	.70	3%+.67	.77	1/2%
Cable Splicers	12.77	.70	3%+.67	.77	1/2%
Groundmen	9.98	.70	3%+.67	.77	1/2%

Decision #WV77-3083 Cont'd

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters:					
Area 1					
Painters					
An area within 50 miles of Huntington, W.V.	9.73	.45	.35		.02
An area 50 miles and beyond of Huntington, W.V.	11.08	.45	.35		.02
Bridge & Hazardous Work (includes towers, smoke stacks, flag poles & tanks)					
An area within 50 miles of Huntington, W.V.	11.69	.45	.35		.02
An area 50 miles and beyond of Huntington, W.V.	13.04	.45	.35		.02
Area 3					
Painters	11.66		.20		
Structural steel after erection	12.57		.20		
Bridge painting	12.47		.20		
Spray painters	13.16		.20		
Towers, tanks & stacks	13.00		.20		
Repaint industrial & structural steel	11.77		.20		
Sand blasters	13.64		.20		
Area 4					
New Construction:					
Brush	10.76		.30		.01
Roller	11.02		.30		.01
Spray & Blast, Pot-Men	11.78		.30		.01
Repaint Work					
Brush	9.34		.30		.01
Roller	9.62		.30		.01
Spray-Pot-Men	11.78		.30		.01
Bridge					
Brush	11.46		.30		.01
Roller	11.71		.30		.01
Spray, Blast, glove	12.46		.30		.01
Open structural steel	11.11		.30		.01
Stacks, vent pipes, flag poles, electrical, radio & T.V. towers & tanks over 30 feet high	11.71		.30		.01

Decision #WV77-3083 Cont'd.

	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	New	Repaint				
Area 5						
Brush	9.96	9.07	.55			
Air Compressor Operator	9.96	9.07	.55			
Roller, Spray, Dipping & Mitten Work	10.36	9.46	.55			
Water blasters, Steam jenny nozzle men, swinging scaffold & Boatswain chair, window belt & window jack work	10.88	10.27	.55			
Brush painters on bridges needle beam, cable work power tool work, brush & flame cleaning	11.29	10.74	.55			
Sand blaster	11.64	11.09	.55			
All stacks, vent pipes, flag poles in excess of 30' high, all towers, elevated tanks, electrical switch yards transformer banks, television towers	12.67	12.21	.55			
Spray painter or sandblaster on bridges needle beam cable work	11.64	11.02	.55			

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Area 6					
Brush & roller	8.67	.65	.50		.01
Glove	8.92	.65	.50		.01
Spray & Sandblast	9.67	.65	.50		.01
Steam Cleaning	9.67	.65	.50		.01
Railroad and Heavy Bridges:					
Brush	9.99	.65	.50		.01
Spray & Sandblast	10.99	.65	.50		.01
Glove & Roller	10.24	.65	.50		.01

Decision #WV77-3083 Cont'd

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Piledrivermen:					
Heavy Construction:					
Area 1	10.77	.80	.50		.05
Area 2	10.77	.80	.50		.05
Highway Construction:					
Area 2 - all remaining Counties:	10.56	.80	.50		.05
Power EquipmentOperators:					
Heavy Construction:					
Group 1	11.29	1.00	.60		.11
Group 2	10.49	1.00	.60		.11
Group 3	9.75	1.00	.60		.11
Group 4	9.51	1.00	.60		.11
Group 5	9.18	1.00	.60		.11
Group 6	8.86	1.00	.60		.11
Group 7	10.07	1.00	.60		.11
Highway Constuction:					
Group 1	11.13	1.00	.60		.11
Group 2	10.30	1.00	.60		.11
Group 3	9.56	1.00	.60		.11
Group 4	9.32	1.00	.60		.11
Group 5	8.99	1.00	.60		.11
Group 6	8.67	1.00	.60		.11
Group 7	9.89	1.00	.60		.11
Truck Drivers:					
Heavy Construction					
Area 1: All counties except Grant, Hampshire, Hardy, Mineral, Morgan and Pendelton					
Group 1	9.04	g	h		
Group 2	9.21	g	h		
Group 3	9.45	g	h		
Group 4	9.79	g	h		
Group 5	9.87	g	h		
Group 6	10.05	g	h		
Group 7	10.25	g	h		
Group 8	10.29	g	h		

Decision #WV77-3083 Cont'd

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Area 2: Grant, Hardy, Hampshire, Mineral, Morgan, and Pendleton Counties:					
Group 1	9.04	1.00	.77		
Group 2	9.21	1.00	.77		
Group 3	9.45	1.00	.77		
Group 4	9.79	1.00	.77		
Group 5	9.87	1.00	.77		
Group 6	10.05	1.00	.77		
Group 7	10.25	1.00	.77		
Group 8	10.29	1.00	.77		
Truck Drivers:					
Highway Construction:					
Area 1: All counties except Grant, Hampshire, Hardy, Mineral, Morgan, & Pendleton					
Group 1	8.84	g	h		
Group 2	9.00	g	h		
Group 3	9.24	g	h		
Group 4	9.60	g	h		
Group 5	9.66	g	h		
Group 6	9.84	g	h		
Group 7	9.99	g	h		
Group 8	10.08	g	h		
Area 2: Grant, Hampshire, Hardy, Mineral, Morgan & Pendleton Counties:					
Group 1	8 84	1.00	.77		
Group 2	9.00	1.00	.77		
Group 3	9.24	1.00	.77		
Group 4	9.60	1.00	.77		
Group 5	9.66	1.00	.77		
Group 6	9.84	1.00	.77		
Group 7	9.99	1.00	.77		
Group 8	10.08	1.00	.77		

All truck driver classifications performing tunneling and underground work shall receive an additional 25¢ per hour

Footnotes:
g. Employer contributes $110.00 per month per employee.
H. Employer contributes $84.50 per month per employee.

SUPERSEDEAS DECISION

STATE: GEORGIA
COUNTIES: BALDWIN, BIBB, BLECKLEY, BUTTS, CRAWFORD, HOUSTON, JASPER, JONES, LAMAR, MONROE, PEACH, PIKE, PUTNAM, TWIGGS, UPSON, & WILKINSON
DECISION NUMBER: GA80-1056 DATE: DATE OF PUBLICATION
Supersedes Decision Number GA78-1023, dated March 10, 1978, in 43 FR 10155.
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS - includes single family homes and apartments up to and including four stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING & HEATING MECHANICS	$ 5.25				
BRICKLAYERS	6.17				
CARPENTERS	5.00				
CEMENT MASONS	5.44				
DRYWALL FINISHERS	5.00				
DRYWALL HANGERS	4.75				
ELECTRICIANS	5.80				
INSULATION INSTALLERS	3.50				
IRONWORKERS	4.89				
LABORERS:					
Unskilled	3.10				
Lutemen	3.25				
Asphalt rakers	3.45				
PAINTERS	4.00				
PLUMBERS & PIPEFITTERS	5.33				
ROOFERS	4.77				
SHEET METAL WORKERS	5.50				
SOFT FLOOR LAYERS & CARPET LAYERS	4.00				
TILE SETTERS	5.25				
TRUCK DRIVERS	4.25				
WELDERS - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
Asphalt spreader	3.50				
Backhoe	4.50				
Bulldozer	5.25				
Front end loader	3.50				
Motor grader	4.00				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)·(1) (ii)).

SUPERSEDEAS DECISION.

STATE: Iowa COUNTY: Statewide except Scott County
DECISION NO. IA80-4016 DATE: Date of Publication
Supersedes Decision No. IA79-4064, dated May 18, 1979 in 44 FR 29244
DESCRIPTION OF WORK: Heavy and Highway Construction (does not include building structures in rest area projects and work on or pertaining to the Mississippi or Missouri Rivers

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CITY OF COUNCIL BLUFFS					
Carpenters & Piledrivermen	10.71	.50	.50	.60	.05
Cement Masons	10.30	.67	.60		
Laborers:					
Group I	7.20	.60	.45	.33	.05
Group II	7.31	.60	.45	.33	.05
Group III	7.41	.60	.45	.33	.05
Group IV	7.52	.60	.45	.33	.05
Group V	7.47	.60	.45	.33	.05
Group VI	7.87	.60	.45	.33	.05
Power Equipment Operators:					
Group I	10.81	0.80	0.80		0.10
Group II	10.41	0.80	0.80		0.10
Group III	10.01	0.80	0.80		0.10
Truck Drivers:					
Single axle	7.73	.50	.50		
Tandem axle, euclids, power lift form trucks	7.79	.50	.50		
Three axle tandem	7.84	.50	.50		
Lowboys, tractor trailers, water pulls	7.92	.50	.50		
Tandem dump with auxiliary end dump trailer	7.97	.50	.50		
Lumber Carrier	8.09	.50	.50		
LINN & POLK COUNTIES AND THE CITIES OF AMES AND DUBUQUE					
Carpenters & Piledrivermen	10.22	.45	.35		
Cement Masons	10.22	.45	.35		
Laborers:					
Group I	9.31	.40	.40		.05
Group II	9.06	.40	.40		.05
Group III	8.81	.40	.40		.05
Group IV	8.66	.40	.40		.05
Group V	8.56	.40	.40		.05
Power Equipment Operators:					
Group I	10.81	.80	.80		.10
Group II	10.41	.80	.80		.10
Group III	10.01	.80	.80		.10
Truck Drivers	9.43	.65			
CITIES OF BURLINGTON AND CLINTON AND BURLINGTON ORDINANCE PLANT					
Carpenters & Piledrivermen	10.22	.45	.35		

Decision #IA80-4016 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Cement Masons	10.22	.45	.35		
Laborers:					
Group I	9.31	.40	.40		.05
Group II	9.06	.40	.40		.05
Group III	8.81	.40	.40		.05
Group IV	8.66	.40	.40		.05
Group V	8.56	.40	.40		.05
Power Equipment Operators:					
Group I	10.61	1.00	.80		.08
Group II	9.00	1.00	.80		.08
Group III	8.15	1.00	.80		.08
Truck Drivers	9.43	.65			
CITY OF FORT DODGE					
Carpenters & Piledrivermen	9.58	.45	.35		
Cement Masons	9.58	.45	.35		
Laborers:					
Group I	8.96	.40	.40		.05
Group II	8.71	.40	.40		.05
Group III	8.46	.40	.40		.05
Group IV	8.31	.40	.40		.05
Group V	8.21	.40	.40		.05
Power Equipment Operators:					
Group I	10.81	.80	.80		.10
Group II	10.41	.80	.80		.10
Group III	10.01	.80	.80		.10
Truck Drivers	8.39	.65			
CITY OF IOWA CITY					
Carpenters & Piledrivermen	10.22	.45	.35		
Cement Masons	10.22	.45	.35		
Laborers:					
Group I	9.31	.40	.40		.05
Group II	9.06	.40	.40		.05
Group III	8.81	.40	.40		.05
Group IV	8.66	.40	.40		.05
Group V	8.56	.40	.40		.05
Power Equipment Operators:					
Group I	10.81	.80	.80		.10
Group II	10.41	.80	.80		.10
Group III	10.01	.80	.80		.10
Truck Drivers	9.43	.65			

Decision #IA80-4016 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CITY OF MASON CITY					
Carpenters & Piledrivermen	9.58	.45	.35		
Cement Masons	9.58	.45	.35		
Laborers:					
Group I	8.96	.40	.40		.05
Group II	8.71	.40	.40		.05
Group III	8.46	.40	.40		.05
Group VI	8.31	.40	.40		.05
Group V	8.21	.40	.40		.05
Power Equipment Operators:					
Group I	10.81	.80	.80		.10
Group II	10.41	.80	.80		.10
Group III	10.01	.80	.80		.10
Truck Drivers	8.39	.65			
BLACK HAWK COUNTY					
Carpenters & Piledrivermen	10.22	.45	.35		
Cement Masons	10.22	.45	.35		
Laborers:					
Group I	9.31	.40	.40		.05
Group II	9.06	.40	.40		.05
Group III	8.81	.40	.40		.05
Group IV	8.66	.40	.40		.05
Group V	8.56	.40	.40		.05
Power Equipment Operators:					
City of Waterloo:					
Group I	10.81	.80	.80		.10
Group II	10.41	.80	.80		.10
Group III	10.01	.80	.80		.10
Remainder of Black Hawk Co:					
Group I	10.81	.80	.80		.10
Group II	10.41	.80	.80		.10
Group III	10.01	.80	.80		.10
Truck Drivers	9.43	.65			
ZONE 1					
Carpenters & Piledrivermen	8.06	.45	.35		
Cement Masons	7.60	.45	.35		
Laborers:					
Group I	6.88	.40	.40		.05
Group II	6.69	.40	.40		.05
Group III	6.51	.40	.40		.05
Group IV	6.39	.40	.40		.05
Group V	6.32	.40	.40		.05
Group VI	6.22	.40	.40		.05

Decision #IA80-4016 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators:					
Group I	9.09	.50	.50		
Group II	9.09	.50	.50		
Group III	8.77	.50	.50		
Group IV	8.45	.50	.50		
Truck Drivers	7.41	.65			
ZONE 2					
Carpenters & Piledrivermen	7.75				
Cement Masons	7.75				
Laborers:					
Group I	6.80	.30	.10		
Group II	6.18	.30	.10		
Group III	5.88	.30	.10		
Group IV	5.57	.30	.10		
Group V	5.33	.30	.10		
Group VI	5.21	.30	.10		
Power Equipment Operators:					
Group I	8.22	.50	.20		
Group II	7.73	.50	.20		
Group III	7.30	.50	.20		
Group IV	6.50	.50	.20		
Truck Drivers	6.35	.30	.05		
ZONE 3					
Carpenters & Piledrivermen	7.20				
Cement Masons	7.20				
Laborers:					
Group I	6.67	.30	.10		
Group II	6.06	.30	.10		
Group III	5.75	.30	.10		
Group IV	5.33	.30	.10		
Group V	4.95	.30	.10		
Group VI	4.77	.30	.10		
Power Equipment Operators:					
Group I	7.60	.50	.20		
Group II	7.18	.50	.20		
Group III	6.56	.50	.20		
Group IV	5.82	.50	.20		
Truck Drivers	5.56	.30	.05		
ZONE 4					
Carpenters & Piledrivermen	7.20				

Decision #IA80-4016 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Cement Masons	7.07				
Laborers:					
Group I	6.67	.30	.10		
Group II	6.05	.30	.10		
Group III	5.75	.30	.10		
Group IV	5.33	.30	.10		
Group V	4.83	.30	.10		
Group VI	4.58	.30	.10		
Power Equipment Operators:					
Group I	7.24	.50	.20		
Group II	6.81	.50	.20		
Group III	6.19	.50	.20		
Group IV	5.45	.50	.20		
Truck Drivers	5.67	.25	.05		
ZONE 5					
Carpenters & Piledrivermen	6.96				
Cement Masons	6.96				
Laborers:					
Group I	6.43	.30	.10		
Group II	5.81	.30	.10		
Group III	5.51	.30	.10		
Group IV	5.07	.30	.10		
Group V	4.58	.30	.10		
Group VI	4.34	.30	.10		
Power Equipment Operators:					
Group I	7.00	.50	.20		
Group II	6.56	.50	.20		
Group III	5.95	.50	.20		
Group IV	5.21	.50	.20		
Truck Drivers	5.43	.25	.05		

NOTE - All cities listed in this determination include all abutting municipalities.

DEFINITIONS OF ZONES

Zone 1 Pottawattamie County (area west of the eastern boundaries of Minden, York, Washington and Silver Creek Townships), Benton, Boone, Buchanan, Cedar, Clinton, Dallas, Delaware, Dubuque, Jackson, Jasper, Johnson, Jones, Madison, Marion, Marshall, Story, Warren, and Webster Counties (excluding the cities of Ames, Clinton, Council Bluffs, Dubuque, Fort Dodge, and Iowa City and their abutting municipalities).

ZONE 2 Des Moines, Louisa, and Muscatine Counties (excluding City of Burlington and abutting municipalities and the Burlington Ordnance Plant).

ZONE 3 Allamakee, Appanoose, Bremer, Butler, Cerro Gordo, Chickasaw, Clayton, Davis, Fayette, Floyd, Franklin, Grundy, Hamilton, Hancock, Hardin, Henry, Howard, Iowa, Jefferson, Keokuk, Lee, Mahaska, Mitchell, Monroe, Poweshiek, Tama, Van Buren, Wapello, Washington, Winnebago, Winneshiek, Worth and Wright Counties (excluding City of Mason City and abutting municipalities.

ZONE 4 Adair, Adams, Audubon, Calhbun, Carroll, Cass, Clark, Crawford, Decatur, Fremont, Greene, Guthrie, Harrison, Ida, Lucas, Mills, Monona, Montgomery, Page, Ringgold, Sac, Shelby, Taylor, Union, Wayne, and Woodbury Counties, and Pottawattami County (east of Minden, York, Washington and Silver Creek Townships).

ZONE 5 Buena Vista, Cherokee, Clay, Dickinson, Emmet, Humboldt, Kossuth, Lyon, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas and Sioux Counties.

LABORERS CLASSIFICATION DEFINITIONS

PERTAINS TO: All cities (except Council Bluffs) and their abutting municipalities; Polk, Lynn and Black Hawk Counties.

GROUP I Sandblasters, powdermen; blasters; piplayers, sewer, water, telephone conduits, etc.; sewer utility man; gunnite nozzleman; diamond and core drills, powered by air, all work performed by laborers working from a bos'n chair, swinging stage, life belt, tagline or block and tackle; drill operator of air trace, wagon drills and similar drills.

GROUP II Tree climber; form setters, rakers; boxtenders; asphalt curb machines; potmen, not mechanical; bull float, hand operated; scalers; timberman, underpinning and shoring; caissons over 12 ft.; grade checker and cutting torches on demolition work.

GROUP III Power buggyman; concrete and pavin[illegible] sawman; form liner, expansion joint assembler; bottom man; caulker and jointer and painter; timber and chain saw man; mechanical grouters; automatic concrete power curbing machines; stress or stretcherman on post-tension or pre-stressed concrete on or off the job; powderman helpers.

GROUP IV Form tamper; air, gas & electric tool operators, vibrators, barco hammer, paving breakers, spaders, tampers; electric drills, hammers & jack hammers; tree grounmen; chuck tenders; drill helpers; tool room men & checkers; sand blaster helper; concrete processing material & monitors; cement finisher helper; stringman on paving work.

GROUP V Fence erectors; handling & placir[illegible] metal mesh, dowel bars, reinforcing bars & chairs; dumpmen & spotters; carrying reinforcing rods; corrugated culvert pipe; concrete drainage pipe; stake chaser, seeding mulching & planting trees, shrubs & flowers; water boy; common laborer; rodmen; tending carpenters; hot asphalt laborer, flagman.

PERTAINS TO: City of Council Bluffs and abutting municipalities

GROUP I Common laborers

GROUP II Towboat and dredge deckhands

GROUP III Form setters helpers

GROUP IV Rakers & screedmen on asphalt work; mortar mixers chain saw operators

GROUP V Pipelayers; Concrete saw operator

GROUP VI Form setters and precast manhole setters; inlet builder and manhole setters

PERTAINS TO ZONES 1, 2, 3, 4, & 5

GROUP I Pipe layer (utilities); sand blaster

GROUP II Form setter (structures); grade checker

GROUP III Caulker, jointer, painte, grouter & joint assembler; cure cart operator form setter (paving) & expasion joint assembler; paving sawman, power buggyman; raker

GROUP IV Air, gas & electric tool operator; cement finisher helper; concrete processing material & monitoring; stringman on paving work

GROUP V Common laborer; dump person and spotter; fence erector; scaleman; handling and placing of metal mesh, dowel bars, reinforcing bars and chairs

GROUP VI Flag person

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

PERTAINS TO: All Cities and abutting municipalities; Polk, Linn, & Black Hawk Counties

GROUP I Power shovel, crane, backhoe & dragline; central mix plant op.; dredge engineer; dredge leverman; paver or spreader op.; hoisting eng (steel erection); motor patrol; piledriver; concrete mixer; tow or push op.; master mechanic; CMI paver; CMI subgrader or equivalent; asphalt plant; front end loader; scraper; bulldozer; push cat; tractor pulling scraper; sidebroom tractor; churn or rotary drill; trenching machine (Cleaviand 80 or similar cap.); asphalt laydown; asphalt screed; asphalt heater-planer unit; asphalt roller; self propelled elevating grader or similar machine; spreader (concrete); horizontal boring machine; mechanics welders; group equipment greaser; concrete pump; self propelled curb machine

GROUP II Concrete curb breaker; concrete widening machine; pavingbreaker; barber-greene, haiss loader or similar machine; tractor pulling ripper, disc, sheepsfoot or flat roller; self-propelled sheepsfoot roller, self-propelled roller other than asphalt;distributor; screening and washing plant; self-propelled vibrating compactor; trenching machine (other than above); steel placing machine; conveyor; finishing machine (on concrete); flexplane; bull float; form grader.

GROUP III Boiler; mechnaical broom; oiler, mechanics helper, group greaser helper; farm type tractor pulling disc, harrow or roller; welding machine; pump operator other than dredge; boom & winch truck; compressor; tank car heater (combination boiler & boster); Pumps on well points & deep wells for dewatering; truck crane combination driver-oiler; concrete curbing machine; safety boat operator; batch plant (dry).

PERTAINS TO: Zones 1, 2, 3, 4, & 5

GROUP I Power shovel, crane, backhoe, dragline, dredge engineer & leverman, hoisting engeer (steer erection) motor patrol (finish), pile driver, master mechanic, sideboom tractor, horizontal boring machine.

GROUP II Central mix plant, paver on self-propelled spreader; tow or push boat, CMI paver, subgrader or equivalent, asphalt plant, scraper over 12 c.y., bulldozer (finish) push cat, churn or rotary drill, trenching machine (Cleveland 80 or similar cap.), asphalt laydown, asphalt screed, asphalt heater-planer, concrete pump, self-propelled curb machine.

GROUP III Motor patrol (rough), front end loader (3 c.y. or over), scraper (12 c.y. & under bulldozer (rough), asphalt roller, mechanics-welders, group equipment greaser, concrete curb breaking machine, concrete widening machine, paving breaker, barber-greene - haiss loader or similar machine, crawler tractor (pulling disc, sheepsfoot, ripper or flat roller, self-propelled sheepsfoot roller, self propelled roller, distributor, screening and washing plant, self-propelled vibrating compactor, trenching machine (other than above), steel placing machine, conveyor, finishing machine (on concrete), flex plane, bull float, form grader.

GROUP IV Boiler, mechanical boom, oiler or mechanics helper or group greasers helper, farm type tractor (pulling disc, harrow or roller), welding machine, pump operator (other than dredge), boom and winch trucks, compressor, tank car heater (combination boiler and booster), pumps on well points and deep wells for dewatering, truck crane combination driver-oiler, concrete curbing machine, safety boat, batch plant dry, spreader attachments, utility tractor with attachments.

SUPERSEDEAS DECISION

STATE: NEW YORK COUNTY: SAINT LAWRENCE
DECISION NO.: NY80-3008 DATE: DATE OF PUBLICATION
Supersedes Decision No. NY79-3019 dated July 13, 1979 in 44FR 41026
Description of Work: Building Construction (does not include single family homes and apartments up to and including 4 stories), Heavy, and Highway Construction Projects

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	13.28	.90	.68		.06
Boilermakers	11.80	1.05	10%		.02
Bricklayers:					
Bricklayers, Cement Masons, Marble Setters, Plasterers, Stone Masons, Tile and Terrazzo Workers	11.22	.70	.70	a	.02
Carpenters:					
Carpenters and Soft Floor Layers	10.70	.55	.90	b	.005
Millwrights	10.95	.55	.90	b	.005
Piledrivermen	10.85	.55	.90	b	.005
Heavy and Highway	10.40	.55	.90		.025
Cement Masons, Heavy and Highway	10.30	.70	.70		
Electricians:					
Electricians	11.90	.65	3%+.78		8/10%
Cable Splicers	12.15	.65	3%+.78		8/10%
Glaziers:					
Twps. of Massena, Louisville, Madington, Lisbon, Oswegatchie, Morristown, Hammond, Rossie, Macomb, Depeyster, Madrid, Norfolk, Stockholm, Potsdam, Canton, Dekalb, Gouverneur, Fowler, Pitcairn, Edwards, Herman, Russel, Pine, Clare, Pierrepont, Colton, Clifton, and Parishville	9.55	.50			.01
Remainder of County	9.28		.20	c	.01
Ironworkers:					
Structural, Ornamental, Reinforcing, Machinery Movers, Redmen, Riggers, Fence Erectors, and Stone Derrickmen	10.87	1.11	1.02		.04
Sheeters	11.12	1.11	1.02		.04
Sheeters, Bucker-up	10.995	1.11	1.02		.04
Laborers, Building:					
Common Laborers	8.55	.60	1.10	d	
All rock drilling	8.95	.60	1.10	d	
Blasters	9.15	.60	1.10	d	

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers, Building (Cont'd)					
Chain Saw, Pavement Breaker, Mortar Mixer, Scaffold Builder, Pipelayer, Vibrator, Gas Buggy, Air or Electric tool, Plaster Tender, Sandblaster on Construction Cleanup, Potliners, Acetylene torch on demolition work only	8.75	.60	1.10	d	
Lathers	9.325	.65	.40		.01
Leadburner	10.75	.40	.25	e	.01
Painters:					
Twps. of Massena, Louisville, Waddington, Lisbon, Oswegatchie, Morristown, Hammond, Rossie, Macomb, Depeyster, Madrid, Norfolk, Stockholm, Potsdam, Canton, Dekalb, Gouverneur, Fowler, Pitcairn, Edwards, Herman, Russel, Fine, Clare, Pierrepont, Colton, Clifton, and Parishville:					
Brush, Roller, and Seamless Floor Application	9.20	.80	.45		
Paperhanging, Paper Removal, Wallcovering, Cork and Taping	9.45	.80	.45		
Steamcleaning, Swing Stage, Hydro Water blasting, Window Jacks	9.55	.80	.45		
Spray	9.70	.80	.45		
Bosun Chair, Sandblasting, Steel Painting	9.90	.80	.45		
Remainder of County:					
Painters	9.28		.20	c	.01
Spray Cup, Paperhanging, Spray Structural Steel, Swing Scaffold, Boatswain Chair, Hanging Scaffold, Sandblasting and Taping	9.78		.20	c	.01
	10.03		.20	c	.01
Bridges	9.28		.20	c	.01
Seamless Floor Material	9.53		.20	c	.01

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plumbers and Steamfitters	10.80	.92	.50		.05
Plumbers and Steamfitters: Service and repair jobs which do not exceed in aggregate for all Plumbing and HVAC labor and/or materials the sum of $110,000	6.05	.92	.50		.05
Roofers	11.60	1.00	1.35		
Sheet Metal Workers	10.655	.60	.80		.07
Sprinkler Fitters	13.54	.75	1.05		.08
Welders - receive rate prescribed for craft performing operation to which welding is incidental					
Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR. 5.5 (a)(1)(ii)).					

PAID HOLIDAYS:
A-New Year's Day
B-Memorial Day
C-Labor Day
D-Independence Day
E-Thanksgiving Day
F-Christmas Day

FOOTNOTES:

a. Paid Holidays: B, C, and D providing the employee has been on the payroll 5 days prior to the holiday and reports to work the day following the holiday.

b. Paid Holidays: B, C, and E provided the employee has been on the payroll the week before the holiday and works the day following the holiday.

c. An employee shall have 2 consecutive hours off in which to vote, plus B, C, D, and F.

d. Paid Holidays: 2 hours off with pay to vote on Election Day.

e. Paid Holidays: A through F, Washington's Birthday, Good Friday and Christmas Eve providing the employee works the 30 full days during the 90 calendar days prior to the holiday and works the regularly scheduled work days immediately preceding and following the holiday.

LABORERS: HEAVY AND HIGWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	8.54	.60	1.10	f	
CLASS B	8.74	.60	1.10	f	
CLASS C	8.94	.60	1.10	f	
CLASS D	9.14	.60	1.10	f	
PAID HOLIDAYS: e A-New Year's Day; B-Memorial Day C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day					

FOOTNOTE:

f. Paid Holidays: A through F, provided the employee has worked the day before and after the holiday.

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS A
Laborers, drill helpers, flagmen, outboard and hand boats.

CLASS B
Bull float, chain saw, concrete aggregate, bin concrete bootman, gin buggy, hand or machine vibrator, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw op. on asphalt paver, water pump op. (1½" and single diaphram), nozzle (asphalt, gunnite, seeding and sand-blasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.

CLASS C
All rock or drill machine operators (except quarry master and similar type), acetylene torch op., asphalt raker, powderman.

CLASS D
Blasters, form setter, stone or granite curb setters.

Line Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Electrical Overhead and Underground Distribution Work:					
Lineman and Technicians	11.00	1.40	3%+.75	k	
Cable Splicers	14.45	1.40	3%+.75	k	
Groundman Digging Machine Operator and Groundman Dynamite man	9.90	1.40	3%+.75	k	
Groundman Mobile Equipment operator, Mechanic 1st Class, Groundman Truck Driver	8.80	1.40	3%+.75	k	
Groundman Truck Driver (Tractor Trailer)	9.35	1.40	3%+.75	k	
Driver Mechanic, Groundman - Experienced	8.25	1.40	3%+.75	k	
All Overhead Transimission Line Work and Lighting for Athletic Fields:					
Lineman and Technician	12.50	1.40	3%+.75	k	
Groundman Digging Machine Operator, Groundman Dynamite man	11.25	1.40	3%+.75	k	
Groundman Mobile Equipment Operator, Mechanic 1st Class, Groundman Truck Driver	10.00	1.40	3%+.75	k	
Groundman Truck Driver (Tractor Trailer Unit)	10.625	1.40	3%+.75	k	
Driver Mechanic, Groundman-Experinced	9.375	1.40	3%+.75	k	
Sub-Station, Switching Structures (when not part of the line), Trafic Signal, Street Lighting, and Electrical, Telephone or CATV Commercial Work:					
Lineman and Technicians	13.15	1.40	3%+.75	k	
Cable Splicers	14.465	1.40	3%+.75	k	
Groundman Mobile Equipment Operator, Mechanic 1st Class, Groundman Truck Driver	10.52	1.40	3%+.75	k	
Groundman Truck Driver (Tractor Trailer Unit)	11.1775	1.40	3%+.75	k	
Driver Mechanic, Groundman - Experienced	9.8625	1.40	3%+.75	k	

Line Construction (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Groundman Digging Machine Operator, Groundman Dynamite man	11.835	1.40	3%+.75	k	
Telephone and other Communication systems, both Overhead and Underground:					
Lineman and Installer Repairman	8.34	.40	3%+.25	k	1%
Splicers	8.89	.40	3%+.25	k	1%
Groundman Digging Machine Operator	7.73	.40	3%+.25	k	1%
Groundman	5.72	.40	3%+.25	k	1%
Groundman Truck Driver	6.82	.40	3%+.25	k	1%
Groundman Dynamiteman	6.60	.40	3%+.25	k	1%

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POWER EQUIPMENT OPERATORS: Building Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Class 1	$11.78	1.05	.75	g	.15
Class 2	11.18	1.05	.75	g	.15
Class 3	11.18	1.05	.75	g	.15
Class 4	12.47	1.05	.75	g	.15
Class 5	12.28	1.05	.75	g	.15
Class 6	13.78	1.05	.75	g	.15
Class 7	12.78	1.05	.75	g	.15
Class 8	12.28	1.05	.75	g	.15

FOOTNOTE:

g. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day and Christmas Day, providing employee has worked 5 consecutive working days before and the working day after the holiday.

POWER EQUIPMENT OPERATORS: Building Construction

Class 1: Asphalt and blacktop roller; Automated concrete spreader (CMI or equivalent); Automated fine grade machine (CMI); Backhoe; Belt placer; Blacktop spreader (such as Barber Greene and BlawKnox); Blacktop Plant (automated); Blast or rotary drill (truck or cat mounted); Boom truck; Cableway; Caisson auger; Carry-all-scraper-self loading; Central Mix plant (automated); Cherry picker over five (5) ton capacity; Compressors; Pump; Generator or welding machine (when used in a battery of not more than four (4); Crane, Crusher-Rock; Derrick; Diesel power unit; Dragline; Dredge; Dual drum paver; Elevating grader (self-propelled or towed); Elevator hoist - two cage; Excavator - all purpose - hydraulically operated; Fork lift (factory rating 15 ft. or more); Front end loader (4 c.y. and over); Gradall; Grader (power); Head tower (Saur man or equal); Hoist (2 or 3 drums); Locomotive; Maintenance engineer; Maintenance welder; Mine hoist; Mucking machine or mole; Overhead crane fixed permanent; Pile driver; Quarry Master or equivalent; Refrigeration equipment - for soil stabilization; Shovel; Side boom; Slip form paver; Straddle buggy (Ross carrier, Lumber carrier) Tractor drawn belt type loader (Euclid loader); Trenching machine (digging capacity of over 4 ft. depth); Truck crane operator; Tunnel shovel; Vibro or sonic hammer controls (when not mounted in proximity to the rig operator)

POWER EQUIPMENT OPERATORS (Cont'd)
Building Construction

Class 2: "A" Frame truck; Blacktop plant (non-automatic); Boring machine; Bulldozer; Cage hoist; Carry-all scraper; Central mix plant (non-automated); Cherry picker five (5) tons and under; Compressor (315 c.f. and over); Concrete paver (single drum over 16S); Concrete pump; Core boring machine; Drill rigs-tractor mounted; Elevator - as a material hoist; Fork lift (factory rating less than 15 ft.); Front end loader (under 4 cu. yds.); Gunnite machine; High pressure boiler (15 lbs. and over); Hoist (one drum); Hydraulic breaking hammer (Drop hammer); Kolman plant loader (screening gravel); Maintenance grease man; Mixer for stabilized base - self-propelled (seaman mixer); Monorail machine; Parapet concrete or pavement grinder; post hole digger (truck or tractor mounted); Power sweeper (Wayne or similar); Pump 4" and over; Pump-crete or squeeze-crete; Road Widener (front end of grader or self-propelled); Shell winder (motorized); Snorkel (overhead arms); Roller; Trenching machine (digging capacity of 4 ft. or less); Tugger hoist; vibro tamp; Well drill; Well point system (submersible pumps when used in lieu of well-point system); Winch (motor driven); Winch cat; Winch truck

Class 3: Compressor (under 315 cu. ft.); Concrete paver or mixer (under 16S); Concrete pavement spreaders and finishers (not automated); Conveyor (over 12 ft.); Electric submersible pump (4" and over); Farm. tractor with or without accessories; Fine grade machine (not automated); Fireman; Form tamper; Generator (2,500 watts and over); Hydraulic pump; Mechanical heaters - more than two (2) mechanical heaters or any mechanical heater or heaters whose combined output exceeds 640,000 BTU per hour (manufacture's rating); Mulching machine; Oiler; Power driven welding machine - 300 amp. and over (other than all electric); One welding machine under 300 amp. will not require an engineer unless in a battery); Power heaterman (hay drier) Pump (under 4"); Revinius widner (road widener); Steam cleaner or Jenny; Tractor with or without towed accessories, post driver (truck or tractor mounted)

Class 4: Master Mechanic

Class 5: Tower Crane

Class 6: Crane or Derrick with a boom length over 300 ft. including jib

Class 7: Crane or Derrick with a boom length over 150 ft. including jib, and on a piledriver with leads or boom length of over 100 ft.

Class 8: Quad 9 bulldozer or multibowl scraper

Power Equipment Operators: Heavy & Highway Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	11.48	1.15	1.15	a	.15
GROUP 2	11.09	1.15	1.15	a	.15
GROUP 3	10.07	1.15	1.15	a	.15
GROUP 4	9.05	1.15	1.15	a	.15

Power Equipment Operators: Heavy and Highway Construction

GROUP 1 Automated concrete spreader (CMI), automatic fine grader, backhoe (except tractor mounted, rubber tired), belt placer (CMI type), blacktop plant (automated), cableway, caisson auger, central mix concrete plant (automated), cherry picker (over 5 tons capacity), concrete pump (8" or over), crane, cranes & derricks (steel erection), dragline, dredge, dual drum paver, excavator (all purpose-hydraulically operated, (gradall or similar), fork lift (factor rated 15 ft. and over), front end loader 4 c.y. and over), head tower (sauerman or equal) hoist (2 or 3 drum), mine hoist, mucking machine or mole, over head crane (gantry or straddle type), piledriver, power grader, quarry master (or equivalent), scraper, shovel, sideboom, slip form paver (if second man is needed, he shall be an oiler), tractor drawn belt type loader, truck crane, tunnel shovel.

GROUP 2 Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer, blacktop plant (non-automated), blast or rotary drill truck or tractor mounted), boring machine, cage-hoist, central mix plant (non-automated and all concrete batching plants), cherry picker (5 tons capacity and under), compressors (4 or less) exceeding 2000 C.F.M. combined capacity concrete paver (over 16S), concrete pump (under 8"), crusher, diesel power unit, drill rigs (tractor mounted), front end loader (under 4 c.y.), hi-pressure - boiler (15 lobs. and over), hoist (one drum) Kolman plant loader and similar type loaders (if another man is required to clean screen or to maintain the equipment, he shall be an oiler), locomotive maintenance/engineer/greaseman/welder, mixer (for stablized base self-propelled), monorail machine, plant engineer, pump crete, ready mix concrete plant, refrigeration equipment (for soil stabilization), road widener, roller (all above subgrade), tractor with dozer and/or pusher, trencher, tugger-hoist, winch, winch cat.

Power Equipment Operators: Heavy and Highway Construction (Cont't)

GROUP 3 A-frame truck, compressors (4 not to exceed 2000 C.F.M. combined capacity or 3 or less with more than 1200 C.F.M. but not to exceed 2000 C.F.M.), compressors (any size but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (4 of any type of combination), concrete pavement spreaders and finishers, conveyor, drill-core, drill-well, electric pumps used in conjunction with well point system, farm tractor with accessories, fine grade machine, fork lift (under 15 ft.), gunite machine, hammers (hydraulic-self-propelled), post hole digger and post driver, power sweeper, roller (grade and fill), submersible electric pump (when used in lieu of well point system), tractor with towed accessories, vibrator compactor, vibro tamp, well point

GROUP 4 Aggregate plant, boiler (used in conjunction with production), cement and bin operator, compressors (3 or less not to exceed 1200 C.F.M. combined capacity), compressor (any size, but subject to other provisions for compressors) dust collectors, generator pumps, welding machines (3 or less of any type or combination), concrete paver or mixer (16S and under), concrete saw (self-porpelled), fireman, form tamper, hydraulic pump (jacking system), lighting plants, mulching machine, oiler parapet (concrete or pavement grinder), power broom (towed), power heaterman, revinius widener, shell winder, steam cleaner, tractor

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. Paid Holidays: A through F, providing the employee works tha day before and the day after the holiday

DECISION NO NY80-3008

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	9.13	1.01	.75	j	
CLASS 2	9.18	1.01	.75	j	
CLASS 3	9.23	1.01	.75	j	
CLASS 4	9.38	1.01	.75	j	
CLASS 5	9.53	1.01	.75	j	
PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.					

FOOTNOTE:

j. Paid Holidays: A through F, provided the employee has worked the working day before and after the holiday.

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS 1

Warehouseman, yardmen, truck helpers, pickups, panel trucks, flatboy material trucks (straight jobs), single axle dump trucks, dumpsters, material checkers and receivers, greasers, truck firemen, mechanic helpers and parts chaser.

CLASS 2

Tandems, batch trucks, mechanics and dispatcher.

CLASS 3

Semi-trailers, low-boy trucks, asphalt distributors trucks, agitator, mixer trucks and dumperete type vehicles, truck mechanic.

CLASS 4

Specialized earth moving equipment - euclid type or similar off-highway equipment, where not self loaded, and straddle (ross) carrier.

CLASS 5

Off-highway tandem back-dump, twin engine equipment and double hitched equipment where not self loaded.

Truck Drivers: Building Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Truck Drivers: Warehouse, Yardmen, Truck Helpers, Pick-ups, Panel Trucks, Flatbody Material Trucks (straight jobs), Single Axle Dump Trucks, Dumpster, Material Checkers and Receivers Greasers, Firemen, Mechanic Helpers and Parts Chaser	7.30	.45	.40	a	
Tandems and Batch Trucks, Mechanics, Dispatcher	7.35	.45	.40	a	
Semi-trailers, Low-boy Trucks, Asphalt Distributor Trucks, and Agitator, Mixer Trucks and Dumperete Type vehicles	7.40	.45	.40	a	
Specialized Earth Moving Equipment Euclid Type or similar Off-Highway Equipment, where not selfloaded	7.55	.45	.40	a	
Off- Highway Tandem Back-Dump, Twin Engine Equipment and Double-Hitched Equipment where not self-loaded	7.70	.45	.40	a	
PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Thanksgiving Day; D-Labor Day; E-Independence Day; F-Christmas Day					

FOOTNOTE:

a. Holiday: B,E,D (provided employee works the schedule working day before the holiday and the schedule working day after the holiday.

SUPERSEDEAS DECISION

STATE: NEW YORK COUNTY: CLINTON
DECISION NO.: NY80-3007 DATE: DATE OF PUBLICATION
Supersedes Decision No. NY79-3018 dated July 6, 1979 in 44FR 39890
DESCRIPTION OF WORK: Building (does not include single family hames and apartments up to and including 4 stories), Heavy and Highway Construction Projects.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	12.67	.95	.41		.02
Boilermakers	11.80	.95	10%		.02
Bricklayers, Cement Masons, Marble Masons, Plasterers, Tile and Terrazzo Workers	11.12	.70	.70	a	.02
Cement Masons, Heavy & Highway	10.30	.70	.70		
Carpenters and Soft Floor Layers	10.70	.55	.90	a	.005
Piledriverman	10.85	.55	.90	a	.005
Millwrights	10.95	.55	.90	a	.005
Carpenters, Heavy & Highway	10.40	.55	.90		.025
Electricians:					
Zone I - City of Plattsburg and 5 mile radius:					
Electricians	11.45	.50	3%+.50	c	1%
Cable Splicers	11.75	.50	3%+.50	c	1%
Zone II - From Zone I to a 20 mile radius of Plattsburg:					
Electricians	11.65	.50	3%+.50	c	1%
Cable Splicers	11.95	.50	3%+.50	c	1%
Zone III - Beyond Zone II:					
Electricians	11.85	.50	3%+.50	c	1%
Cable Splicers	12.15	.50	3%+.50	c	1%
Elevator Constructors	10.77	.745	.56	d+e	.025
Glaziers	9.28		.20	f	.01
Ironworkers:					
Structural, Ornamental, Reinforcing, Rodmen, Machinery Mover, Riggers, Fence Erectors, Stone Derrickmen	11.25	.75	1.04		.04
Sheeter	11.50	.75	1.04		.04
Sheeter, Bucker-up	11.375	.75	1.04		.04
Rehabilitation work on residential structures defined to include demolition, alteration and repair on any structure intended for predominantly residential use	7.58	.75	1.04		.04
Laborers, Building:					
Common Laborers and Self-Propelled Equipment Operators	8.50	.70	.70	g	
Concrete or Plaster Pump Operator, All men on building demolition and wrecking	8.65	.70	.70	g	

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers, Building (Cont'd)					
Sandblasters and Construction cleanup, Driller, Wagon Jack or Wagon Drill Operator, Metal Form and Curb Setter, Asphalt Raker, Tail or Screw man on paving Machine	8.80	.70	.70	g	
Acetylene Torch Operator on Demolition Work and Cutting of Pipes	8.95	.70	.70	g	
Blasters	9.865	.20			.01
Lathers	10.75	.40	.25	h	.01
Leadburners					
Painters:					
Painters	9.28		.20	f	.01
Spray Cup, Paperhanging, Spray Structural Steel, Swinging Scaffold, Boatswain Chair, Hanging Scaffold, Sandblasting and Taping	9.78		.20	f	.01
Bridges	10.03		.20	f	.01
Seamless Floor Material	9.28		.20	f	.01
Plumbers and Steamfitters	9.53		.20	f	.01
Roofers:	11.15	.75	1.00		.05
Roofer	11.30	1.37	.40		.02
Pitch and Asbestos	11.80	1.37	.40		.02
Sheet Metal Workers	11.87	1.00	1.32	i	.07
Rehabilitation work on residential structures over 4 stories defined to include demolition, alteration and repair on any existing structure which is intended for predominantly residential use	7.47	.95	3%+.90	i	.05
Truck Drivers, Building:					
Straight, winch, transit mix on job site, road oilers, dump panel, pick-up, water and fuel trucks on site (including nozzle)	9.37	1.00	.81		.12
Euclid or similar Equipment	9.56	1.00	.81		.12
Lowboy or Lowboy Trailers	9.70	1.00	.81		.12
Welders-receive rate prescribed for craft performing operation to which welding is incidental					

Paid Holidays: A-New Year's Day; B-Memorial Day; C-Labor Day; D-Independence Day; E-Thanksgiving Day; F-Christmas Day

Footnotes:
a. Paid Holidays: B,C,D, provided the employee is on the payroll 5 days prior to the holiday and reports to work the day after the holiday.
c. B,C,D,E, and F. (Paid Holidays)
d. A through F plus the day after Thanksgiving (Paid Holidays)
e. Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% of basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit
f. B,C,D,F, plus 2 consecutive hours to Vote on Election Day (Paid Holidays)
g. B,C; provided the employee has been employed on any day of the week before the holiday (Paid Holidays)
h. A through F, Washington's Birthday, Good Friday, and Christmas Eve, providing the employee has worked 30 full days during the 90 calendar days prior to the holiday and the regularly scheduled work days immediately preceeding and following the holiday (Paid Holidays)
i. The last 2 hours off with pay on the 1st Tuesday after the 1st Monday of November provided they are working on a job beyond 50 miles from the shop

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR. 5.5 (a)(1)(ii)).

LABORERS: HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	8.84	.70	.70	a	
CLASS B	9.04	.70	.70	a	
CLASS C	9.24	.70	.70	a	
CLASS D	9.44	.70	.70	a	

Footnote:
a. Paid Holidays: New year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day provided the employee has worked the day before and after the holiday

CLASS A
Laborers, drill helpers, flagmen, outboard and hand boats

CLASS B
Bull float, chain saw, concrete aggregate, bin concrete bootman, gin buggy, hand or machine vibrator, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw op. on asphalt paver, water pump op. (1½" and single diaphram), nozzle (asphalt, gunnite, seeding and sandblasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer

CLASS C
All rock or drill machine operators (except quarry master and similar type), acetylene torch op., asphalt raker, powderman

CLASS D
Blasters, form setter, stone or granite curb setters.

Line Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Electrical Overhead and Underground Distribution Work:					
Lineman and Technicians	11.00	1.40	3%+.75	k	
Cable Splicers	14.45	1.40	3%+.75	k	
Groundman Digging Machine Operator and Groundman Dynamiteman	9.90	1.40	3%+.75	k	
Groundman Mobile Equipment operator, Mechanic 1st Class, Groundman Truck Driver	8.80	1.40	3%+.75	k	
Groundman Truck Driver (Tractor Trailer)	9.35	1.40	3%+.75	k	
Driver Mechanic, Groundman - Experienced	8.25	1.40	3%+.75	k	
All Overhead Transimission Line Work and Lighting for Athletic Fields:					
Lineman and Technician	12.50	1.40	3%+.75	k	
Groundman Digging Machine Operator, Groundman Dynamite man	11.25	1.40	3%+.75	k	
Groundman Mobile Equipment Operator, Mechanic 1st Class, Groundman Truck Driver	10.00	1.40	3%+.75	k	
Groundman Truck Driver (Tractor Trailer Unit)	10.625	1.40	3%+.75	k	
Driver Mechanic, Groundman-Experinced	9.375	1.40	3%+.75	k	
Sub-Station, Switching Structures (when not part of the line), Trafic Signal, Street Lighting, and Electrical, Telephone or CATV Commercial Work:					
Lineman and Technicians	13.15	1.40	3%+.75	k	
Cable Splicers	14.465	1.40	3%+.75	k	
Groundman Mobile Equipment Operator, Mechanic 1st Class, Groundman Truck Driver	10.52	1.40	3%+.75	k	
Groundman Truck Driver (Tractor Trailer Unit)	11.1775	1.40	3%+.75	k	
Driver Mechanic, Groundman - Experienced	9.8625	1.40	3%+.75	k	

Line Construction (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Groundman Digging Machine Operator, Groundman Dynamite man	11.835	1.40	3%+.75	k	
Telephone and other Communication systems, both Overhead and Underground:					
Lineman and Installer Repairman	8.34	.40	3%+.25	k	1%
Splicers	8.89	.40	3%+.25	k	1%
Groundman Digging Machine Operator	7.73	.40	3%+.25	k	1%
Groundman	5.72	.40	3%+.25	k	1%
Groundman Truck Driver	6.82	.40	3%+.25	k	1%
Groundman Dynamiteman	6.60	.40	3%+.25	k	1%

Power Equipment Operators: Building Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	11.03	1.05	1.15	a	.15
GROUP 2	11.10	1.05	1.15	a	.15
GROUP 3	11.24	1.05	1.15	a	.15
GROUP 4	11.46	1.05	1.15	a	.15
GROUP 5	11.84	1.05	1.15	a	.15
GROUP 6	12.02	1.05	1.15	a	.15
GROUP 7	12.25	1.05	1.15	a	.15

Power Equipment Operators: Building Construction

GROUP 1 Oilers

GROUP 2 Firemen and heavy duty greasers, all boilers and steam generators

GROUP 3 Pumps, vibrators, concrete mixers, spreaders, concrete finishing machines, mortar mixers, air compressors, dust collectors, welding machines, well points, two or more Herman Nelson and like heaters, batch and plant op., seed and mulching machines, generators, temporary light plants, concrete pump, belterete power pac (belterete system), electric submersible pump 4" and over

GROUP 4 Dinkey locomotives, Barber Greene loaders, loaders and conveyors, tractors, scoopmobiles, bulldozers, road rollers, form fine graders, power brooms and sweepers

GROUP 5 Black top spreaders, black top rollers, high lifts, fork lifts, one drum hoist or hod hoists, post hole diggers, transavators, core and well drillers (one drum), economobile and similar type machines, elevators, A-L frame winches, power hoisting (single drum)

GROUP 6 LeTourneau graders or scrapers, trenching machines, push cart

GROUP 7 Tractor road pavers, cranes, power road graders, shovels, backhoes, draglines, pole drivers, hoists two or more drums, three drum engines, hysters, two drum and swinging engines, three drum swinging engine, locomotive cranes, gradalls, hydrocrane, model CMB Vibrotamp or similar, Murphy type diesel generator-belterete system, side booms, hydro hammer, tractor mounted drill (quarry-master), euclid loaders, concrete pumps, all CMI equipment, concrete central mix plant, automated asphalt, concrete central plant, derrick, whirlies, tower cranes, cableways, hydraulic cranes, power hoisting (2 drum and over), mucking machine

PAID HOLIDAYS:
A-New year's day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. Holidays: A through F

Power Equipment Operators: Heavy & Highway Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	11.58	1.05	1.15	a	.15
GROUP 2	11.19	1.05	1.15	a	.15
GROUP 3	10.11	1.05	1.15	a	.15
GROUP 4	9.15	1.05	1.15	a	.15

Power Equipment Operators: Heavy and Highway Construction

GROUP 1 Automated concrete spreader (CMI), automatic fine grader, backhoe (except tractor mounted, rubber tired), belt placer (CMI type), blacktop plant (automated), cableway, caisson auger, central mix concrete plant (automated), cherry picker (over 5 tons capacity), concrete pump (8" or over), crane, cranes & derricks (steel erection), dragline, dredge, dual drum paver, excavator (all purpose-hydraulically operated, (gradall or similar), fork lift (factor rated 15.ft. and over), front end loader 4 c.y. and over), head tower (sauerman or equal) hoist (2 or 3 drum), mine hoist, mucking machine or mole, over head crane (gantry or straddle type), piledriver, power grader, quarry master (or equivalent), scraper, shovel, sideboom, slip form paver (if second man is needed, he shall be an oiler), tractor drawn belt type loader, truck crane, tunnel shovel.

GROUP 2 Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer, blacktop plant (non-automated), blast or rotary drill truck or tractor mounted), boring machine, cage-hoist, central mix plant (non-automated and all concrete batching plants), cherry picker (5 tons capacity and under), compressors (4 or less) exceeding 2000 C.F.M. combined capacity concrete paver (over 16S), concrete pump (under 8"), crusher, diesel power unit, drill rigs (tractor mounted), front end loader (under 4 c.y.), hi-pressure - boiler (15 lobs. and over), hoist (one drum) Nelman plant loader and similar type loaders (if another man is required to clean screen or to maintain the equipment, he shall be an oiler), locomotive maintenance/engineer/greaseman/welder, mixer (for stabilized base self-propelled), monorail machine, plant engineer, pump crete, ready mix concrete plant, refrigeration equipment (for soil stabilization), road widener, roller (all above subgrade), tractor with dozer and/or pusher, trencher, tugger-hoist, winch, winch cat.

Power Equipment Operators: Heavy and Highway Construction (Cont't)

GROUP 3 A-frame truck, compressors (4 not to exceed 2000 C.F.M. combined capacity or 3 or less with more than 1200 C.F.M. but not to exceed 2000 C.F.M.), compressors (any size but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (4 of any type of combination), concrete pavement spreaders and finishers, conveyor, drill-core, drill-well, electric pumps used in conjunction with well point system, farm tractor with accessories, fine grade machine, fork lift (under 15 ft.), gunite machine, hammers (hydraulic-self-propelled), post hole digger and post driver, power sweeper, roller (grade and fill), submersible electric pump (when used in lieu of well point system), tractor with towed accessories, vibrator compactor, vibro tamp, well point

GROUP 4 Aggregate plant, boiler (used in conjunction with production), cement and bin operator, compressors (3 or less not to exceed 1200 C.F.M. combined capacity), compressor (any size, but subject to other provisions for compressors) dust collectors, generator pumps, welding machines (3 or less of any type or combination), concrete paver or mixer (16S and under), concrete saw (self-porpelled), fireman, form tamper, hydraulic pump (jacking system), lighting plants, mulching machine, oiler parapet (concrete or pavement grinder), power broom (towed), power heaterman, revinius widener, shell winder, steam cleaner, tractor

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. Paid Holidays: A through F, providing the employee works the day before and the day after the holiday

Power Equipment Operators: Rehabilitation work on residential structures over 4 stories defined to include demolition, alteration, and repair on any existing structure which is intended for predominantly residential use

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	7.40	.95	1.05	a	.15
GROUP 2	7.45	.95	1.05	a	.15
GROUP 3	7.55	.95	1.05	a	.15
GROUP 4	7.71	.95	1.05	a	.15
GROUP 5	7.98	.95	1.05	a	.15
GROUP 6	8.10	.95	1.05	a	.15
GROUP 7	8.26	.95	1.05	a	.15

GROUP 1 Oilers

GROUP 2 Firemen and heavy duty greasers, all boilers and steam generators

GROUP 3 Pumps, vibrators, concrete mixers, spreaders, concrete finishing machines, mortar mixers, air compressors, dust collectors, welding machines well points, two or more Herman Nalson and like heaters, batch and plant op., seed and mulching machines, generators, temporary light plants, concrete pump, beltcrete power pac (beltcrete system), electric submersible pump 4" and over

GROUP 4 Dinkey locomotives, Barber Greene loaders, loaders and conveyors, tractors, scoopmobiles, bulldozers, road rollers, form fine graders, power brooms and sweepers

GROUP 5 Black top spreaders, black top rollers, high lifts, fork lifts, one drum hoist or hod hoists, post hole diggers, traxcavators, core and well drillers (one drum), economobile and similar type machines, elevators, A-L frame winches, power hoisting (single drum)

GROUP 6 LeTourneau graders or scrapers, trenching machines, puch cart

GROUP 7 Tractor road pavers, cranes, power road graders, shovels, backhoes, draglines, pile drivers, hoists two or more drums, three drum engines, hysters, two drum and swinging engines, three drum swinging engine, locomotive cranes, gradalls, hydrocrane, model CHB Vibrotamp or similar, Murphy type diesel generator-beltcrete system, side booms, hydro hammer, tractor mounted drill (quarry master), euclid loaders, concrete pumps, all CMI equipment, concrete central mix plant, automated asphalt, concrete central plant, derrick, whirlies, tower cranes, cableways, hydraulic cranes, power hoisting (2 drum and over), mucking machine

FOOTNOTES:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

DECISION NO. NY80-3007

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION					
CLASS 1	9.13	1.01	.75	a	
CLASS 2	9.18	1.01	.75	a	
CLASS 3	9.23	1.01	.75	a	
CLASS 4	9.38	1.01	.75	a	
CLASS 5	9.53	1.01	.75	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Paid Holidays: A through F, provided the employee has worked the working day before and after the holiday.

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS 1 - Pickups, panel trucks, flatboy material trucks (straight jobs), single axle dump trucks, dumpsters, greasers, truck tiremen, mechanic helpers

CLASS 2 - Tandems, batch trucks, mechanics

CLASS 3 - Semi-trailers, low-boy trucks, asphalt distributors trucks, agitator, mixer trucks and dumpcrete type vehicles, truck mechanic.

CLASS 4 - Specialized earth moving equipment - euclid type or similar off-highway equipment, where not self loaded, and straddle (ross) carrier.

CLASS 5 - Off-highway tandem back-dump, twin engine equipment and double hitched equipment where not self loaded.

SUPERSEDEAS DECISION

STATE: Pennsylvania
DECISION NO.: PA80-3012
COUNTIES: *See below
DATE: Date of Publication
Supersedeas Decision No.: PA78-3014, March 24, 1978, in 43 FR-12603
DESCRIPTION OF WORK: Building Erection and Foundation Excavation, (does not include single family homes and garden type apartments up to and including 4 stories)

*Armstrong, Allegheny, Beaver, Butler, Fayette, Indiana, Washington & Westmoreland

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	12.47	.85	.90		
BOILERMAKERS	11.785	7.5%	7%		.01
BRICKLAYERS					
ZONE 1	12.265	75	1.63		.01
ZONE 2	12.95	.75	1.70		
ZONE 3	13.68	.85	.80		
ZONE 4	12.00	.75	.95		.02
ZONE 5	12.86	.95	1.03		.04

AREA COVERED BY BRICKLAYERS ZONES

ZONE 1 - Armstrong, Indiana, Remainder of Fayette and Westmoreland Counties.

ZONE 2 - Allegheny County; Twps., in Washingon County, Cross Creek, Hanover, Jefferson, Mt. Pleasant, Nottigham, Peters, Robinson, Smith & Union.

ZONE 3 - Beaver County.

ZONE 4 - Butler County.

ZONE 5 - Twps, in Fayette of Jefferson & Washington; Westmoreland County, Twp of Rostraver; Remainder of Washingon County.

CARPENTERS					
ZONE 1	11.75	6%	8%	10%	
ZONE 2	10.95	.6%	8%	10%	1½%

AREA COVERED BY CARPENTERS ZONES

ZONE 1 - Allegheny, Armstrong, Beaver, Butler, Fayette, Washington, Westmoreland Counties

ZONE 2 - Indiana County

DECISION NO. PA80-3012

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS					
ZONE 1	12.21	.85	1.21		
ZONE 2	14.43				

AREA COVERED BY CEMENT MASON ZONES

ZONE 1 - Allegheny, Armstrong, Butler, Fayette, Indiana, Washington, Westmoreland Counties.

ZONE 2 - Beaver County

ELECTRICIANS					
ZONE 1	13.35	.55	3%+.40	.60	.10
ZONE 2	13.57	6%	3%	1.00	1½%
ZONE 3	13.65	3%	3%+.80		½%

AREA COVERED BY ELECTRICIAN ZONES

ZONE 1 - Allegheny, Armstrong, Fayette, Indiana, Washington, Westmoreland

Zone 2 - Beaver County

ZONE 3 - Butler County

DECISION NO. PA80-3012

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS	10.98	.745	.56	a+b	.025
ELEVATOR CONSTRUCTORS' HELPERS	7.68	.745	.56	a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	5.49	.92	1.15	1.15	.02
GLAZIERS	11.44	.92	1.15	1.15	.02
IRONWORKERS, STRUCTURAL, ORNAMENTAL & REINGORCING	12.11	.875	2.355		.07
LABORERS					
ZONE 1					
CLASS 1	10.21	9%	9%		
CLASS 2	10.33	9%	9%		
CLASS 3	10.45	9%	9%		
CLASS 4	10.68	9%	9%		
CLASS 5	10.85	9%	9%		
ZONE 2					
CLASS 1	10.17	9%	9%		
CLASS 2	10.28	9%	9%		
CLASS 3	10.40	9%	9%		
CLASS 4	10.63	9%	9%		
CLASS 5	10.82	9%	9%		
ZONE 3					
CLASS 1	10.08	9%	9%		
CLASS 2	10.20	9%	9%		
CLASS 3	10.32	9%	9%		
CLASS 4	10.55	9%	9%		
CLASS 5	10.73	9%	9%		

CLASS 1 - Laborer, Carryable pumps, west brick buggy or similar non-self-propelled vibrator operators walk behind forklift or similar, stripper and mover of forms, cement finishes, footers, window cleaner, all material conveyor (regardless of power used including starting and stopping)

CLASS 2 - West brick buggy or similar (self-propelled), power wheelbarrows buggies, walk behind forklift or similar, (self-propelled) wagon drill tender, drill runner, drill runners' tender (including drill mounted on truck, track or similar), blaster's tender, all operators of compacting equipment, pipe layers, burner, jackhammer man-concrete buster

CLASS 3 - Hod carrier, scaffold builder, bell and bottom man or furnaces and stacks, mortar mixer, mortar mixing machine (regardless of power used), concrete saw operator, wagon drill operator

CLASS 4 - Gunnite Nozzleman

CLASS 5 - Blaster

AREA COVERD BY LABORERS ZONES

ZONE 1 - Allegheny County

ZONE 2 - Beaver, Butler, Washington, Westmoreland

ZONE 3 - Armstrong, Fayette & Indiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LANDSCAPING:					
Landscape laborer to include general landscaping work and driving of trucks for the distributing of materials on the job site but not to include dump trucks used to transport supplies to the job	7.25	12%	10%		
Landscape Tractor Operator to operate small industrial rubber tire tractor equipped with front end loader and back hoe attachment used for the sole purpose of landscape work including soil spreading, but not for heavy and highway construction work	7.71	12%	10%		
LEADBURNERS	10.75	.40	.25	c	.01

DECISION NO. PA80-3012	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION					
Zone 1					
LINEMAN	14.83	.45	3%		3/8%
WINCH TRUCK OPERATOR	10.38	.45	3%		3/8%
GROUNDMAN	8.90	.45	3%		3/8%
Zone 2					
LINEMAN , Dynamiteman, heavy equipment Operator	11.61	.50	3%		3/8%
WINCH TRUCK OPERATOR	8.16	.50	3%		3/8%
GROUNDMAN	7.80	.50	3%		3/8%

AREA COVERED BY LINE CONSTRUCTION ZONES

ZONE 1 - Alleghepy, Armstrong, Beaver, Fayette, Indiana, Washington and Westmoreland

ZONE 2 - Butler County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS					
ZONE 1	11.47	.75	1.80		.01
ZONE 2	13.68	.85	.80		.01
ZONE 3	12.265	.75	1.63		.01
ZONE 4	10.80		.90		.01
ZONE 5	12.86	.95	1.03		.04

AREA COVERED BY MARBLE SETTERS ZONES

ZONE 1 Allegheny, Butler, Westmoreland, Charleroi Twp. in Washington County

ZONE 2 - Beaver County

ZONE 3 - Fayette County, Jefferson and Washington Twps.

ZONE 4 - Eastern part of Indiana County

ZONE 5 - Remainder of Washington & Fayette Counties

DECISION NO. PA80-3012	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS HELPER	7.95		.10		
MILLWRIGHTS	11.20	6%	6%	25%	½%
PAINTERS:					
ZONE 1					
COMMERCIAL - shall include schools, warehouses not in plant showrooms, churches, apartment buildings, commercial garage, office buildings					
Brush	11.48	.70	.40		.03
Paperhangers	11.48	.70	.40		.03
Spray	11.98	.70	.40		.03
INDUSTRIAL - shall include sewage treatment plants, water works or authorities, and power plants, all skeleton steel, railroad and highway bridges, towers, tanks, storage tanks, furnances, machinery corrugated ceiling and sidewalks, sheeting steel sash and all steel surfaces, officers & hospital, both interior and exterior					
Brush	11.83	.70	.40		.03
Spray	12.33	.70	.40		.03
PAINTERS:					
ZONE 2					
COMMERCIAL - shall include stores, schools, warehouses not in plant showrooms, churches, apartment buildings, commercial garage, office buildings					
Brush	9.20	.85	.40	.80	
Spray	9.72	.85	.40	.80	

DECISION NO. PA80-3012	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
INDUSTRIAL - shall include sewage treatment plants, all skeleton steel, railroad and highway bridges, towers, tanks, storage tanks, furnances, machinery, corrugated ceiling and sidewalks, sheeting steel sash and all steel surfaces, officers & hospital, both interior and exterior					
Brush	10.65	.85	.40	.80	
Roller	11.18	.85	.40	.80	
PAINTERS:					
ZONE 3					
COMMERCIAL - shall include stores, schools, warehouses not in plant showrooms, churches, apartment buildings, commercial garage, office buildings					
Brush & Roller	11.95	.75	1.10		
Spray	12.95	.75	1.10		
INDUSTRIAL - shall include sewage treatment plants, water works or authorities, and power plants, all skeleton steel, railroad and highway bridges, towers tanks, storage tanks, furnances, machinery, corrugated ceiling and sidewalks, sheeting steel sash and all steel surfaces, officers & hospital, both interior and exterior					
Brush & Roller	12.45	.75	1.10		
Spray	13.45	.75	1.10		
PAINTERS:					
ZONE 4					
COMMERCIAL - shall include stores, schools, warehouses not in plant show-					

DECISION NO. PA80-3012	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
rooms, churches, apartment buildings, commercial garage, office buildings					
Brush & Rooler	9.85	.65	.40		.05
Spray	10.975	.65	.40		.05
PAINTERS:					
ZONE 5					
COMMERCIAL - shall include stores, schools, warehouses not in plant showrooms, churches, apartment buildings, commercial garage, office buildings,					
Brush	9.75	.95	1.00	1.00	2%
INDUSTRIAL - shall include sewage treatment plants, water works or authorities, and power plants, all skelton steel, railroad and highway bridges, towers, tanks, storage tanks, furnances, machinery corrugated ceiling and sidewalks, sheeting steel sash and all steel surfaces, officers & hospital, both interior and exterior					
Brush	11.40	.95	1.00	1.25	2%
PAINTERS:					
ZONE 6					
COMMERCIAL - shall include stores, warehouses not in plant showrooms, churches, apartment buildings, commercial garage, office buildings					
Brush	10.39	.75	.45		.02
Spray	10.44	.75	.45		.02

DECISION NO. PA80-3012	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
INSUSTRIAL - shall include sewage treatment plants, water works or authorities, and power plants, all skelton steel, railroad and highway bridges, towers, tanks, storage tanks, furnances, machinery, corrugated ceiling and sidewalks, sheeting steel sash and all steel surfaces, officers & hospital, both interior and exterior					
Brush	10.94	.75	.45		.02
Spray	11.64	.75	.45		.02

AREA COVERED BY PAINTERS ZONES

ZONE 1 - Allegheny County

ZONE 2 - Beaver County

ZONE 3 - Butler County

ZONE 4 - Fayette County, Remainder of Washington County

ZONE 5 - Twps. and Borough of Jefferson, Luzerne, Perry, Morgan, West Pike Run, West Bethlehem, East Bethlehem, Washington, Rostraver, Union Nottingham, Carrol, Fallowfield, Somerset, North Bethlehem, Centerville Brough & California in Washington County

ZONE 6 - Armstrong, Indiana, Westmoreland Counties

DECISION NO. PA80-3012

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
CLASS I	$13.175	1.05	1.00		.09
CLASS I-A	13.425	1.05	1.00		.09
CLASS I-B	13.675	1.05	1.00		.09
CLASS I-C	13.925	1.05	1.00		.09
CLASS II	12.975	1.05	1.00		.09
CLASS III	11.53	1.05	1.00		.09
CLASS III-A	12.03	1.05	1.00		.09
CLASS IV	10.71	1.05	1.00		.09
CLASS V	10.44	1.05	1.00		.09
CLASS V-A	10.54	1.05	1.00		.09
CLASS V-B	10.69	1.05	1.00		.09
CLASS V-C	11.44	1.05	1.00		.09

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

CLASS I - Austin-Western or similar type under 25 Ton, Austin-Western or similar type 25 ton or over; auto grader (CMI or similar); backhoe; batch plant - when conveyors are used for direct feeding or discharge, batch plant - no coveyors for direct feeding or discharge; cableway; caisson drill, central mix plant; cranes (excluding overhead) (truck or crawler type); cranes - tower (mobile); cranes - tower (stationary) (climbing type); cranes - tower (climbing type); cranes - hydraulic self-contained wagon crane - over 18 ton; cranes - hydraulic self-contained wagon crane - 18 ton or less; derrick-traveler (self-propelled); derrick (all types); derrick boats; dragline; dredge; engineer-maintenance; franki or similar type pile driver; gradall (remote control or otherwise; helicopter (when used for erection purposes); helicopter hoist operators (when used for erection purposes); hi-lift 4 yds. or over; hoist-hod (2 cages up to 10 floors; hoist-single cage with Chicago boom attached; hoist (50 ft. or over) (stacks, stoves or furnaces); hoist (slipform jobs; hop-to or similar type with 180° swing; hop-to or similar type with 360° swing; kocal; koehring scooper; metro chip harvester or similar type; mix mobile or similar type (with self-loading attachment); mix mobile or similar type; mucking machine (tunnel); multiple bowl machines; pile driver (sonic or similar type); post driver - guard rail (truck mounted); post driver - guard rail (skid type); pumpkrete - mobile or similar type; quad nine; shovels (all types); slip form paver (CMI or similar); tractors - boom mounted (all types); tractors (all types with hydraulic backhoe attached); tug boat and whirley

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POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS CONT'D

CLASS I-A - Austin-Western or similar type under 25 ton with jib; Austin-Western or similar type 25 ton or over with jib; cranes (boom or mast 100 ft. or over to & including 150 ft. (truck or crawler type); cranes - mobile (any type 15 ton or over placed on any bldg. structure; hoist-hod (2 cages over 10 floors)

CLASS I-B - Cranes (boom or mast over 150 ft. up to & including 200 ft. truck or crawler type)

CLASS I-C - Cranes (boom or mast over 200 ft.)

CLASS II - Asphalt plant operator; athey loader; auger - truck tractor mounted; back filling machine; boat - material or personnel carrying (powered); boat - job work (inboard or outboard); bulldozer; cable layer; compactor with blade; compressor (1) and air tugger (1) (combination); compressor (1) and gunite machine (1) (combination); concrete belt placer; crane - overhead; crushing & screening plants; drill - Davey or similar type; drill - core (truck or skid mounted); drill - well & core (truck mounted); elevator (new buildings); euclid loader; excavating equipment (all other); forklift-lull or similar; grader; grader-elevating; greaser-equipment (head); hi-lift - less than 4 yds; hoist - one drum (4 floors or over); hoist - hod (buildings 4 floors or more); hoist - (2 drums or more in one unit); jumbo operator; locomotive; lift slab machine (hydraulic); mixer - paving; mucking machine; pipe cleaning machine; refrigeration plant (used for constr. jobs i.e., cooling, concrete & holding banks); ross carrier (or similar type); scoop (single bowl) (self-powered & tractor drawn); spreader - concrete, asphalt and stone; tower mobile (hoisting or lowering material); trencher; well point systems; compressors (3 within a reasonable distance); generators electric (3) (over) 5 KW up to 20 KW); pumps (1½" discharge or less) (4 to 5 within reasonable distance); pumps (3) (over 1½ discharge) (within reasonable distance); welding machines (4 to 6 within reasonable distance) (other than electrically driven); elevator (when used for alterations & remodeling all bldgs); grout pump (10 H.P. or over); paver operator - asphalt (spreader); pumpkrete or similar type (not self-propelled); pumpkrete machine operator (stationary); tire repairman (when assigned to job); welder (repairman)

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POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS CONT'D

CLASS III - Ballast regulator; boiler; boring machine; broom, power (except push type); compressor - single (over 65 CFM; compressor (over 125 CFM and air pump); compressor (1) and sand blasting machine (1) (combination); conveyor over 1 and up to 3 units (regarless of power used); crane (carry); curb builder (self propelled); drills - well and horizontal truck mounted; fork-lifts (ridden or self-propelled); form line machine; generator (over 5 KW); hoists (monorail) (regardless of power used); hoist one drum (regardless of power used); hoist roof (regardless of power used); huck machine or similar type; mixer concrete (regardless of power used); mixer mortar - over 10 cu. ft. (regardless of power used); pavement breaker (self-propelled or ridden); pipe dream; plant, private or industrial air or steam valve; pump (over 1½" discharge regardless of power used); roller; saw (concrete); soil stabilizer (pump type); spray cure machine (power driven); steam jenny (or similar type); stone crusher; stone spreader self-propelled; syphon (steam or air); tractors (when used for snaking and hauling); truck, (winch) truck or hydraulic boom (when hoisting & placing); tube finisher (CMI or similar type); tugger; welding machine single (300 amp or over) (other than electrically driven); compressors (2); generators (2); mortar machine over 10 cu. ft; and single unit conveyor; pumps (1½" discharge or less) (2 to 3); pumps (over 1½" discharge (2) in bank) (within reasonable distance); welding machines (2 to 3) (other than electrically driven)

CLASS III-A - Conveyors 4 units or more

CLASS IV - Compressor - 65 cubic ft. or under (regardless of power used); conveyors one (1) unit (regardless of power used); heaters - up to and including 6; jack motor hydraulic (single type) power driven; laborwater; miner mortar (10 cubic ft. or under); mulching machine; pin puller (powered); pulverizer; pump - 1½" discharge or less; seeding machine; spreader side delivery shoulder (attachment); tie tamper (multiple heads); tractor farm (when used for landscaping); water blaster

CLASS V - Brakeman; deckhand; helicopter oiler; mechanic

CLASS V-A - Truck crane; oiler & fireman

CLASS V-B - Oiler on truck crane 50-ton up to but not incl. 100-ton

CLASS V-C - Oiler truck crane 100 ton and over

DECISION NO. PA80-3012	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PILEDRIVERMEN	12.98	5.5%	10%		½%
PLASTERERS					
ZONE 1	11.39	.85	1.55		
ZONE 2	12.40				.01
ZONE 3	12.85				.01

AREA COVERED BY PLASTERERS ZONES

ZONE 1 - Allegheny, Armstrong, Fayette, Butler, Westmoreland and and Washington County

ZONE 2 - Beaver County

ZONE 3 Indiana County

PLUMBERS					
ZONE 1	13/24	1.01	.96		.05
ZONE 2	12.97	.70	1.30		.05
ZONE 3	12.83	1.00	1.45		.07
ZONE 4	12.07	.78	1.13	.75	.24

AREA COVERED BY PLUMBERS ZONES

ZONE 1 Beaver County

ZONE 2 - Butler County

ZONE 3 - Allegheny, Armstrong, Counties; Twp. of Charleroi in Washington County

ZONE 4 - Fayette, Indiana, Westmoreland and remainder of Washington County

DECISION NO. PA80-3012

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS	13.51	1.50			.16
SHEET METAL WORKERS	12.60	1.02	1.56		.14
SOFT FLOOR LAYERS					
ZONE 1	11.71	6%	6%	6%	.06
Zone 2	10.95	6%	8%	10%	1½%

AREA COVERED BY SOFT FLOOR LAYERS ZONES

ZONE 1 Allegheny, Armstrong, Beaver, Butler, Fayette, Washington and Westmoreland

ZONE 2 - Indiana County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SPRINKLER FITTERS					
ZONE 1	13.65	.75	1.05		.04
ZONE 2	13.55	.75	1.05		.08

AREA COVERED BY SPRINKLER FITTERS ZONES

ZONE 1 - Allegheny County

ZONE 2 - Armstrong, Beaver, Butler, Fayette, Indiana, Washington, Westmoreland

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
STEAMFITTERS					
ZONE 1	13.30	.85	1.19		.10
ZONE 2	10.40	.73	.87		.21
ZONE 3	13.24	1.01	.96		.05
ZONE 4	11.71	.60	.55		.05

AREA COVERED BY STEAMFITTERS ZONES

ZONE 1 - Allegheny, Armstrong, remainder of washington County, Fayette, Indiana, Westmoreland Counties

ZONE 2 Twp. of Charleroi in Washington County

ZONE 3 - Beaver County

ZONE 4 - Butler County

STONEMASONS					
ZONE 1	11.73	.75	2.60		.01
ZONE 2	12.265	.75	1.63		.01
ZONE 3	12.95	.75	1.70		
ZONE 4	13.68	.85	.80		
ZONE 5	12.00	.75	.95		.02
ZONE 6	12.21	.60	.85		.02

AREA COVERED BY STONEMASONS ZONES

ZONE 1 - Allegeny County

ZONE 2 - Armstrong, Indiana, Remainder of Fayette and Westmoreland Counties

ZONE 3 - Twps., in Washington County, Cross Creek, Hanover, Jefferson Mt. Pleasant, Nottingham, Peters, Robinson, Smith and Union

ZONE 4 - Beaver County

ZONE 5 - Butler County

ZONE 6 - Twps; in Fayette of Jefferson & Washington, Westmoreland County, Twp

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TERRAZZO WORKERS					
ZONE 1	12.50	.75	1.15		.01
ZONE 2	13.68	.85	.80		
ZONE 3	10.80		.90		.01
ZONE 4	12.265	.75	1.63		.01

AREA COVERED BY TERRAZZO WORKERS ZONES

ZONE 1 - Allegheny, Butler, Washington, Westmoreland

ZONE 2 - Beaver County

ZONE 3 - Indiana County

ZONE 4 - Fayette County

TERRAZZO WORKERS HELPER	8.355	.35	..10		
TILE SETTERS					
ZONE 1	11.27	.75	2.30		.01
ZONE 2	13.68	.85	.80		
ZONE 3	10.80		.90		.01
ZONE 4	12.265	.75	1.63		.01

AREA COVERED BY TILE SETTERS ZONES

ZONE 1 Allegheny, Butler, Washington, Westmoreland

ZONE 2 - Beaver County

ZONE 3 Indiana County

ZONE 4 Fayette County

TILE SETTERS HELPERS	9.49	..75	1.40		
TRUCK DRIVERS					
CLASS 1	9.85	9.6%	6.6%	d	
CLASS 2	9.91	9.6%	6.6%	d	
CLASS 3	9.92	9.6%	6.6%	d	
CLASS 4	10.01	9.6%	6/6%	d	
CLASS 5	10.20	9.6%	6.6%	d	
CLASS 6	10.03	9.6%	6.6%	d	
CLASS 7	10.18	9.6%	6.6%	d	

[FR Doc. 4035 Filed 2-14-80; 8:45 am]
BILLING CODE 4510-27-C

CLASSIFICATIONS DEFINITIONS

CLASS 1 - Service truck (pickup, jeep, buses, station wagon, panel truck, escort vehicle, including fuel and water trucks)

CLASS 2 - Dump and flat top (including fuel and water trucks, fork lift in warehouse or job site storage area and single axle trucks with power tailgate); distributor truck over 33,000 lbs. gross weight (oil, tar asphalt products two man operation, bottmen)

CLASS 3 - Transit mix, single axle

CLASS 4 - Transit mix, tandem

CLASS 5 - Heavy duty tractor and trailer with low bed, 6 to 16 wheels and pole trailer and wide load

CLASS 6 - Distributor truck up to 33,000 lbs. gross weight (oil, tar asphalt products) one man operation; truck with dolly and scissor truck; truck with dump trailer or tandem, including fuel and water, tandem axle truck with mixer, driver towing equipment

CLASS 7 - Winch truck and form truck

WELDERS - Rate of craft

PAID HOLIDAYS: (Where Applicable)
A-New Year's Day; B-Memorial Day; C-Idependence Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer Contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Paid Holidays: A through F, plus the Friday after Thanksgiving Day.

c. Paid Holidays: A through F and Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 45 days for the employer the 120 days prior to the holiday, and is available for work the day preceding and following the holiday.

d. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day and Veterans Day and Good Friday, provided the employee is available for work the day before and the day after the holiday and has been employed by the employer a minimum of 40 hours each calendar month for two consecutive month.

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii))."

Friday
February 15, 1980

Part IV

Federal Communications Commission

Revision of Radio Control (R/C) Radio Service Rules Into Plain Language

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 95

[PR Docket No. 80-8; FCC 80-12]

Revision of the Radio Control (R/C) Radio Service Rules Into Plain Language

AGENCY: Federal Communications Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission is proposing to rewrite the current Radio Control (R/C) Radio Service Rules into plain language. We are taking this action to provide the public with rules that are as simple and easy to read as possible.

DATES: Comments are due by July 30, 1980, and Reply Comments are due by August 29, 1980.

ADDRESSES: All comments should be sent to: Secretary, Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Nancy Krieger, FCC, Private Radio Bureau, Rules Division, Washington, DC 20554, (202) 632-7164.

SUPPLEMENTARY INFORMATION:

In the matter of revision of the radio control (R/C) radio service rules into plain language.

Adopted: January 16, 1980.

Released: February 11, 1980.

1. The Commission proposes to simplify the rules governing the Radio Control (R/C) Radio Service, Subpart C of Part 95 of the Commission's Rules, 97 CFR 95.201 and following.

Why Are We Proposing New R/C Rules?

2. We are proposing to revise the R/C Rules into plain language as part of a continuing effort to make our rules as accessible, simple, and easy to read as possible. We began this program in December, 1976, by acting to reorganize and divide Part 95 of the Commission's rules governing the personal radio services into four subparts: Subpart A, General Mobile Radio Service; Subpart C, R/C Radio Service; Subpart D, Citizens Band (CB) Radio Service; Subpart E, Technical Regulations. Next, on March 22, 1978, we released a plain language version of the CB Rules. The reception given to the revised CB Rules by users, as well as President Carter's commendation, regarding the readable style of the new CB Rules encourages us to continue to revise our rules in an easy-to-read format.

3. The current R/C Rules are written in a style that is hard for licensees to read and understand. They contain unnecessary, complicated, and technical language with which the average licensee is unfamiliar. (Many R/C licensees are young persons; the age requirement for an R/C license is 12.) Because these current rules were not written with the average licensee in mind, they are not as useful as they should be to those who must comply with them or who must use them to find important instructions and information.

We believe that licensees will be more able to comply with rules that they can understand. Also, clearly written rules will provide users with the necessary information to obtain the most benefit from the R/C Service. Overall, rules that promote self-regulation and provide information on correct radio operation will result in the most efficient use of the limited radio spectrum.

4. We simply used the text of the plain language CB Rules as the base for the proposed R/C Rules because the content of the current R/C Rules is very similar to the CB Rules before they were revised.

5. At this time, we are not proposing to make any substantive changes in the R/C Rules. We are not proposing to allocate additional frequencies or remove existing restrictions on the R/C frequencies. Further, we are not proposing any change in the license eligibility requirements or obligatioins of station licensees. Most of the rule changes made are editorial—limited to word changes, sentence structure and presentation. Some existing R/C Rules, however, were deleted where they appear to be unnecessary or repetitive. Other existing R/C Rules were combined or rearranged.

6. The proposed revison of the R/C Rules is set forth below. Current sections of the R/C Rules are matched with corresponding sections of the proposed rules. We explain why we revised a rule, or what current rules were deleted, combined, or rearranged.

7. Authority for issuance of this Notice is contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r). Pursuant to procedures set out in Section 1.415 of the Rules and Regulations, 47 CFR 1.415, interested persons may file comments on or before July 30, 1980, and reply comments on or before August 29, 1980. All relevant and timely comments will be considered by the Commission before final actions is taken in this proceeding. In reaching its decision, the Commission may take into consideraton information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

In accordance with the provision of Section 1.419 of the Rules and Regulatons, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, DC. For further information, contact John B. Johnston, FCC, Private Radio Bureau, Rules Division, Washington, DC 20554, (202) 632-7164.

Federal Communications Commission.

William Tricarico,

Secretary.

The FCC proposes to revise Subpart C of Part 95 of its Rules, as set forth below:

PART 95—PERSONAL RADIO SERVICES

* * * * *

Subpart C—Radio Control (R/C) Radio Service

General Information on the R/C Service

Sec.

95.201 (R/C Rule 1) What is the RADIO Control (R/C) Service?
95.202 (R/C Rule 2) How do I use these rules?
95.203 (R/C Rule 3) Do I need a license?
95.204 (R/C Rule 4) Am I eligible to get a R/C license?

How To Apply for Your R/C License

95.205 (R/C Rule 5) How do I apply for a R/C license?
95.206 (R/C Rule 6) May I operate my R/C station while my application is being processed?
95.207 (R/C Rule 7) How do I renew my R/C license?
95.208 (R/C Rule 8) How does a corporation holding a R/C license apply for consent to transfer control of the corporation?
95.209 (R/C Rule 9) What address do I put on my application?
95.210 (R/C Rule 10) How do I sign my R/C license application?
95.211 (R/C Rule 11) How long is my license term?

Sec.
95.212 (R/C Rule 12) What kind of operation does my license allow?
95.213 (R/C Rule 13) What must I do if my name or address changes?
95.214 (R/C Rule 14) May I transfer my R/C license to another person?
95.215 (R/C Rule 15) Are there any special restrictions on the location of my R/C station?

How To Operate a R/C Station

95.216 (R/C Rule 16) On what channels may I operate?
95.217 (R/C Rule 17) How high may I put my antenna?
95.218 (R/C Rule 18) What equipment may I use at my R/C station?
95.219 (R/C Rule 19) How much power may I use?
95.220 (R/C Rule 20) What communications may I transmit?
95.221 (R/C Rule 21) What communications are prohibited?
95.222 (R/C Rule 22) May I be paid to use my R/C station?
95.223 (R/C Rule 23) Who may operate under my license?
95.224 (R/C Rule 24) Who is responsible for transmissions made under the authority of my license?
95.225 (R/C Rule 25) Who must not operate under my license?
95.226 (R/C Rule 26) Do I have to limit the length of my communications?
95.227 (R/C Rule 27) How do I identify my R/C communications?
95.228 (R/C Rule 28) Where may I operate my R/C station?
95.229 (R/C Rule 29) May I operate my R/C transmitter by remote control?

Other Things You Need to Know

95.230 (R/C Rule 30) How long must I keep my license?
95.231 (R/C Rule 31) Where must I keep my license?
95.232 (R/C Rule 32) What do I do if I lose my license?
95.233 (R/C Rule 33) Do I need to have a copy of the R/C Rules?
95.234 (R/C Rule 34) What are the penalties for violating these rules?
95.235 (R/C Rule 35) How do I answer violation notices?
95.236 (R/C Rule 36) What must I do if the FCC tells me that my R/C station is causing interference?
95.237 (R/C Rule 37) How do I have my R/C transmitter serviced?
95.238 (R/C Rule 38) May I make any changes to my R/C transmitter?
95.239 (R/C Rule 39) Do I have to make my R/C station available for inspection?
95.240 (R/C Rule 40) What are my station records?
95.241 (R/C Rule 41) How are the key words in these rules defined?
95.242 (R/C Rule 42) Where do I get FCC application forms?
95.243 (R/C Rule 43) How do I contact the FCC?
95.244 (R/C Rule 44) Where are the FCC Field Offices located?

Authority: Sec. 4(i), Pub. L. 416, June 19,1934, 48 Stat. 1068 and sec. 303(r), Pub. L. 97, May 20, 1937, 50 Stat 191; (47 U.S.C. 154(i) and 303(r)).

EXISTING HEADING

General

PROPOSED HEADING

General Information on the R/C Service

EXISTING RULE

§ 95.201 Basis and purpose.

These rules are designed to provide for radio signaling, for the control of remote objects or devices by means of radio; all to the extent that these uses are not specifically prohibited in this part.

PROPOSED RULE

§ 95.201 (R/C Rule 1) What is the Radio Control (R/C) Radio Service?

The R/C Service is a private, one-way, short distance, non-voice communications service for turning on or off remote devices.

EXPLANATION

The proposed rule replaces § 95.201. We rewrote this rule in descriptive language to explain the purpose and uses of the R/C Service.

We define remote and device in R/C Rule 41.

EXISTING RULE

None.

PROPOSED RULE

§ 95.202 (R/C Rule 2) How do I use these rules?

(a) Read and obey the rules. See R/C Rule 34 for the penalties for violations of these rules.

(b) Where the rules use the word "you", "you" means an applicant, a licensee, or an individual holding a valid STA (special temporary authority) where appropriate.

(c) Where the rules use the word "person," the rules are concerned with any person, including an individual, a corporation, a partnership, or an association.

EXPLANATION

We believe it is helpful to include a section on proper usage of the rules. A discussion of the scope of the rules will assist licensees to understand their responsibilities under these rules.

EXISTING RULE

§ 95.251 Station authorization required.

No radio station shall be operated in this service except under and in accordance with an authorization granted by the Federal Communications Commission.

PROPOSED RULE

§ 95.203 (R/C Rule 3) Do I need a license?

Before operating a R/C transmitter, you must have authority from the FCC as follows:

An Individual Must:

Get a R/C license from the FCC; or
Operate a R/C transmitter under the authority of another person's license. (See R/C Rule 23)

An Association, Partnership, Corporation, or Governmental Unit Must:

Get a R/C license from the FCC; or
Request, receive, and comply with a special temporary authority or other special authorization from the FCC.

EXPLANATION

The proposed rule emphasizes the requirement that individuals and organizations must have a R/C license, or qualify to operate under the authority of another's license, before operating a R/C station.

EXISTING RULE

§ 95.211 Eligibility for station license.

(a) Subject to the general restrictions of § 95.213 any person is eligible to hold an authorization to operate a station: *Provided,* That, if an applicant is an individual or partnership, such individual or each partner is twelve or more years of age. An unincorporated association, when licensed under the provisions of this paragraph, may upon specific prior approval of the Commission provide radiocommunications for its members.

Note.—While the basis of eligibility in this service includes any state, territorial, or local governmental entity, or any agency operating by the authority of such governmental entity, including any duty authorized state, territorial, or local civil defense agency, it should be noted that the frequencies available to stations in this service are shared without distinction between all licensees and that no protection is afforded to the communications of any station in this service from interference which may be caused by the authorized operation of other licensed stations.

(b) No person shall hold more than one station license.

§ 95.213 General citizenship requirements.

A station license shall not be granted to or held by a foreign government or a representative thereof.

PROPOSED RULE

§ 95.204 (R/C Rule 4) Am I eligible to get a R/C license?

(a) You are eligible for a R/C license if—

You are:	*And you are not:*
An individual, and you are twelve years old or older;	
A partnership, and each partner is twelve years old or older;	
A corporation;	a foreign government
An association;	a representative of a foreign government or
A state, territorial or local governmental unit; or	a federal government agency
Other legal entity	

(b) You may not have more than one R/C license at any one time.

(c) Any agency operating under the authority of an eligible governmental unit, including an authorized Civil Defense agency, is also eligible for a R/C license.

(d) a subsidiary of division of a corporation is not eligible for its own R/C license unless the subsidiary or division is separately incorporated.

EXPLANATION

We rewrote this rule to make it easier to understand. We deleted the reference to sharing of frequencies in the note to § 95.211 because the refereńce was not regulatory.

EXISTING HEADING

Applications and Licenses.

PROPOSED HEADING

How to Apply for Your R/C License.

EXISTING RULE

§ 95.215 Standard forms to be used.

(a) FCC Form 505. *Application for Station License in the R/C or CB service.* This form shall be used when:

(1) Application is made for a new station authorization.

* * * * *

§ 95.217 Filing of applications.

(a) To assure that necessary information is supplied in a consistent manner by all persons, standard forms are prescribed for use in connection with the majority of applications and reports submitted for Commission consideration. Standard numbered forms applicable to this service are discussed in § 95.215, and may be obtained from the Washington, D.C. 20554, office of the Commission, or from any of its engineering field offices.

(b) All formal applications for new, modified, or renewal station authorizations shall be submitted to the Commission's office at Gettysburg, Pa. 17236.

* * * * *

(c) Unless otherwise specified, an application shall be filed at least 60 days prior to the date on which it is desired that Commission action thereon be completed.

* * * * *

(d) Failure on the part of the applicant to provide all the information required by the application form, or to supply the necessary exhibits or supplementary statements may constitute a defect in the application.

(e) Applicants proposing to construct a radio on a site located on land under the jurisdiction of the U.S. Forest Service, U.S. Department of Agriculture, or the Bureau of Land Management, U.S. Department of the Interior, must supply the information and must follow the procedure prescribed by § 1.70 of this chapter.

§ 95.223 Defective applications.

(a) If an applicant is requested by the Commission to file any documents or information not inlcuded in the prescribed application form, a failure to comply with such request will constitute a defect in the application.

(b) When an application is considered to be incomplete or defective, such application will be returned to the applicant, unless the Commission may otherwise direct. The reason for return of the applications will be indicated, and if appropriate, necessary additions or corrections will be suggested.

§ 95.225 Amendment or dismissal of application.

(a) Any application may be amended upon request of the applicant as a matter of right prior to the time the application is granted or designated for hearing. Each amendment to an application shall be signed and submitted in the same manner and with the same number of copies as required for the original application.

(b) Any application may, upon written request signed by the applicant or his attorney, be dismissed without prejudice as a matter of right prior to the time the application is granted or designated for hearing.

§ 95.227 Partial grant.

Where the Commission, without a hearing, grants an application in part, or with any privileges, terms, or conditions other than those requested, the action of the Commission shall be considered as a grant of such application unless the applicant shall, within 30 days from the date on which such grant is made, or from its effective date if a later date is specified, file with the Commission a written rejection of the grant as made. Upon receipt of such rejection, the Commission will vacate its original action upon the application and, if appropriate, set the application for hearing.

PROPOSED RULE

§ 95.205 (R/C Rule 5) How do I apply for a R/C license?

(a) You apply for a R/C license by filling out an application (FCC Form 505) and sending it to the FCC, Gettysburg, Pa. 17325.

(b) You can get applications from the FCC; Washington, D.C. 20554 or from any FCC field office. (A list of FCC field offices is contained in R/C Rule 44. R/C equipment dealers also have application forms.

(c) If you have questions about your application, you should write to the Licensing Division, FCC, Gettysburg, PA 17325.

(d) If your application is not completely filled out, if you do not make the necessary certifications, or you do not include all necessary information with your application, the FCC may return your application.

EXPLANATION

We combined portions of §§ 95.215, 95.217, and 95.223 in this proposed rule. The purpose of combining these sections was to put all information on applying for an R/C license in one rule.

We deleted §§ 95.225 and 95.227 because they were not relevant to the R/C Service.

EXISTING RULE

§ 95.217 Filing of applications.

* * * * *

(c) Unless otherwise specified, an application shall be filed at least 60 days prior to the date on which it is desired that Commission action thereon be completed. In any case where the applicant has made timely and sufficient application for renewal of license, in accordance with the Commission's rules, no license with reference to any activity of a continuing nature shall expire until such application shall have been finally determined.

* * * * *

PROPOSED RULE

§ 95.206 (R/C Rule 6) May I operate my R/C station while my application is being processed?

(a) You must not operate your R/C station until you have received your R/C license.

(b) If you are renewing your license, and you have sent your application before your R/C license expires, you may continue to operate under that license until the FCC acts on your application. You should keep a copy of the application you sent to the FCC.

EXPLANATION

This rule replaces the second sentence of § 95.217(c). We expanded this provision to

make it clear when you may continue transmitting while license renewal is pending.

EXISTING RULE

§ 95.215 Standard forms to be used.

(a) FCC Form 505. *Application for Station License in the R/C or CB Service.* This form shall be used when:

* * * * *

(2) Application is made for modification of any existing station authorization in those cases where prior Commission approval of certain changes is required (see § 95.235).

(3) Application is made for renewal of an existing station authorization, or for reinstatement of such an expired authorization.

§ 95.217 Filing of applications.

* * * * *

(b) All formal applications for new, modified, or renewal station authorizations shall be submitted to the Commission's Office at Gettysburg, Pa. 17236.

* * * * *

(c) Unless otherwise specified, an application shall be filed at least 60 days prior to the date on which it is desired that Commission action thereon be completed.

* * * * *

PROPOSED RULE

§ 95.207 (R/C Rule 7) How do I renew my R/C license?

(a) You renew your R/C license in the same way that you apply for a new R/C license. You should allow at least sixty days for the FCC to act on your application.

(b) If you send your application before your license expires, you may continue to operate under that license until the FCC acts on yur application. You should keep a copy of the application you sent to the FCC.

(c) You must stop transmitting as soon as your license expires, unless you have already sent your renewal application to the FCC. You may not begin transmitting again until you have received a new license from the FCC.

EXPLANATION

Our purpose was to put all information on applying to renew a R/C license in one rule.

EXISTING RULE

§ 95.215 Standard forms to be used.

* * * * *

(b) *FCC Form 703. Application for Consent to Transfer of Control of Corporation Holding Construction Permit or Station License.* This form shall be used when application is made for consent to transfer control of a corporation holding any station authorization.

§ 95.217 Filing of applications.

* * * * *

(c) Unless otherwise specified, an application shall be filed at least 60 days prior to the date on which it is desired that Commission action thereon be completed.

* * * * *

PROPOSED RULE

§ 95.208 (R/C Rule 8) How does a corporation holding a R/C license apply for consent to transfer control of the corporation?

If a corporation holds a R/C license, it must obtain written permission from the FCC before it transfers control of the corporation if it wishes the new corporation to be able to operate under its R/C license. A request for this consent must be made on FCC Form 703, and must be sent to FCC, Gettysburg, PA, 17325.

EXPLANATION

The propoosed language makes it clear that a corporation holding a R/C license must get permission from the FCC before it can transfer control. The proposed language also explains why this apparently unusual requirement exists.

EXISTING RULE

§ 95.219 Mailing address furnished by licensee.

Except for applications submitted by Canadian citizens pursuant to agreement between the United States and Canada (TIAS No. 6931), each application shall set forth and each licensee shall furnish the Commission with an address in the United States to be used by the Commission in serving documents or directing correspondence to that license. Unless any licensee advises the Commission to the contrary, the address contained in the licensee's most recent application will be used by the Commission for these purposes.

PROPOSED RULE

§ 95.209 (R/C Rule 9) What address do I put on my application?

You must include your current complete mailing address in the United States and station address on your R/C license application.

EXPLANATION

We deleted the reference to the agreement between Canada and the United States (TIAS 6931) because it is not relevant to the R/C Service.

EXISTING RULE

§ 95.221 Who may sign applications.

(a) Except as provided in paragraph (b) of this section, applications, amendments thereto, and related statements of fact required by the Commission shall be personally signed by the applicant, if the applicant is an individual; by one of the partners, if the applicant is a partnership; by an officer, if the applicant is a corporation; or by a member who is an officer, if the applicant is an unicorporated association. Applications, amendments, and related statements of fact filed on behalf of eligible government entities, such as states and territories of the United States and political subdivisons thereof, the District of Columbia, and units of local government, including incorporated municipalities, shall be signed by such duly elected or appointed officials as may be competent to do so under the laws of the applicable jurisdiction.

(b) Applications amendments thereto, and related statements of fact required by the Commission may be signed by the applicant's attorney in case of the applicant's physical disability or of his absence from the United States. The attorney shall in that event separately set forth the reason why the application is not signed by the applicant. In addition, if any matter is stated on the basis of the attorney's belief only (rather than his knowledge), he shall separately set forth his reasons for believing that such statements are true.

(c) Only the original of applications, amendments, or related statements of fact need be signed: copies may be conformed.

(d) Applications, amendments, and related statements of fact need not be signed under oath. Willful false statements made therein, however, are punishable by fine and imprisonment. U.S. Code, Title 18, section 1001, and by appropriate administrative sanctions, including revocation of station license pursuant to section 312(a)(1) of the Communications Act of 1934, as amended.

PROPOSED RULE

§ 95.210 (R/C Rule 10) How do I sign my R/C license application?

(a) If you are an individual, you must sign your own application personally.

(b) If you are not an individual, you must sign your application as follows:

Applicant	*Signature*
Partnership	One of the partners.
Corporation	Authorized employee.
Association	Member who is an officer.
Governmental Unit	Appropriate elected or appointed official.

(c) If the FCC requires you to submit additional information, you must sign it in the same way you signed the application.

(d) If you willfully make a false statement on your application, you may be punished by fine, imprisonment and revocation of your station license.

EXPLANATION

We deleted subsection (b) because it duplicates § 1.1913(b) of the Commission's Rules. We deleted the first sentence of subsection (d) because it was unnecessary.

EXISTING RULE

§ 95.229 License term.

Licenses will normally be issued for a term of 5 years from the date of original issuance, major modification, or renewal.

PROPOSED RULE

§ 95.211 (R/C Rule 11) How long is my license term?

Your R/C license term is usually five years from the date the FCC issued or renewed it. The expiration date is printed on the license.

EXPLANATION

We rewrote § 95.229 in simpler language and added helpful information.

EXISTING RULE

§ 95.231 Types of operation authorized.

Stations are authorized as mobile stations only; however, they may be operated at fixed locations in accordance with other provisions of this part.

PROPOSED RULE

§ 95.212 (R/C Rule 12) What kind of operation does my license allow?

(a) You must obey all the conditions and terms of your license.

(b) You may operate your R/C station from your car, your house, or any fixed location. (The FCC licenses all R/C stations as mobile stations.)

(c) Your R/C license allows you to operate with up to 25 transmitters. To use more then 25 transmitters, you must request and receive written permission from the FCC Gettysburg, PA 17325.

Attach a letter to your application explaining why you need more than 25 transmitters and how you will control the operation of the transmitters.

EXPLANATION

We rewrote this rule to make it clear that while the FCC licenses R/C stations as mobile stations only, you may operate your R/C station at fixed locations.

We define mobile station in R/C Rule 41.

EXISTING RULE

§ 95.325 Changes in terms of license.

* * * * *

(b) Commission approval is not required to change either of the following terms:

(1) Name of a licensee (without changes in the ownership, control or corporate structure).

(2) Mailing address of a licensee.

Although prior approval of the Commission is not required for any of these changes, prompt written notice must be furnished to the Commission as soon as possible after the change has been implemented. This notice, which may be in letter form, shall contain the name and address of the licensee as they appear in the Commission's records, the new name and/or address, and the call signs and classes of all radio stations authorized to the licensee under this part. This notice shall be sent to FCC, Gettysburg, PA, 17325, and a copy shall be maintained with the records of the station.

PROPOSED RULE

§ 95.213 (R/C Rule 13) What must I do if my name or address changes?

(a) If your name, station address, or mailing address changes, you must inform the FCC, Gettysburg, Pa. 17325. Your notice must include the name and address as it appears on your license, the new name or new address, and your call sign. You must keep a copy of this notice in your station records. (Your notice may be in letter form. Your R/C license may have a form attached to it which you can also use for this purpose.)

(b) If you hold a R/C license, and then incorporate, form a new partnership, or form a new asociation, you must apply for a new R/C license.

EXPLANATION

We rewrote this rule and added subsection (b). The requirements of these subsections are implied in the current rules.

The FCC requires your current address in order to notify you of any interference complaints.

EXISTING RULE

§ 95.233 Transfer of license prohibited.

A station authorization may not be transferred or assigned. In lieu of such transfer or assignment, an application for new station authorization shall be filed in each case, and the previous authorization shall be forwarded to the Commission for a cancellation.

PROPOSED RULE

§ 95.214 (R/C Rule 14) May I transfer my R/C license to another person?

(a) You must not let anyone who is not listed in R/C Rule 23 operate under your license. You cannot transfer, assign, sell, or give your R/C license or its operating authority to another person.

(b) If you sell or give your R/C transmitter to another person, you must not transfer your R/C license with the transmitter. The new owner of the R/C transmitter must obtain a R/C license or other authority from the FCC in his or her own name or qualify to operate under R/C Rule 23 before he or she can operate the transmitter.

EXPLANATION

We replaced § 95.233 with this new rule. The new rule uses simpler language to explain that you cannot give or sell your R/C license to another person.

EXISTING RULE

§ 95.237 Limitations on antenna structures.

* * * * *

(c) Subpart I of Part 1 of this chapter contains procedures implementing the National Environmental Policy Act of 1969. Applications for authorization of the construction of certain classes of communications facilities defined as "major actions" in § 1.305 thereof, are required to be accompanied by specified statements. Generally these classes are:

(1) Antenna towers or supporting structures which exceed 300 feet in height and are not located in areas devoted to heavy industry or to agriculture.

(2) Communications facilities to be located in the following areas:

(i) Facilities which are to be located in an officially designated wilderness area or in an area whose designation as a wilderness is pending consideration;

(ii) Facilities which are to be located in an officially designated wildlife preserve or in an area whose designation as a wildlife preserve is pending consideration;

(iii) Facilities which will affect districts, sites, buildings, structures or objects, significant in American history, architecture, archaeology or culture, which are listed in the National Register of Historic Places or are eligible for listing (see 36 CFR 800); and

(iv) Facilities to be located in areas which are recognized either nationally or locally for their special scenic or recreational value.

(3) Facilities whose construction will involve extensive change in surface

features (e.g. wetland fill, deforestation or water diversion).

Note.—The provisions of this paragraph do not include the mounting of FM, television or other antennas comparable thereto in size on an existing building or antenna tower. The use of existing routes, buildings and towers is an environmentally desirable alternative to the construction of new routes or towers and is encouraged.

If the required statements do not accompany the application, the pertinent facts may be brought to the attention of the Commission by any interested person during the course of the license term and considered de novo by the Commission.

PROPOSED RULE

§ 95.215 (R/C Rule 15) Are there any special restrictions on the location of my

(a) If your R/C station will be constructed on land of environmental or historical importance (such as a location significant in American history, architecture or culture), you may be required to provide additional information with your license application and to comply with § 1.1305–1.1319 of the FCC's Rules.

(b) If your R/C station is located on land controlled by the Department of Defense, you may be required to comply with additional regulations imposed by the commanding officer of the installation.

EXPLANATION

We redrafted and simplified § 95.237(c). We added paragraph (b) to the proposed rule to clarify the responsibilities of a R/C licensee who operates a R/C station on land controlled by the Department of Defense.

EXISTING HEADING

Station Operating Requirements

PROPOSED HEADING

How To Operate a R/C Station

EXISTING RULE

§ 95.255 Authorized frequencies.

R/C stations are authorized to operate on the following frequencies subject to the classifications and conditions set forth below.

(a) Control of remote objects or devices by radio, or remote actuation of devices which are used solely as a means of attracting attention.

(MHz): 26.995; 27.045; 27.095; 27.145; 27.195; 27.255.[1]

(b) Radio remote control of any model used for hobby purposes.

(MHz): 72.16; 72.32; 72.96.

[1]This frequency is shared with stations in other services.

(c) Radio remote control of aircraft models only.

(MHz): 72.08; 72.24; 72.40: 75.64.

(d) Special conditions.

(1) Such stations operate on a shared basis with other stations in this service.

(2) The frequencies available for the control of remote objects or devices or for the remote actuation of devices which are used solely as a means of attracting attention are not afforded any protection from interference caused by the operation of industrial, scientific, or medical devices within the 26.96–27.28 MHz band.

(3) The frequencies available for the radio remote control of models used for hobby purposes are subject to the condition that interference will not be caused to the remote control of industrial equipment operating on the same or adjacent frequencies or to the reception of television transmissions on Channels 4 and 5. These frequencies are not afforded any protection from interference due to the operation of fixed and mobile stations in other services assigned to the same or adjacent frequencies.

§ 95.257 Policy govering the availability of frequencies.

(a) Each frequency available for use by stations in this service is available on a shared basis only, and will not be assigned for the exclusive use of any one applicant; however, the use of a particular frequency may be restricted to (or in) one or more specified geographical areas.

(b) All applicants and licensees in this service shall cooperate in the selection and use of the frequencies assigned or authorized, in order to minimize interference and thereby obtain the most effective use of the authorized facilities.

(c) Simultaneous operation on more than one frequency in the 72–76 MHz band by a transmitter or transmitters of a single licensee is prohibited whenever such operation will cause harmful interference to the operation of other licensees in this service.

PROPOSED RULE

§ 95.216 (R/C Rule 16) On what channels may I operate?

(a) You may transmit on only the following channels (frequencies):

If you use your R/C station to control	You may operate on these frequencies
Aircraft model devices	26.995 MHz
	27.045 MHz
	27.095 MHz
	27.145 MHz
	27.195 MHz
	27.255 MHz
	72.08 MHz
	72.16 MHz
	72.24 MHz
	72.32 MHz
	72.40 MHz
	72.64 MHz
	72.96 MHz
Other model devices	26.995 MHz
	27.045 MHz
	27.095 MHz
	27.145 MHz
	27.195 MHz
	27.255 MHz
	72.16 MHz
	72.32 MHz
	72.96 MHz
Any kind of device	26.995 MHz
	27.045 MHz
	27.095 MHz
	27.145 MHz
	27.195 MHz
	27.255 MHz

(b) You must share available frequencies with other R/C licensees and you must cooperate in the selection and use of those frequencies. You must share the frequency 27.255 MHz with stations in other services. *There is no protection from interference on any of these frequencies.*

(c) You may not operate you transmitter or transmitters simultaneously on more than one frequency in the 72–76 MHz band.

(d) You must stop operating your R/C station if you interfere with: (a) remote control of industrial equipment operating on or adjacent to, 72.16, 72.32 and 72.96 MHz, and (b) the reception of television transmissions on channels 4 and 5.

EXPLANATION

Our purpose in combining these two sections was to put all information on available frequencies for R/C stations in one rule.

We rewrote this rule to explain more clearly which frequencies you can use for different R/C devices. We replaced the references in § 95.255(d)(2) with the last sentence in proposed R/C Rule 16(b).

EXISTING RULE

§ 95.237 Limitations on antenna structures.

(a) All antennas (both receiving and transmitting) and supporting structures associated or used in conjunction with a station operated from a fixed location must comply with at least one of the following:

(1) The antenna and its supporting structure does not exceed 20 feet in height above ground level; or

(2) The antenna and its supporting structure does not exceed by more than 20 feet the height of any natural formation, tree or man-made structure on which it is mounted; or

Note.—A man-made structure is any construction other than a tower, mast, or pole.

(3) The antenna is mounted on the transmitting antenna structure of another authorized radio station and exceeds neither 60 feet above ground level nor the height of the antenna structure of the other station; or

(4) The antenna is mounted on and does not exceed the height of the antenna structure otherwise used solely for receiving purposes, which structure itself complies with subparagraph (1) or (2) of this paragraph.

(5) The antenna is omnidirectional and the highest point of the antenna and its supporting structure does not exceed 60 feet above ground level and the highest point also does not exceed one foot in height above the established airport elevation for each 100 feet of horizontal distance from the nearest point of the nearest airport runway.

Note.—A work sheet will be made available upon request to assist in determining the maximum permissible height of an antenna structure.

(b) R/C stations operated on frequencies in the 72–76 MHz band shall employ a transmitting antenna which complies with all of the following:

(1) The gain of the antenna shall not exceed that of a half-wave dipole;

(2) The antenna shall be immediately attached to, and an integral part of, the transmitter; and

(3) Only vertical polarization shall be used.

PROPOSED RULE

§ 95.217 (R/C rule 17) How high may I put my antenna?

(a) If your antenna is installed at a fixed location, the antenna structure (whether receiving, transmitting or both) must comply with *either one* of the following:

(1) The highest point must not be more than 6.10 meters (20 feet) higher than the highest point of the building or tree on which it is mounted; or

(2) The highest point must not be more than 18.3 meters (60 feet) above the ground.

(b) If your R/C station is located near an airport, and if your antenna structure is more than 6.1 meters (20 feet) high, you may have to obey additional restrictions. The highest point of your antenna must not exceed one meter above the airport elevation for every hundred meters of distance from the nearest point of the nearest airport runway. Differences in ground elevation between your antenna and the airport runway may complicate this formula. If your R/C station is near an airport, you may contact the FCC for a worksheet to help you figure the maximum allowable height for your antenna. Consult Part 17 of the FCC's Rules for more information.

WARNING: INSTALLATION AND REMOVAL OF R/C STATION ANTENNAS NEAR POWERLINES IS DANGEROUS. FOR YOUR SAFETY, FOLLOW THE INSTALLATION DIRECTIONS INCLUDED WITH YOUR ANTENNA.

Explanation

The proposed rule greatly simplifies the requirements of § 95.237(a) and explains in simpler language how high you may put your R/C antenna. One important simplification involves omnidirectional and directional antennas. While the current rules treat both omnidirectional and directional antennas differently, the new rule permits mounting of both types of antennas at the same heights. We made this change to the CB Rules when we simplified them in 1978. Since this change has worked well for the CB Radio Service, we believe it will work well for the R/C Service also.

The requirements of 95.237(b) are important for manufacturers of R/C transmitters in the 72–76 MHz band, and have little meaning to users. Therefore, we are proposing to relocate these requirements to Part 95, Subpart E, Technical Regulations, new section 95.618 *Antenna limitations*

EXISTING RULE

§ 95.235 Changes in terms of license.

* * * * *

(c) Commission approval is not required to substitute transmitting equipment at any station, provided that the equipment employed is included in the Commission's "Radio Equipment List" and is listed as acceptable for use in the R/C Service. Provided it is crystal-controlled and otherwise complies with the power, frequency tolerance, emission and modulation percentage limitations prescribed, non-type acceptance equipment may be substituted at R/C stations operated on frequences in the 26.99–27.26 MHz band.

PROPOSED RULE

§ 95.218 (R/C Rule 18) What equipment may I use at my R/C station?

(a) You must use an FCC type-accepted R/C transmitter at your R/C station; or

(b) If your equipment is crystal controlled and if it otherwise complies with the power, frequency tolerance, emission and modulation limitation requirements of Part 95, Subpart E, you may use a non-type accepted transmitter at an R/C station only on the following channels:

(1) 26.995 MHz.

(2) 27.045 MHz.

(3) 27.095 MHz.

(4) 27.145 MHz.

(5) 27.195 MHz.

(6) 27.255 MHz.

(c) If you assemble an R/C transmitter from a kit, the kit must be type-accepted if you intend to transmit on the 72–76 MHz channels. If you intend to transmit on the channels in the 27 MHz band, the kit does not have to be type-accepted.

(d) You must not make, or have made, *any* internal modification to a type-accepted R/C transmitter. Any internal modification to a type-accepted R/C transmitter cancels the type-acceptance. (Internal modification does not mean repair or servicing of the R/C transmitter.) You can identify an FCC type-accepted transmitter by the type-acceptance label placed on the transmitter by the manufacturer. You may examine a list of type-accepted equipment at any FCC Field Office (See R/C Rule 43) or at FCC Headquarters in Washington, DC.

EXPLANATION

We deleted language in the current rule and rewrote it in language that is easier to understand. We added a subsection about kits to address this situation that is implied in the language of the current rules, and because transmitter assembled from kits are common in the R/C Service.

EXISTING RULE

None.

PROPOSED RULE

§ 95.219 (R/C Rule 19) How much power may I use?

(a) Your R/C transmitter power output must not exceed the following values under any conditions:

Channels (MHz)	Transmitter power in watts (carrier power)
27.255	25
26.995–27.195	4
72–76	0.75

(b) If you need more information about the power rule, see the technical rules in Subpart E of Part 95.

EXPLANATION

This rule does not appear in the current R/C Rules. We are proposing to include it in the R/C Rules as we did in the CB Rules because R/C licensees also are responsible for its observace. Over-powered operation is probably the most common cause of interference to television reception and other R/C stations. All type-accepted R/C transmitters meet these specifications, and the purchasers of such units need not ordinarily be concerned about violation of this rule.

EXISTING RULE

§ 95.259 Emission types authorized.

(a) Transmitters used in this service are authorized to use amplitude tone modulation or on-off unmodulated carrier only, for the control of remote objects or devices by radio or for the remote actuation of devices which are used solely as a means of attracting attention.

(b) A station in this service is prohibited from transmitting any form of telegraphy, telephony or recorded communications.

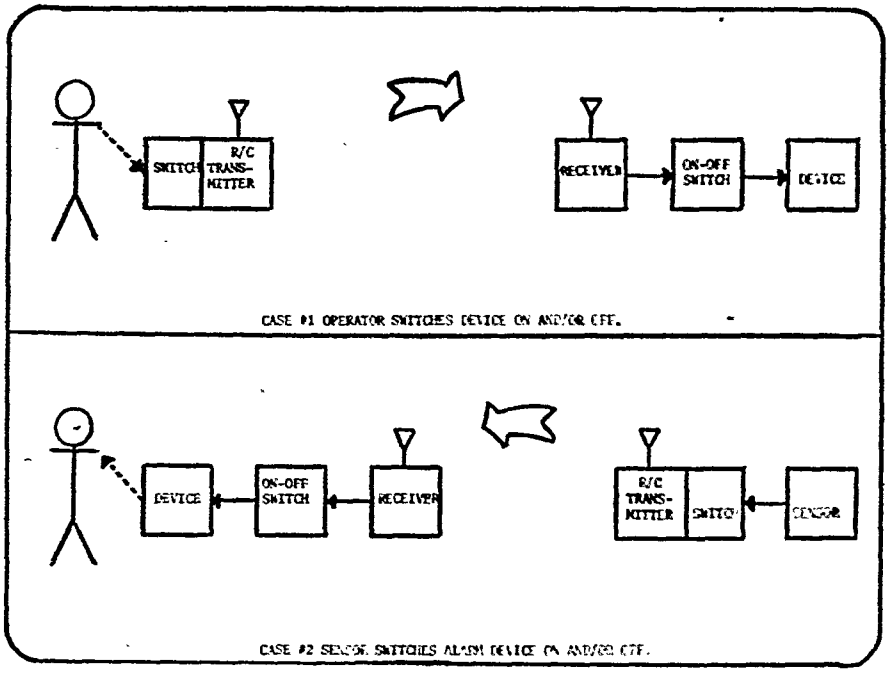
(c) Telemetering, except for the transmission of simple, short duration signals indicating the presence or absence of a condition or the occurrence of an event, is also prohibited.

PROPOSED RULE

§ 95.220 (R/C Rule 20) What communications may I transmit?

(a) You may only use your R/C station to transmit one-way communications.

(b) You may only use your R/C station to transmit amplitude tone modulated (A9) or on-off unmodulated (A0) type signals for the following two purposes diagramed below:



EXPLANATION

We rewrote this rule in positive language. We simplified it by using a drawing to most clearly illustrate the uses of R/C station emissions.

EXISTING RULE

§ 95.301 Prohibited communications.

(a) A station shall not be used:

(1) For any purpose, or in connection with any activity, which is contrary to Federal, State, or local law.

(2) To intentionally interfere with the communications of another station.

* * * * *

PROPOSED RULE

§ 95.221 (R/C Rule 21) What communications are prohibited?

You must not use a R/C station—

(a) In connection with any activity which is against Federal, State or local law.

(b) To transmit voice or telegraphy communications.

(c) To transmit signals that intentionally interfere with another station's transmissions.

EXISTING RULE

§ 95.301 Prohibited communications.

* * * * *

(3) To carry on communications for hire, whether the remuneration or benefit received is direct or indirect.

* * * * *

PROPOSED RULE

§ 95.222 (R/C Rule 22) May I be paid to use my R/C station?

(a) You may not accept direct or indirect payment for transmitting with a R/C station.

(b) You may use a R/C station to help you provide a service, and be paid for that service, as long as you are paid only for the service and not for the actual use of the R/C station.

EXPLANATION

We propose to make a separate rule section of § 95.301(a) (3) because of the frequency with which questions concerning compensation for the use of CB radios arose. Although this issue is not of great concern to R/C licensees, we believe that the current rule section should be clarified for users of the R/C Service also. The difference in meaning between (a) and (b) is:

(a) An individual cannot accept monetary renumeration or anything of value, such as goods or services, as payment for transmitting the message.

(b) For example, an R/C station can be used as a one-way paging service. A charge may be made for providing the service, but no charge may be made for the transmissions themselves.

EXISTING RULE

§ 95.265 Operation by, or on behalf of, persons other than the licensee.

(a) Transmitters authorized in this service must be under the control of the licensee at all times. A licensee shall not transfer, assign, or dispose of, in any manner, directly or indirectly, the operating authority under his station license, and shall be responsible for the proper operation of all units of the station.

(b) Stations may be operated only by the following persons, except as provided in paragraph (c) of this section:

(1) The licensee;

(2) Members of the licensee's immediate family living in the same household;

(3) The partners, if the licensee is a partnership, provided the communications relate to the business of the partnership;

(4) The members, if the licensee is an unincorporated association, provided the communications relate to the business of the association;

(5) Employees of the licensee only while acting within the scope of their employment;

(6) Any person under the control or supervision of the licensee when the station is used solely for the control of remote objects or devices, other than devices used only as a means of attracting attention; and

(7) Other persons, upon specific prior approval of the Commission shown on or attached to the station license, under the following circumstances:

(i) Licensee is a corporation and proposes to provide private radiocommunications facilities for the transmission of messages of signals by or on behalf of its parent corporation, another subsidiary of the parent corporation, or its own subsidiary. Any remuneration or compensation received by the licensee for the use of the radiocommunication facilities shall be governed by a contract entered into by the parties concerned and the total of the compensation shall not exceed the cost of providing the facilities. Records which show the cost of service and its nonprofit or cost-sharing basis shall be maintained by the license.

(ii) Other cases where there is a need for other persons to operate a unit of licensee's radio station. Requests for authority may be made either at the time of the filing of the application for station license or thereafter by letter, In either case, the licensee must show the nature of the proposed use and that it relates to an activity of the licensee, how he proposes to maintain control over the transmitters at all times, and why it is not appropriate for such other person to obtain a station license in his own name. The authority, if granted, may be specific with respect to the names of the persons who are permitted to operate, or may authorize operation by unnamed persons for specific purposes. This authority may be revoked by the Commission, in its discretion, at any time.

* * * * *

PROPOSED RULE

§ 95.223 (R/C Rule 23) Who may operate under my license?

(a) You may permit anyone to operate under your R/C license if any kind of *model* device is used.

(b) You may permit only those persons listed below to operate under your R/C license if a *device other than a model* is used.

If your are	The authorized users are
Individual.....	*Yourself*
	Members of your immediate *Family* living in your household.
	Each of your *Employees* as long as his or her transmissions concern *your* business.
Partnership.....	Each *Partner* and *Employee* of the partnership, as long as his or her transmissions concern the business of the partnership.
Association.....	Each *Member* of the association as long as his or her transmissions concern the business of the association.
	Each *Employee* of the association, as long as his or her transmissions concern the business of the association.
Corporation.....	Each *Officer, Director,* and *Employee* of the corporation, as long as his or her transmissions concern the business of the corporation.
Governmental Unit.	Each *Employee* of the governmental unit, as long as his or her transmissions concern the business of the governmental unit.

(c) Someone else may operate your R/C station if you request, and the FCC grants, special authorization to allow operation under your license where he or she would not otherwise qualify to operate your R/C station.

(d) If you are a corporation, you may, upon request and FCC approval, permit your parent corporation or subsidiary to provide you with a private radiocommunications service under your license if the subsidiary or parent corporation provides the service on a non-profit or cost-sharing basis.

(e) If you authorize any of the persons listed in paragraphs (a), (b), (c) of this rule to operate under your license, you must keep a list of all authorized users as part of your station records.

EXPLANATION

We reorganized § 95.265 into two separate rules. This reorganization makes the information contained in § 95.265 more accesssible to users of the R/C Rules. We added the information contained in § 95.301(b) to R/C Rule 25 to create a more logical sequence. Proposed subsections (c) and (d) above were added because they were implied in the current Rules.

EXISTING RULE

§ 95.265 Operation by, or on behalf of, persons other than the licensee.

(a) Transmitters authorized in this service must be under the control of the licensee at all times. A licensee shall not transfer, assign, or dispose of, in any manner, directly or indirectly, the operating authority under his station license, and shall be responsible for the proper operation of all units of the station.

* * * * *

PROPOSED RULE

§ 95.224 (R/C Rule 24) Who is responsible for transmissions made under the authority of my license?

You are responsible for all transmissions which are made by you or others under the authority of your license, including transmissions which are against these rules. Because you are responsible for all transmissions, you should be certain that anyone operating under your license understands and obeys the rules.

EXPLANATION

This proposed rule replaces § 95.265(a). We rewrote this rule in simpler language. We deleted the reference in § 95.265(a) to transfer of authority because that language appears in R/C Rule 4.

EXISTING RULE

§ 95.265 Operation by, or on behalf of, persons other than the licensee.

* * * * *

(c) An individual who was formerly a station licensee shall not be permitted to operate any station of the same class licensed to another person until such time as he again has been issued a valid radio station license, when his license has been:

(1) Revoked by the Commission.

(2) Surrendered for cancellation after the institution of revocation proceedings by the Commission.

(3) Surrendered for cancellation after a notice of apparent liability to forfeiture has been served by the Commission.

§ 95.301 Prohibited communications.

* * * * *

(b) A licensee of a station who is engaged in the business of selling radio transmitting equipment shall not allow a customer to operate under his station license.

PROPOSED RULE

§ 95.225 (R/C Rule 25) Who must not operate under my license?

(a) You must not permit anyone to operate under your license who is not listed in R/C Rule 23 except in an emergency.

(b) You must not permit anyone who no longer has a R/C license to operate under your license if—

(1) His or her license was revoked by the FCC; or

(2) His or her license was surrendered for cancellation after notice of apparent liability to forfeiture was served by the FCC; or

(3) His or her license was surrendered for cancellation after the FCC instituted revocation proceedings.

(c) You must not permit anyone to operate your R/C station if the FCC has issued a cease and desist order to that person, and the order is still in effect.

(d) You must not permit anyone to operate under your license if that person's most recent R/C license application was denied by the Commission or dismissed with prejudice.

(e) If you sell R/C transmitters, you must not allow a customer to operate a R/C transmitter under the authority of your license.

EXPLANATION

We combined portions of two current rule sections and reorganized them to assist the reader in understanding his or her responsibility to deny operating provileges to certain persons. The proposed introductory paragraph reminds readers that only certain persons are permitted to be authorized operators of another's R/C transmitter.

EXISTING RULE

§ 95.269 Duration of transmissions.

(a) All communications or signals, regardless of their nature, shall be restricted to the minimum practicable transmission time. The radiation of energy shall be limited to transmissions modulated or keyed for actual permissible communications, tests, or control signals. Continuous or uninterrupted transmissions from a single station or between a number of communicating stations is prohibited, except for communications involving the immediate safety of life or property.

(b) The transmission of permissible control signals shall be limited to the minimum practicable time necessary to accomplish the desired control or actuation of remote objects or devices. The continuous radiation of energy for periods exceeding 3 minutes duration for the purpose of transmission of control signals shall be limited to control functions requiring at least one or more changes during each minute of such transmission. However, while it is actually being used to control model aircraft in flight by means of interrupted tone modulation of its carrier, a station may transmit a continuous carrier without being simultaneously modulated if the presence or absence of the carrier also performs a control function. An exception to the limitations contained in this paragraph may be authorized upon a satisfactory showing that a continuous control signal is required to perform a control function which is necessary to insure the safety of life or property.

PROPOSED RULE

§ 95.226 (R/C Rule 26) Do I have to limit the length of my R/C transmission?

(a) You must limit your R/C transmission to the minimum practical time.

(b) The only time your R/C transmission may be continuous signal for more than 3 minutes is when the remote control function requires at least one or more changes during each minute of the transmissions.

(c) Your R/C station may transmit a continuous control signal without it being simultaneously modulated, only if: (1) you are using continuous control modulation to control an aircraft device; and (2) the presence or absence of the signal controls, the device.

(d) If you show that you need a continuous control signal to insure the immediate safety of life or property, the FCC may make an exception to the limitations in this rule.

EXPLANATION

This rule replaces § 95.269. We rewrote the rule in simpler language and deleted the detailed requirements of § 95.269(a) that were unnecessary. We kept the general rule reflected in that subsection, however. This general rule should be more informative to R/C users than more detailed rule.

EXISTING RULE

§ 95.271 Station identification.

(a) the call sign of a station shall consist of three letters followed by four digits or shall consist of four letters followed by four digits.

(b) Unless specifically requried by the station authorization, the transmissions of an R/C station need not be identified.

PROPOSED RULE

§ 95.227 (R/C Rule 27) Must I identify my R/C communications?

No. There is no way to identify R/C communications.

EXPLANATION

We rewrote § 95.271 to clearly state that an R/C operator need not identify his/her station because there is no way to do so. We deleted reference to call sign format because it is purely administrative and has no bearing upon R/C operation. We deleted subsection (b) because it was not relevant to the R/C Service.

EXISTING RULE

§ 95.273 Station location.

(a) a station may be used or operated anywhere in the United States subject to the provisions of paragraph (b) of this section.

(b) A mobile station authorized in this service may be used or operated on any vessel, aircraft, or vehicle of the United States: *Provided,* That when such vessel, aircraft, or vehicle is outside the territorial limits of the United States, the station, its operation, and its operator shall be subject to the governing provisions of any treaty concerning telecommunications to which the United States is a party, and when within the territorial limits of any foreign country, the station shall be subject also to such laws and regulations of that country as may be applicable.

PROPOSED RULE

§ 95.228 (R/C Rule 28) Where may I operate my R/C station?

(a) You may operate your R/C station in any of the 50 United States and in the District of Columbia.

(b) you may operate your R/C station in any of the United States territories, possessions and joint possessions. They are:

(1) Puerto Rico
(2) United States Virgin Islands
(3) Guam
(4) Baker, Canton, Howland and Enderbury Islands
(5) Navassa Island
(6) Johnston and Sand Islands
(7) Midway Island
(8) Jarvis, Palmyra Islands, Kingman Reef
(9) American Samoa and Swain Island
(10) Wake, Wilkes and Peale Islands
(11) Commonwealth of the Northern Marianas
(12) Rancador Key
(13) Quita Sueno Bank
(14) Serrana Bank
(15) Serranilla Bank

(c) You may operate your R/C station in or on any aircraft, vessel, or vehicle of United States registry, with the permission of the appropriate officer.

(d) If you operate you R/C station in or on any aircraft, vessel or vehicle of United States registry that is outside the territorial limits of the United States and inside the territorial limits of a foreign country, you must operate your station according to the applicable laws and regulations of that country.

(e) If your R/C station is in our on any aircraft, vessel or vehicle of the United States registry that is outside the territorial limits of the United States and all foreign countries, you must operate your station according to any applicable telecommunications treaty to which the United States is a party.

EXPLANATION

This rule replaces § 95.273. We explained in greater detail the locations inside and outside the United States where R/C licensees may operate. The proposed rule is written in simpler language and is broken down into subsections so that each requirement is clear and easy to understand.

EXISTING RULE

§ 95.275 Dispatch points and remote control.

(a) No authorization is required to install dispatch points.

(b) Operation of any station by remote control is prohibited except remote control by wire upon specific authorization by the Commission when satisfactory need is shown.

PROPOSED RULE

§ 95.229 (R/C Rule 29) May I operate my R/C transmitter by remote control?

(a) You may *not* operate a R/C transmitter by *radio* remote control.

(b) You may operate an R/C transmitter by *wireline* remote control if you obtain specific approval in writing from the FCC. To obtain FCC approval, you must show why you need to operate your station by wireline remote control. Send your request and justification to the Licensing Division, Private Radio Bureau, FCC, Gettysburg, PA 17325. If you receive FCC approval, you must keep the approval as part of your station records.

EXPLANATION

We expanded the information contained § 96.275(b) to give the address for sending a request for approval to operate your station by wireline remote control. We also added language that any approval of a request must be kept as part of your station records. We deleted subsection (a) as unnecessary because the information contained there was not regulatory.

EXISTING HEADING

Station Administration Requirements

PROPOSED HEADING

Other Things You Need To Know

EXISTING RULE

None.

PROPOSED RULE

§ 95.230 (R/C Rule 30) How long must I keep my license?

You must keep your license (or other authrization) until it expires or until it is terminated.

EXPLANATION

We added this rule to emphasize this requirement which is implied in the current Rules.

EXISTING RULE

§ 95.253 Posting station license.

(a) The current authorization, or a clearly legible photocopy thereof, for each station (including units of a station) operated at a fixed location shall be posted at a conspicuous place at the principal fixed location from which such station is controlled, and a photocopy of such authorization shall also be posted at all other fixed locations from which the station is controlled. If a photocopy of the authorization is posted at the principal control point, the location of the original shall be stated on that photocopy.

(b) The current authorization for each station operated as a mobile station shall be retained as a permanent part of the station records, but need not be posted.

PROPOSED RULE

§ 95.231 (R/C Rule 31) Where must I keep my license?

(a) You must keep your license (or other authorization) in your station records or post it at your station.

(b) You may photocopy your license for any lawful purpose.

EXPLANATION

This rule replaces § 95.253. We rewrote this rule in simpler language to make it easier to understand that you must keep your R/C station license.

EXISTING RULE

None.

PROPOSED RULE

§ 95.232 (R/C Rule 32) What do I do if I lose my license?

If you lose your license, you must request a duplicate license from the FCC, Gettysburg, Pa. 17325. Your request must include your name, your address and your station call sign.

EXPLANATION

We added this rule to emphasize this requirement which is implied in the current Rules.

EXISTING RULE

§ 95.305 Current copy of rules required.

Each licensee in this service shall maintain as a part of his station records a current copy of Subpart C of Part 95, Personal Radio Services, of this chapter. Additional requirements of a technical nature may be found in Subpart E of this part.

PROPOSED RULE

§ 95.233 (R/C Rule 33) Do I need to have a copy of the R/C Rules?

(a) You must keep a current copy of the R/C Rules in your station records. The R/C Rules are published periodically by the Government Printing Office.

(b) You must stay up to date with changes to the R/C Rules. Changes to the R/C Rules are found in the Federal Register and in other publications.

(c) Your R/C station must comply with technical rules found in Subpart E of Part 95, but you do not have to keep those rules in your station records.

EXPLANATION

This rule replaces § 95.305. We expanded this rule to emphasize that you must keep your R/C Rules up to date with changes published in the Federal Register. This requirement is implied in the current rule. We also expanded this rule to emphasize that you must comply with the technical requirements of Part 95, Subpart E even though you do not have to keep a copy of those rules in your station records.

EXISTING RULE

None.

PROPOSED RULE

§ 95.234 (R/C Rule 34) What are the penalties for violating these rules?

(a) If the FCC finds that you have willfully or repeatedly violated the Communications Act, (47 U.S.C. § 1 et seq.), FCC Rules or 18 U.S.C. 1464 (which prohibits the transmission of obscene, indecent or profane language), you may have to pay as much as $2,000 for each violation, up to a total of $5,000. (See Section 503(b) of the Communications Act.)

(b) If the FCC finds that you have willfully or repeatedly violated the Communications Act or FCC rules, it may revoke your R/C license. (Other grounds for revoking a R/C license are listed in Section 312(a) of the Communications Act.)

(c) If the FCC finds that you have violated any section of the Communications Act, you may be ordered to stop whatever action caused the violation. (See Section 312(b) of the Communications Act.)

(d) If a federal court finds that you have willfully and knowingly violated any FCC rule, you may be fined up to $500 for each day you committed the violation. (See Section 502 of the Communications Act.)

(e) If a federal court finds that you have willfully and knowingly violated any provision of the Communications Act, you may be fined up to $10,000, or you may be imprisoned for one year, or both. (See Section 501 of the Communications Act.)

EXPLANATION

The above penalties are not listed in the Communications Act of 1934, not the current rules. We added this rule, however, to clearly spell out the penalties for non-compliance with the law.

EXISTING RULE

§ 95.307 Answers to notices of violations.

(a) Any licensee who appears to have violated any provision of the Communications Act or any provision of this chapter shall be served with a written notice calling the facts to his attention and requesting a statement concerning the matter. FCC Form 793 may be used for this purpose.

(b) Within 10 days from receipt of notice or such other period as may be specified, the licensee shall send a written answer, in duplicate, direct to the office of the Commission originating the notice. If an answer cannot be sent nor an acknowledgment made within such period by reason of illness or other unavoidable circumstances, acknowledgment and answer shall be made at the earliest practicable date with a satisfactory explanation of the delay.

(c) The answer to each notice shall be complete in itself and shall not be abbreviated by reference to other communications or answers to other notices. In every instance the answer shall contain a statement of the action taken to correct the condition or omission complained of and to preclude its recurrence. If the notice relates to violations that may be due to the physical or electrical characteristics of transmitting apparatus, the licensee must comply with the provisions of § 95.621, and the answer to the notice shall state fully what steps, if any, have been taken to prevent future violations, and, if any new apparatus is to be installed, the date such apparatus was ordered, the name of the manufacturer, and the promised date of delivery. If the installation of such apparatus requires a construction permit, the file number of the application shall be given, or if a file number has not been assigned by the Commission, such identification shall be given as will permit ready identification of the application. If the notice of violation relates to lack of attention to or improper operation of the transmitter, the name and license number of the operator in charge, if any, shall also be given.

PROPOSED RULE

§ 95.235 (R/C Rule 35) How do I answer violation notices?

(a) If if appears to the FCC that you have violated the Communications Act or these rules, the FCC may send you a written notice of the apparent violation.

(b) Within the time period stated in the notice, you must provide—

(1) A complete written statement about the apparent violation;

(2) A complete written statement about any action you have taken to correct the apparent violation and to prevent it from happening again; and

(3) The name and station call sign of the person operating at the time of the apparent violation.

(c) You must not shorten your response by references to other communications or notices.

(d) You must send your response to the office of the FCC which sent you the notice.

(e) If you cannot answer a violation notice within the time stated in the notice, because of illness or other unavoidable circumstances, you must answer at the earliest possible time and explain the reason for your delay.

(f) If the violation notice covers a violation related to technical transmitter standards, you must stop transmitting immediately, except for necessary tests and adjustments; and you must not transmit again until all technical problems with the transmitter have been corrected. The FCC may require you to have tests conducted and to report the result of those tests. (See R/C Rule 37 for the rules about tests and adjustments.) Test results must be signed by the first or second class commercial radiotelephone operator who conducted or supervised the test or adjustment.

(g) You must keep a copy of your response as a part of your station records.

EXPLANATION

We rewrote this rule in simpler language so that licensees know exactly what is expected of them if they receive a violation notice.

EXISTING RULE

None.

PROPOSED RULE

§ 95.236 (R/C Rule 36) What must I do if the FCC tells me that my R/C station is causing interference?

If the FCC tells you that your R/C station is causing interference for technical reason, you must follow all instructions in the official FCC notice.

EXPLANATION

The technical regulations in Part 95, Subpart E currently permit the FCC to require "appropriate technical charges in equipment" to alleviate interference. We believe it would be more helpful to readers of these rules to be reminded that the FCC may require them to have technical adjustments made to their equipment if they are found to be causing interference.

EXISTING RULE

§ 95.311 Transmitter service and maintenance.

(a) Except as provided in paragraph (b) of this section, all transmitter adjustments or tests while radiating energy during or coincident with the construction, installation, servicing, or maintenance of a radio station in this service, which may affect the proper operation of such stations, shal be made by or under the immediate supervision and responsibility of a person holding a first- or second-class commercial radio operator license, either radiotelephone or radio telegraph, as may be appropriate for the type of emission employed, and such person shall be responsible for the proper functioning of the station equipment at the conclusion of such adjustments or tests. Further, in any case where a transmitter adjustment which may affect the proper operation of the transmitter has been made while not radiating energy by a person not the holder of the required commercial radio operator license or not under the supervision of such licensed operator, other than the factory assembling or repair of equipment, the transmitter shall be checked for compliance with the technical requirements of the rules by a commercial radio operator of the proper grade before it is placed on the air.

(b) Except as provided in § 95.621 and in paragraph (c) of this section, no commercial radio operator license is required to be held by the person performing transmitter adjustments or tests during or coincident with the construction, installation, servicing, or maintenance of transmitters: *Provided,* That there is compliance with all of the following conditions:

(1) The transmitting equipment shall be crystal-controlled with a crystal capable of maintaining the station frequency within the prescribed tolerance;

(2) The transmitting equipment either shall have been factory assembled or shall have been provided in kit form by a manufacturer who provided all components together with full and detailed instructions for their assembly by nonfactory personnel;

(3) The frequency determining elements of the transmitter, including the crystal(s) and all other components of the crystal oscillator circuit, shall have been preassembled by the manufacturer, pretuned to a specific available frequency, and sealed by the manufacturer so that replacement of any component or any adjustment which might cause off-frequency operation cannot be made without breaking such

seal and thereby voiding the certification of the manufacturer required by this paragraph;

(4) The transmitting equipment shall have been so designed that none of the transmitter adjustments or tests normally performed during or coincident with the installation, servicing, or maintenance of the station, or during the normal rendition of the service of the station, or during the final assembly of kits or partially preassembled units, may reasonably be expected to result in off-frequency operation, excessive input power, overmodulation, or excessive harmonics or other spurious emissions; and

(5) The manufacturer of the transmitting equipment or of the kit from which the transmitting equipment is assembled shall have certified in writing to the purchaser of the equipment (and to the Commission upon request) that the equipment has been designed, manufactured, and furnished in accordance with the specifications contained in the foregoing subparagraphs of this paragraph. The manufacturer's certification concerning design and construction features of station transmitting equipment, as required if the provisions of this paragraph are invoked, may be specific as to the particular unit of transmitting equipment or general as to a group or model of such equipment, and may be in any form adequate to assure the purchaser of the equipment or the Commission that the conditions described in this paragraph have been fulfilled.

(c) Any tests and adjustments necessary to correct any deviation of a transmitter of any station in this service from the technical requirements of the rules in this part shall be made by, or under the immediate supervision of, a person holding a first- or second-class commercial operator license, either radiotelephone or radiotelegraph, as may be appropriate for the type of emission employed.

§ 95.315 Test and adjustments.

All tests or adjustments of radio transmitting equipment involving an external connection to the radio frequency output circuit shall be made using a nonradiating dummy antenna. However, a brief test signal, either with or without modulation, as appropriate, may be transmitted when it is necessary to adjust a transmitter to an antenna for a new station installation or for an existing installation involving a change of antenna or change of transmitters, or when necessary for the detection, measurement, and suppression of harmonic or other spurious radiation. Test transmissions using a radiating antenna shall not exceed a total of 1 minute during any 5-minute period, shall not interfere with communications already in progress on the operating frequency, and shall be properly identified as required by § 95.271 but may otherwise be unmodulated as appropriate.

PROPOSED RULE

§ 95.237 (R/C Rule 37) How do I have my R/C transmitter serviced?

(a) You may adjust your own antenna to your R/C transmitter and you may make "radio checks."

(b) Each internal repair and each internal adjustment to your R/C transmitter must be made by, or under the direct supervision of, a person holding a first- or second-class commercial radiotelephone operator license.

(c) Except as provided in paragraph (d) of this section, each internal repair and each internal adjustment of a R/C transmitter in which signals are transmitted must be made using a nonradiating ("dummy") antenna.

(d) Brief test signals using a radiating antenna may be sent to adjust a transmitter to an antenna or to detect or measure spurious radiation. These test signals may not be longer than one munute during any five minute period.

EXPLANATION

This rule replaces § 95.311 and § 95.315. We simplified those sections and combined them into one new rule. The new rule should eliminate confusion caused by having one section on transmitter servicing and one section on transmitter tests and adjustments.

We define radio check and spurious radiation in R/C Rule 41.

EXISTING RULE

None.

PROPOSED RULE

§ 95.238 (Rule 38) May I make any changes to my R/C transmitter?

(a) You must not make or have anyone else make any internal modification to you R/C transmitter. Internal modification does *not* mean repair or servicing of the R/C transmitter.

(b) You must not operate a R/C transmitter which has been modified by anyone in any way, including modification to operate on unauthorized frequencies or with illegal power.

EXPLANATION

We added this rule to make this provision consistent with the CB Rules. The same prohibitions against internal modifications pertain to the R/C Service.

EXISTING RULE

§ 95.321 Inspection of stations and station records.

All stations and records of stations shall be made available for inspection upon the request of an authorized representative of the Commission made to the licensee or to his representative (see § 1.6 of this chapter). Unless otherwise stated in this part, all required station records shall be maintained for a period of at least 1 year.

PROPOSED RULE

§ 95.239 (R/C Rule 39) Do I have to make my R/C station available for inspection?

If an authorized FCC representative requests to inspect your R/C station, you must make your R/C station available for inspection.

EXPLANATION

Section 95.321 has been replaced and revised by proposed R/C Rules 39 and 40.

EXISTING RULE

§ 95.321 Inspection of stations and station records.

All stations and records of stations shall be made available for inspection upon the request of an authorized representative of the Commission made to the licensee or to his representative (see § 1.6 of this chapter). Unless otherwise stated in this part, all required station records shall be maintained for a period of at least 1 year.

PROPOSED RULE

§ 95.240 (R/C Rule 40) What are my station records?

(a) Your station records include the following documents, as applicable:

(1) A copy of each letter telling the FCC of your name or address change.

(2) Your license.

(3) A list of authorized users of your R/C station.

(4) A current copy of the R/C Rules.

(5) A copy of each response to an FCC violation notice.

(6) Each written permission received from the FCC.

(b) If an authorized FCC representative requests to inspect your station records, you must make your station records available for inspection.

EXPLANATION

R/C Rules 39 and 40 replace § 95.321. We rewrote these rules in simpler language and added the list of documents that are station records.

EXISTING RULE

§ 95.203 Definitions.

For purpose of this part, the following definitions shall be applicable. For other

definitions, refer to Part 2 of this chapter.

(a) Definitions of stations.

Radio Control (R/C) Service station. A station in the Personal Radio Services licensed to be operated on an authorized frequency in the 26.96–27.23 MHz band, or on the frequency 27.255 MHz, for the control of remote objects or devices by radio, or for the remote actuation of devices which are used solely as a means of attracting attention, or on an authorized frequency in the 72–76 MHz band for the radio control of models used for hobby purposes only.

Mobile station. A station intended to be operated while in motion or during halts at unspecified points.

(b) Miscellaneous definitions.

Antenna structure. The term "antenna structures" includes the radiating system, its supporting structures and any appurtenances mounted thereon.

Control point. A control point is an operating position which is under the control and supervision of the licensee, at which a person immediately responsible for the proper operation of the transmitter is stationed, and at which adequate means are available to aurally monitor all transmissions and to render the transmitter inoperative.

Dispatch point. A dispatch point is any position from which messages may be transmitted under the supervision of the person at a control point.

Harmful interference. Any emission, radiation or induction which endangers the functioning of a radio-navigation service or other safety service or seriously degrades, obstructs or repeatedly interrupts a radio-communication service operating in accordance with applicable laws, treaties, an regulations.

Man-made structure. A man-made structure is any construction other than a tower, mast, or pole.

Omnidirectional antenna. An antenna designed so the maximum radiation in any horizontal direction is within 3 dB of the minimum radiation in any horizontal direction.

Person. The term "person" includes an individual, partnership, association, joint-stock company, trust or corporation.

Remote control. The term "remote control" when applied to the use or operation of a personal radio services station means control of the transmitting equipment of that station from any place other than the location of the transmitting equipment, except that direct mechanical control or direct electrical control by wired connections of transmitting equipment from some other point on the same premises, craft or vehicle shall not be considered to be remote control.

Station authorization. Any construction permit, temporary permit, license, or special temporary authorization issued by the Commission.

PROPOSED RULE

95.241 (R/C Rule 41) How are the key words in these rules defined?

In the R/C Rules, the following definitions apply:

Antenna structure means the antenna's radiating system, the antenna's supporting structure, and anything mounted on the antenna or its supporting structure.

Type—Accepted means the FCC has determined a specific object suitable for licensing.

Device means any object or apparatus except an R/C transmitter.

Mailing address means the place where you receive your mail.

One-way communications means a message which is not intended to establish communications with one or more particular R/C stations.

Person means an individual, a partnership, an association, a joint-stock company, a trust or a corporation.

Remote Control means operation of an R/C transmitter from any place other than the location of the R/C transmitter. Direct mechanical control or direct electrical control by wire from some point on the same premises, craft or vehicle as the R/C transmitter is not considered remote control.

R/C station means a station licensed in the Radio Control R/C Radio Service. It includes all of the radio equipment you use.

Station authorization means a R/C license or special temporary authority issued by the FCC.

Remote means a distant place.

Mobile Station means an R/C station operated in a moving vehicle or during halts at unspecified points.

Radio Check means a one way transmission for a short time in order to test the transmitter.

Spurious Radiation means radiation of energy other than the intended signal.

EXPLANATION

We deleted definitions of terms we did not use in the proposed rules.

Note.—The following proposed rules were added to provide licensees or applicants with valuable information not readily available elsewhere.

EXISTING RULE

None.

PROPOSED RULE

§ 95.242 (R/C Rule 42) Where do I get FCC application forms?

You can get FCC application forms from any FCC Field Office or from the FCC, Washington, DC 20554. See R/C Rule 44 for a list of FCC Field Offices.

EXISTING RULE

None.

PROPOSED RULE

§ 95.243 (R/C Rule 43) How do I contact the FCC?

(1) If you have questions about your R/C application, you may write to the following address:

FCC, Licensing Division, Private Radio Bureau, Gettysburg, PA 17325.

(2) If you have questions about the R/C Rules, you may write to the following address:

FCC Rules Division, Private Radio Bureau, 1919 M Street, NW., Washington, DC 20554.

(3) You may send FCC Form 505 (to apply for, modify or renew your R/C license) and notices of a name or address change to the following address:

FCC, Licensing Division, Gettysburg Branch, Private Radio Bureau, Gettysburg, PA 17325.

(4) You may send FCC Form 703 (to apply for consent to transfer control of a corporation) to the following address:

FCC, Licensing Division, Private Radio Bureau, Gettysburg, PA 17325.

(5) You may write to any of the FCC field offices if you want to file an interference complaint. See R/C Appendix C for a list of FCC field offices.

(6) You may write to the following address to obtain a worksheet to help you figure the maximum allowable height for your antenna:

FCC, Licensing Division, Private Radio Bureau, Gettysburg, PA 17325.

EXISTING RULE

None.

PROPOSED RULE

§ 395.244 (R/C Rule 44) Where are the FCC Field Offices located?

Anchorage District Office, Engineer In Charge, Federal Communications Commission, 1011 E. Tudor Rd., Room 240, P.O. Box 2955, Anchorage Alaska 99510 (907) 276–7455, (907) 276–5255 [1]

Atlanta District Office, Engineer In Charge, Federal Communications Commission, Room 440, Massell Building, 1365 Peachtree Street, NE., Atlanta, Georgia 30309 (404) 881–3064/5, (404) 881–7381 [1]

[1] Recorded information.

Baltimore District Office, Engineer In Charge, Federal Communications Commission, 1017 Federal Building, 31 Hopkins Plaza, Baltimore, Maryland 21201 (301) 962-2728/9, (301) 962-2727 [1]

Beaumont Office, Engineer In Charge, Federal Communications Commission, Jack Brooks Federal Building, Rm. 323, 300 Willow Street, Beaumont, Texas 77701 (713) 838-0271

Boston District Office, Engineer In Charge, Federal Communications Commission, 1600 Customhouse, 165 State Street, Boston, Massachusetts 02109 (617) 223-6609, (617) 223-0689, (617) 223-6607/8 [1]

Buffalo District Office, Engineer In Charge, Federal Communications Commission, 1307 Federal Building, 111 West Huron Street, Buffalo, New York 14202 (716) 846-4511/2, (716) 856-5950 [1]

Chicago District Office, Engineer In Charge, Federal Communications Commission, 230 S. Dearborn St., Room 3935, Chicago, Illinois 60604 (312) 353-0195/6, (312) 353-0197 [1]

Cincinnati Office, Engineer In Charge, Federal Communications Commission, 8620 Winton Road, Cincinnati, Ohio 45231 (513) 521-1790, (513) 521-1716 [1]

Dallas District Office, Engineer In Charge, Federal Communications Commission, Earle Cabell Federal Building, U.S. Courthouse, Room 13E7, 1100 Commerce Street, Dallas, Texas 75242 (214) 767-0761, (214) 767-0764 [1]

Denver District Office, Engineer In Charge, Federal Communications Commission, The Executive Tower, Room 2925, 1405 Curtis Street, Denver, Colorado 80202 (303) 837-5137/8, (303) 837-4053 [1]

Detroit District Office, Engineer In Charge, Federal Communications Commission, 1054 Federal Building, 231 W. LaFayette Street, Detroit, Michigan 48226 (313) 226-6078/9, (313) 226-6077 [1]

Honolulu District Office, Engineer In Charge, Federal Communications Commission, Prince Kuhio Federal Bldg., 300 Ala Moana Blvd., Room 7304, P.O. Box 50223, Honolulu, Hawaii 96850 (808) 546-5640

Houston District Office, Engineer In Charge, Federal Communications Commission, New Federal Office Building, 515 Rusk Ave., Room 5636, Houston, Texas 77002 (713) 226-5624, (713) 226-4306 [1]

Kansas City District Office, Engineer In Charge, Federal Communications Commission, Brywood Office Tower, Room 320, 8800 East 63rd Street, Kansas City, Missouri 64133 (816) 926-5111, (816) 356-4050

Long Beach District Office, Engineer In Charge, Federal Communications Commission, 3711 Long Beach Blvd., Room 501, Long Beach, California 90807 (213) 426-4451, (213) 426-7886 [1], (213) 426-7955 [1]

Miami District Office, Engineer In Charge, Federal Communications Commission, 51 S.W. First Ave., Room 919, Miami, Florida 33130 (305) 350-5542, (305) 350-5541 [1]

New Orleans District Office, Engineer In Charge, Federal Communications Commission, 1007 F. Edward Hebert Federal Bldg., 600 South Street, New Orleans, Louisiana 70130 (504) 589-2095/6, (504) 589-2094 [1]

New York District Office, Engineer In Charge, Federal Communications Commission, 201 Varick Street, New York, New York 10014 (212) 620-3437/8, (212) 620-3435 [1], (212) 620-3436 [1]

Norfolk District Office, Engineer In Charge, Federal Communications Commission, Military Circle, 870 N. Military Highway, Norfolk, Virginia 23502 (804) 441-6472, (804) 461-4000 [1]

Philadelphia District Office, Engineer In Charge, Federal Communications Commission, 11425 James A. Byrne Federal Courthouse, 601 Market Street, Philadelphia, Pennsylvania 19106 (215) 597-4411/2, (215) 597-4410 [1]

Pittsburgh Office, Engineer In Charge, Federal Communications Commission, 3755 William Penn Highway, Monroeville, Pennsylvania 15146 (412) 823-3380, (412) 823-3553 [1]

Portland District Office, Engineer In Charge, Federal Communications Commission, 1782 Federal Building, 1220 S.W. Third Avenue, Portland, Oregon 97204 (503) 221-4114, (503) 221-3097 [1]

St. Paul District Office, Engineer In Charge, Federal Communications Commission, 691 Federal Bldg., & U.S. Courthouse, 316 North Robert Street, St. Paul, Minnesota 55101 (612) 725-7810, (612) 725-7819 [1]

San Diego Office, Engineer In Charge, Federal Communications Commission, 7840 El Cajon Blvd., Room 405, La Mesa, California 92041 (714) 293-5478, (714) 293-5460 [1]

San Francisco District Office, Engineer In Charge, Federal Communications Commission, 323-A Customhouse, 555 Battery Street, San Francisco, California 94111 (415) 556-7701/2, (415) 556-7700 [1]

San Juan District Office, Engineer In Charge, Federal Communications Commission, San Juan Field Office, 747 Federal Building, Hato Rey, Puerto Rico 00918 (809) 753-4008, (809) 753-4567

Savannah Office, Engineer In Charge, Federal Communications Commission, 238 Post Office Building and Courthouse, P.O. Box 8004, (125 Bull Street), Savannah, Georgia 31412 (912) 232-4321

Seattle District Office, Engineer In Charge, Federal Communications Commission, 3256 Federal Building, 915 Second Avenue, Seattle, Washington 98174 (206) 442-7653/4, (206) 442-7610 [1]

Tampa Office, Engineer In Charge, Federal Communications Commission, ADP Building, Room 601, 1211 N. Westshore Blvd., Tampa, Florida 33607 (813) 228-2872, (813) 228-2605 [1]

Washington District Office, Engineer In Charge, 6525 Belcrest Road, Room 901-B, P.O. Box 1789, Hyattsville, Maryland 20788 (301) 436-7591, (301) 436-7590 [1]

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BILLING CODE 6712-01-M

[1] Recorded information.

Friday
February 15, 1980

Part V

Department of Health, Education, and Welfare

Office of the Secretary

Model State Adoption Act and Model State Adoption Procedures; Request for Comment

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

Model State Adoption Act and Model State Adoption Procedures; Recommendations of the Model Adoption Legislation and Procedures Advisory Panel

AGENCY: Department of Health, Education, and Welfare.

ACTION: Notice of report for public comment.

SUMMARY: On April 24, 1978 the Child Abuse Prevention and Treatment and Adoption Reform Act (Pub. L. 95–266) was signed into law. Section 203 of Title II—Adoption Opportunities mandates the creation of an independent expert panel to recommend to the Secretary model legislation and procedures relating to adoption.

The panel met eight times for a total of 25 days between October 14, 1978 and September 28, 1979 and has now completed drafting a Model State Adoption Act and Model State Adoption procedures which are designed to facilitate adoptions by families of all economic levels. The legislation and procedures published in the Federal Register are the panel's recommendations and do not necessarily represent the Department's position. By publishing them, and providing reprints upon request, the Secretary intends that they may be made readily available to all interested parties and invites public comment on these recommendations. Additional copies of the Act and the Procedures may be obtained from the Regional Adoption Resource Center or the Regional Office in each of the Federal Regions, or from the Children's Bureau. See Appendix A for a list of these addresses.

The Department will prepare and issue the final Model State Adoption Act and Procedures after it has received and analyzed the public comments on the Panel's recommendations and consulted further with the Panel.

DATES: The comment period will close May 16, 1980. In addition to soliciting written comment by publishing the recommendations in the Federal Register, the Department will hold a public meeting in each of the Federal regions to solicit additional comment during this period. Details of these meetings will be announced in the Federal Register at a later date.

ADDRESSES: Please send comments or requests for additional information to: Diane D. Broadhurst, Executive Secretary, Model Adoption Legislation and Procedures Advisory Panel, Children's Bureau, P.O. Box 1182, Washington, D.C. 20013, telephone (202) 426–2822. Comments received will be available for inspection weekdays (Federal holidays excepted) between the hours of 9:00 a.m. and 4:30 p.m. in Room 2044, 400 6th Street, S.W., Washington, D.C. 20013.

Dated: February 5, 1980.

Approved.

Patricia Roberts Harris,

Secretary.

Model State Adoption Act

Title I. General Provisions

Sets forth the policy and purposes of the act; defines the terms used; states who may be adopted; notes the effect of termination of parental rights and of adoptions; establishes court jurisdiction; provides for the principles of full faith and credit and comity; establishes a policy of fee-free services to children who are the responsibility of an agency and who are special needs children, and their families; and establishes the technical basis for appeal, severability, effective date, and repeal of superseded codes.

Title II. Placement for Adoption

States that adoption is one in a range of options for short and long-term placement of a child; provides that only an agency licensed by the state to place children or the child's parent may place a child for adoption; establishes grounds for the placement in the United States of foreign-born children.

Outlines the process which must be followed by agencies placing children for adoption, including provisions for family assessment, a prohibition against restrictive criteria for potential adoptive parents, and the gathering of appropriate medical, social and health histories of child and parents.

Outlines the process which must be followed by parents wishing to place children for adoption, including notice to the court, family assessment of the prospective adoptive parents, gathering of appropriate health and social information, the appointment of a guardian *ad litem* for the child in question, and a court hearing to consider the placement.

Provides for postplacement services to the adoptive family and the child until the adoption is completed; establishes a procedure to be followed in the case of a disrupted placement.

Title III. Termination of Parental Rights

Establishes three means by which parental rights may be terminated; voluntary relinquishment by a parent to an agency, voluntary relinquishment by a parent to a court, and involuntary termination by a court for good cause, such as abuse, neglect or abandonment of the child. Provides procedures for revocation of relinquishments and for restoration of legal parent-child relationship at majority if the child has not been adopted.

Establishes judicial procedures for petitions, preliminary and adjudicatory hearings, court decisions, and case disposition. Includes provisions for notice and waiver of appearance, assessment of the child and appointment of counsel. Establishes means for the assertion and termination of rights of putative fathers.

Title IV. Adoption Proceedings

Sets forth the contents and the filing requirements for the adoption petition; provides for a report on the child's placement for adoption; establishes who may consent to the child's adoption and guidelines for a hearing on the request for adoption.

Establishes the conditions under which an adoption will or will not be granted; provides for notice to all parties in the event the decree is attacked and orders that in the event the petition for adoption is denied, an alternate plan for the child be developed.

Title V. Records

Requires that all courts and agencies compiling records pursuant to specific section of the Act retain them for at least 99 years after the child reaches majority; makes the state adoption administration the official repository for records; provides for the issuance of an amended birth certificate for the adoptee when a final decree of adoption is issued and for the sealing of the original certificate.

Allows access to records of proceedings only by those who were parties to the proceedings: birth parents and adult adoptees have access to the original birth certificate, birth parents and adult adoptees have access to court and agency records of the termination proceeding, adult adoptes and adoptive parents have access to court and agency records of the adoption proceeding.

Provides for supplementing records with updated information and for transmitting this information to those it concerns. Provides penalties for illegal disclosure or destruction of records; applies provisions retroactively.

Title VI. Agency Adoption Services

Establishes a state adoption administration and delineates its duties which include administering or supervising all adoption services, providing specialized programs and recruitment efforts, publishing and disseminating information to the public regarding adoption, providing public education and professional training and maintaining a statewide adoption exchange or listing service.

Provides that all agencies, including the public agency, placing children for adoption be licensed; delineates licensing requirements and terms; establishes procedures and regulations to be followed when placing a child; provides for licensing of qualified non-agency staff to provide family assessments for intercountry adoptions. Sets forth the mechanisms for appeal of agency decisions and establishes a State advisory committee on adoption to advise the state licensing agency on adoption matters.

Title VII. Subsidized Adoption

Assures, through public financial subsidy, the adoption of every child who might not be adopted without a financial subsidy. Sets forth the circumstances under which a child is eligible for subsidy and provides for a written subsidy agreement between the family adopting and the state. States that the subsidy shall continue so long as the child is the legal dependent of the adoptive parents and the child's condition continues, unless the adoptive parents request otherwise.

Appendix A

Region I (CT, ME, MA, NH, RI, VT)

Adoption Resource Center: Jane Quinton, Project Director, Massachusetts Adoption Resource Exchange, Inc., 600 Washington Street, Boston, MA 02111
Regional Office: Tina Janey-Burrell, JFK Building, Boston, MA 02203.

Region II (NY, NJ, PR, VI)

Adoption Resource Center: Mary Goldson, Project Director, Columbia University, School of Social Work, Box 20, Low Memorial Library, New York, N.Y. 10025
Regional Office: Harry W. Dworkin, Federal Building, 26 Federal Plaza, New York, N.Y. 10007

Region III (DE, MD, PA, VA, WV, DC)

Adoption Resource Center: Carolyn Johnson, Delaware Valley Adoption Council, 1501 Cherry Street, Philadelphia, PA 19102
Regional Office: Donald A. Barrow, Box 13716, 3535 Market Street, Philadelphia, PA

Region IV (AI, FL, GA, KY, MS, NC, SC)

Adoption Resource Center: Ann Sullivan, Project Director, University of North Carolina, School of Social Work, 300 Battle Hall, Chapel Hill, N.C. 27514
Regional Office: Carol L. Osborne, 101 Marietta Tower, Atlanta, GA. 30323

Region V (IL, IN, MI, MN, OH, WI)

Adoption Resource Center: George Mink, University of Michigan, School of Social Work, Frieze Building, Ann Arbor, Michigan 48109
Regional Office: Ruth L. Born, 300 S. Wacker, Chicago, Illinois 60606

Region VI (AR, LA, NM, OK, TX)

Adoption Resource Center: Rosalie Anderson, University of Texas at Austin, School of Social Work, Austin, Texas 78712
Regional Office: Louise Fairchild, 1200 Main Tower Building, Dallas, Texas 75202

Region VII (IA, KS, MO, NE)

Adoption Resource Center: Michael Kelly, University of Missouri, School of Social Work, Extension Program, 825 Clark Hall, Columbia, Missouri 65211
Regional Office: Bernice E. Kennedy, 601 E. 12th Street, Kansas City, Missouri 64106

Region VIII (CO, MT, ND, SD, UT, WY)

Adoption Resource Center: Mary Lines, Western Federation for Human Services, 333 Quebec Street, Suite 2000, Denver, Colorado 80207
Regional Office: Jane Mathieu, Federal Office Building, 1961 Stout Street, Denver, Colorado 80294

Region IX (AZ, CA, HI, NV, TT, AS, GU)

Adoption Resource Center: Louise Fleenor, County of Los Angeles, Department of Adoptions, 2550 West Olympic Blvd., Los Angeles, CA 90006
Regional Office: Robert Guzman, 50 United Nations Plaza, San Francisco, CA 94102

Region X (AK, ID, OR, WA)

Adoption Resource Center: Karen Wernicke, Western Federation for Human Services, 157 Yesler Way, Room 206, Seattle, WA 98104
Regional Office: John Downey, 1321 Second Avenue, Mail Stop 611, Seattle, WA 98101
Children's Bureau: Diane D. Broadhurst, Executive Secretary, Model Adoption Legislation and Procedures Advisory Panel, P.O. Box 1182, Washington, D.C. 20013

Model State Adoption Procedures

Recommended by Model Adoption Legislation and Procedures Advisory Panel

Submitted to Patricia R. Harris, Secretary of Health, Education, and Welfare, October 24, 1979

U.S. Department of Health, Education, and Welfare, Office of Human Development Services, Administration for Children, Youth, and Families, Children's Bureau

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Introduction

The Model State Adoption Act

The Model State Adoption Act was developed pursuant to Title II—Adoption Opportunities—of Pub. L. 95–266, the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, which is the first federal legislation dealing with adoption and mandating the preparation of a model law. This model law for the first time assembles the different statutes relating to adoption into the unified code. Designed to express commitment by states to providing services for all children in need of adoption, the Model Act may be enacted in whole or part to meet a state's important responsibility to its children.

The Model State Adoption Act is published by the Children's Bureau, Administration for Children, Youth, and Families, Department of Health, Education, and Welfare.

Purposes of Procedures

Laws establish order, control, and protection according to societal needs. In a democracy, laws are created by the members of society themselves. After enactment of a law, a state must develop and promulgate regulations to make the law operational.

The Model State Adoption Procedures are intended to facilitate the administration of the Model State Adoption Act, and to assist administrators of adoption programs to build programs upon effective standards of practice and to formulate guidelines for staff delivering services. It is expected that the Procedures will be used in conjunction with the Model Act for the formulation of state policies and regulations to promulgate the provisions of the Act. Although the Procedures apply to the Act in its entirety, portions of the Procedures can be used as they apply to a state's existing legal and social service systems.

Organization of the Procedures

The Procedures are organized according to the titles and sections of the Model Act and are numbered accordingly, an organizational structure which provides for easy reference to the applicable sections of the Act. All cross-references are to titles and sections of the Act. To ensure that requirements of the Model Act are met, agencies must develop their own written policies and procedures, disseminate them to all staff delivering services, and make them available to the public. Periodic evaluations of such materials, including the participation of staff and other concerned persons, are necessary to assess and update processes. The Model Adoption Procedures should serve as the standard for the development of specific materials by the agency itself.

Implementation of Procedures

A sound adoption law, implemented with appropriate regulations and procedures, requires trained professional staff for its successful implementation.

An agency operating an adoption program must select for all staff positions individuals who are sensitive to the needs of others. Basic knowledge about adoption and agency services must be included in the orientation of support staff. Staff development and training programs must be designed to increase the basic values, knowledge, and skills of workers delivering services in the following general areas:

- Philosophy and underlying values of adoption services.
- Child development and behavior.
- Casework and group work with children and adults in the adoption process.
- Cultural, ethnic, religious, and racial factors, including knowledge of the impact of adoption on the child, his future, and his identity.
- Community resources and how to use them on behalf of the population served.

Training must also deal with more specific skills and techniques relating to adoption, such as:

- Family assessment skills.
- Preplacement services for birth parents.
- Bringing a child's sense of his past into focus by using life story books and other techniques to build his sense of identity.
- Placing children with physical and mental handicaps, and developing an understanding of the meaning of a handicapping condition to a child.
- Postplacement and postadoption service to birth and adoptive families.
- The court process and how to work with the court.

Training programs that center on practical concepts and methods are the most helpful to social service delivery staff. Staff members should have a mechanism for expressing their training needs and for evaluating the programs.

Administrators of adoptive programs must be aware that implementation of new concepts and techniques may involve changes in accustomed routines. Staff involvement at all phases of the process can ease any difficulties involved in such changes.

Preamble

The legislation affirms the importance of family life for all children. The state declares adoption a positive social and legal process to make family life possible for children whose parents cannot or choose not to rear them. The law's express commitment to serve all children reflects the growth of successful adoption of children who are older; who are of minority race or ethnic background; who exhibit physical, emotional, or mental handicaps; or who need to be placed with siblings.

The Preamble states that the rights, privileges, and benefits to which all persons are entitled are intact for the adoptee. The Act acknowledges the need for adoption to respect the adoptee's racial, ethnic, religious, or cultural heritage, but indicates that these considerations should not be a barrier to adoption. This philosophy must be reflected in agency policies, in recruitment of families, and in placement practices.

When the rights of parties involved in the adoption process are in conflict and no compromise is possible, the principle of adoption as a service to adoptees governs, and the adoptee's rights must prevail. Implicit in this principle is the philosophy that an adoption program should be designed to serve children rather than to serve families seeking children.

TITLE I. GENERAL PROVISIONS

Section 101. Policy and Purposes

When birth parents cannot or choose not to be a family resource for children, adoption is a viable plan for providing these children with a stable, nurturing, permanent family. Thus, public policy requires that parental rights be terminated and that adoption be governed by substantive laws and procedures administered by qualified staff, and that funds be adequate to carry out the program's goals. The Act affirms the ascendancy of adoptees' rights when conflict arises.

Purposes of the Law

The purposes of the law are listed along with a reference to the titles of the law in which they are dealt with in depth.

- Adequacy of adoption services for all children in need: Title VI.
- Services to protect the best interests of all children in need of adoption services: Titles II, III, IV, V, VI, and VII.
- Prompt legal services for terminating parental rights when appropriate: Title III.
- Removal of obstacles to adoption: Titles II, III, VI, and VII.
- Identification of children in need of adoption and monitoring of the provision of services: Title VI.
- Assurance of quality adoption services by establishing licensing standards for public and voluntary agencies: Title VI.
- Encouragement and utilization of families willing to assume parenthood: Title II, VI, and VII.
- Financial assistance on behalf of children awaiting adoption because of age, race, handicap, or need to be placed with siblings: Title VII.
- Assurance that the biological heritage of an adoptee is recorded, preserved, and accessible: Title II, III, IV, V, and VI.
- Assurance that payments for adoption services are reasonable and do not exceed costs: Title I, II, and IV.

The Act provides for the protection of the rights of all parties to an adoption, but the child's rights and interests are paramount if a conflict among the rights of the birth parents, adoptive parents, and the child develops. Agencies should alert their legal representative to this principle so it can, if necessary, be brought to the court's attention.

Section 102. Definitions

A copy of the definitions used in the Model Act is appended to the Procedures for easy reference. Agency staff should be familiar with the definitions of terms as they are used in the Act since some terms are defined narrowly, in ways which may often vary from common usage.

Section 103. Who May Be Adopted

Agency staff should be familiar with this section in considering and planning adoption for a child.

Section 104. Charter and Effect of Termination of Parental Rights and of Adoption

Adoption is a social process and a legal act that creates new relationships and affects prior relationships. This section outlines the resultant rights and responsibilities of the parties involved in the process.

Rights and Responsibilities Affected by Termination of Parental Rights

When parental rights are terminated voluntarily or by court order, genetic ties cannot be severed. However, both the child's and the parents' legal rights and responsibilities to each other end. Following are *exceptions* noted for the child's protection or benefit which should be brought to the attention of the adoptive family:

- Benefits from any third party, state, or the United States, such as Social Security, tribal benefits, or specific insurances are not affected by a termination of parental rights. The agency must assume the responsibility on behalf of the child for assisting adoptive parents in ascertaining the continuance of benefits such as Social Security disability and death benefits after a final order of adoption.
- Inheritance from and through the birth parents is not affected by termination of parental rights until issuance of a final order of adoption. Thereafter, the child may inherit only if the birth parent makes a bequest in his will.
- Any debts incurred on behalf of the child prior to termination of parental rights are not affected by the termination of parental rights.

There is no legal distinction between an adoptee and an individual not adopted.

Agreements Between Birth and Adoptive Parents

The law permits the birth parents, the adoptive parents, and the child if old enough, to enter into a written agreement providing for the child's continuing contact with the birth parents. The decision to enter into an agreement of this type must be made by the participants and the agreement must be presented to the court for approval. This type of agreement is not new, although it generally has not been formalized in writing and has been most frequent in stepparent and relative adoptions.

If the child is too young to participate in the formulation of such an agreement, the agency should be prepared to discuss the implications of such plans with the adults involved. These implications may include the possible confusion of a young child over the roles of two sets of parents or of two mothers, or the potential for avoiding the frustration of a child who, when he reaches adolescence, decides that he wants to meet his birth parents before he attains majority.

The agency has a responsibility to explore with older children their ideas and feelings about such an agreement. For some children, having a relationship with their birth parents provides a sense of continuity, acceptance, and a realistic understanding of adoption.

If interest in continuing contact is indicated by any of the parties to the adoption, the agency should initiate discussion with the adults involved regarding future planned contact, as well as assist in the preparation of a written agreement for presentation to the court. All of the adults must be sensitive to one another's needs and have a willingness to cooperate and communicate with one another.

The agency should be responsible for assuring that the child has the opportunity to express his view about the proposed agreement to the court, either directly or through a guardian *d litem.*

Section 105. Jurisdiction of Courts

The state will name the court, such as a family court, which will have exclusive original jurisidction over all proceedings under the model Adoption

Act. This court's jurisdiction will continue until the child is adopted, reaches majority, or is emancipated. If the child is an American Indian from a federally-recognized tribe, the agency must inform the court, for the Indian Child Welfare Act (Pub. L. 95-608) will affect the procedures to be used (Section 106).

Extension of Jurisdiction

The court may continue to have jurisdiction, beyond the age of majority, over a child whose parents' rights are terminated but who has not been adopted. This provision is designed to meet the needs of youngsters with physical, mental, or emotional handicapping conditions, and of those who are continuing their education. The agency must report on the child's progress and future plans to the court at least annually while the child remains under the jurisdiction of the court.

If the responsible agency cannot continue service to the child who needs continued services or a guardian past the age of majority, the agency has an obligation to locate other resources for the child. The possibility of transferring the case to another agency, such as the state division of mental retardation, should be actively pursued.

Section 106. Governing Law

The Model Act is the governing law for the adoption of minors. The Act also specifically provides that full faith and credit be given to the records and judicial proceedings of an American Indian reservation, as well as to those of other states and jurisdictions of the United States.

Members of federally-recognized tribes are subject to the Indian Child Welfare Act (Pub. L. 95-608), which provides procedures for American Indian children in need of adoption. If an agency is planning for an American Indian child subject to the Indian Child Welfare Act, the agency should determine how the tribe defines membership, since the definition of membership varies from tribe to tribe. The agency should also seek any records of judicial proceedings involving these children and inform the court so that appropriate procedures can be followed.

Readoption of Foreign-Born Children

This section permits the readoption of a child by American citizens who have previously adopted the child in the child's country of origin. The agency should encourage the family to readopt in the United States. Readoption assures that the decree is valid—through full faith and credit—in every jurisdiction of the United States, thus providing maximum legal protection for the child and the family and securing the child's right to inheritance. If the child is not readopted and the decree is questioned, the adoptive family will have to ask the court to recognize the decree through extension of comity. One court's recognition of the decree through comity is not binding upon any other court. Therefore, the family would have to go into court any time a question was raised about the validity of the foreign adoption decree.

Agencies should alert families to the principle of comity, whereby the court can extend recognition to the actions of a court in another country. In this manner, the court may grant an adoption decree on the basis of documents from another country.

Section 107. Fees for Adoption Services

This section provides the basis on which fees for adoption services may be charged.

An agency may not charge fees for the following services:

- Services provided to a child who meets one or more of the criteria for potential eligibility for a subsidy (Section 703).
- Services provided to the birth parents or adoptive parents of such a child.
- Postadoption services for such a child or his adoptive family.

An agency may not charge fees for short-term counseling services for adoptive families, adult adoptees, or birth parents after the termination of parental rights.

Public and voluntary agencies may charge fees to or on behalf of all children who are not defined in Section 703 of the Model Act, or in situations for which fees are not expressly prohibited. Fees generally may be charged for infant adoptions and for family assessments and postplacement services to families adopting a child placed by a parent or a foreign-born child (Section 204), but in no case may fees exceed the cost of the service.

Voluntary agencies must be reimbursed for the actual cost of all services for which no fee may be charged by the state adoption administration according to the terms of a purchase-of-service contract. In determining purchase of service rates or fees, only the costs of preparing the child for placement and the services to the adoptive family should be included. Agencies receiving United Way funds, grants, contracts, or purchase-of-service contracts should be familiar with the use of functional or program budgeting and be able to incorporate these systems into their method of determining fees.

A schedule of fees for various services must be developed and be made available to persons who may be charged a fee.

The Act provides that no person, agency, or association may request or accept money for finding a child for a family. It does provide, however, for payment of reasonable professional fees and the actual medical expenses associated with the birth of the child.

There is also provision of a fine and imprisonment for violators (Section 107(f)).

Section 108. Priority of Proceedings

This section stipulates that highest priority be given to judicial proceedings relating to termination of parental rights, adoption hearings, and challenges and appeals.

Agencies should inform their legal representatives of the establishment of this priority for adoption proceedings so they can direct the court's attention to this when filing such cases.

Agencies meet their responsibility to expedite adoption proceedings by designing systems to assure that their briefs, reports, and exhibits reach the court in time for hearings.

Agencies should help the individuals involved in termination of parental rights and adoption proceedings to understand the finality of the court decision after a one-year period. All parties should understand that this limitation is imposed in the interest of the child and his need for a stable, permanent family.

Section 109. Contempt

This section provides that anyone, including an agency that delays proceedings under this law, may be held in contempt of court. An agency must inform the court of any knowledge it has of any cultural or language differences that might make it difficult for a person to understand the purposes and methods of the court proceedings and thus unwittingly cause delays.

Section 110. Severability

This section provides that, if any one provision of the Model Act or its applicability is declared invalid, other provisions will not be affected.

Section 111. Effective Date

This section provides the date the Act will become effective.

Section 112. Prior Laws Repealed

This section cites the laws or portions of laws which are repealed by the enactment of this Act.

TITLE II. PLACEMENT FOR ADOPTION

Title II outlines the services required in adoption and, therefore, is of particular significance to agencies, both public and voluntary.

Section 201. Adoption as the Plan for the Child

All children need a stable, continuing living situation where they find love, support, nurture, and a permanent parental commitment. Serious consideration should be given to the goal of adoption for all children after alternative goals such as reunification or placement with members of the birth parents' extended family have been ruled out (Section 201 (a)).

The Act directs that services be provided to the birth parents of a child so that they, the child, and the agency can determine the best permanent plan for the child. This planning must be individualized and directed toward fulfilling the child's need for stability and continuity. Planning should begin when the child first receives service from the agency.

Every effort must be made to preserve the family or reunite it as quickly as possible so that the child may have the security of his own family. When this proves impossible and no other member of the extended family is able or willing to provide a permanent home, the possibility of adoption should be quickly explored. Other placement alternatives may be desirable for some children, and agency staff must be alert to these alternatives in evaluating the best plan for a particular child.

When the child is relinquished to an agency, the agency must ensure that it develops a permanent plan for the child and for the services to carry out the plan. This requires that an agency will have trained staff capable of providing a wide range of services, including the location and utilization of appropriate supportive services in the community (Section 201 (b)).

Section 202. Freeing the Child for Adoption

Before a child is placed for adoption, the parents' rights must be terminated, except in the case of the placement of a child with stepparents or close relatives. When the agency has good reason to believe parental rights will be terminated, it may use a foster home that could become an adoptive home for placement of those children who typically have to wait for adoptive homes because of age, race, handicap, or need to be placed with siblings. Foster home placement can best provide continuity and nurture for a waiting child.

Pretermination placements cannot be considered adoptive placements, but are foster placements and should be subject to licensing and supervision. Pretermination placement should be considered in two situations. One concerns the newborn whose birth mother has terminated her rights, but the termination of the birth father's rights will take a longer time. The second concerns the child with special needs when the process of terminating the rights of the uninvolved parent has just begun; during the process, the child will have the opportunity to become established in the prospective home. One way of finding such potential adoptive homes is to review the applications of past and current adoptive families to ascertain their interest in such a plan. This possibility can also be discussed during the family assessment phase. Although intensive counseling is necessary to assure the family's understanding and acceptance of the risks involved, this program can open up additional resources for children.

When contemplating such placements, the agency has a responsibility to inform the potential parents of the exact legal and emotional risks involved; there is always the possibility that the termination may not be completed. A simple form signed by the prospective adoptive parents and indicating their understanding of the risks involved and the agency's assignment of preferential status to them for consideration as adoptive parents should become part of their and the child's record. All other good placement practices, such as full disclosure of information on the child, must be followed.

Another alternative, depending on the age and circumstances of the child and the foster family's situation, is the consideration of formalizing or, where possible, legalizing a long-term foster care plan. An agreement should be drawn up between the agency and foster family outlining various roles and responsibilities. Before entering into this arrangement for legally free children, adoption and subsidy provisions should be thoroughly discussed with the foster family. In addition, the child's feelings and ideas about moving to an adoptive home or remaining with the foster family should be fully explored.

Section 203. Who May Place a Child for Adoption

Except as provided in Section 204 for intercountry adoptions, a child may be placed for adoption only by an adoption agency or the child's parents. Neither this nor any other provision of the law prohibits a parent from selecting a third party representative or intermediary who will actually place the child into the prospective adoptive home. In all situations, however, the representative or intermediary is to be regarded as an agent for the parent and not for the adoptive family.

The agency must be aware that many children are placed by their birth parents with no formal legal procedures; this may occur when they are placed with friends or extended family members, for example. Whenever requested, agencies should offer necessary services to these children and the families rearing them. Such services would include an exploration of the legal and social benefits of adoption for the child or the establishment of legal custody or guardianship. The child's entitlement to benefits, such as Social Security and inheritance, should also be clarified.

Section 204. Intercountry Adoptions

Intercountry adoption is a recognized means for many families to become parents by adopting a child from another country. The entrance into the United States of a child for adoption is controlled by the federal Immigration and Nationality Act. The *Intercountry Adoption Guidelines* (1979) has been prepared by the American Public Welfare Association to outline the services that should be provided to foreign-born children and the families who wish to adopt them. The *Guidelines* also provide families with an idea of the kinds of information they should try to obtain about the child.

Intercountry Adoptions

The state shold assume certain responsibilities for services for intercountry adoptions. These should include at least the following:

Providing postadoption services (by public agencies) for applicants or arranging for services by voluntary agencies. Residents of a state who wish an intercountry adoption should be assured by the state that the service is available.

Collecting statistics on the number of intercountry placements, the countries from which the children come, ages of the children, and where the children are placed (Section 601). These data should be reported to the state by both the public and voluntary agencies.

Certifying to the Immigration and Naturalization Service (INS) that the state's preadoption requirements have been met for each intercountry adoption. This is a requirement of the federal immigration statute. The preadoption

requirements are outlined in Section 204(b) of the Act.

The INS requires family assessments for intercountry placements, and the Act requires that an agency provide postplacement services. Fees may be charged for these services, so agencies may want to consider providing family assessments and postplacement services. The agency should also provide postadoption services if the family wishes them. Family assessment practitioners licensed pursuant to Section 603 may also conduct family assessments.

Agencies providing these services should obtain information about the services of international adoption agencies located in the United States and about the INS and its requirements. They should also be familiar with the Immigration and Nationality Act and regulations as they affect intercountry adoptions.

The adoptive family assessment for intercountry adoptions has several unique aspects. There should be greater emphasis on the educative function, so that families are aware of what information they should obtain about the child, his background, culture, and country of origin. It is important for the family to get this information by the time of placement since it may be less than realistic to seek such information later.

The adoptive family should understand that it has to seek the information from various sources, and that the most pertinent information is probably available from the country where the child lives. The following information should be sought from the organization placing the child:

Family background.

Legal availability, including documents.

Information about the child's living arrangement and caretakers (institution or family).

Child's activities, friends, food, and interests.

Pictures of the child and his family.

The child's understanding of the adoption plans.

From the placing agency or others knowledgeable about the country, the following information can be sought: culture, traditions, customs, childrearing practices, native food and recipes, and any other information unique to the country.

The following medical information is required by the INS and the Model Act and should be obtained from the placing agency and the doctor in the country of adoption:

Current health assessment of the child.

Specialized medical information (see form in *Intercountry Adoption Guidelines*), including illnesses and diseases endemic to the country and any infectious diseases to which the child may have been exposed.

Medical and developmental history of the child and his family, if available.

The adoption agency should help the adoptive family to understnad the life-long value of this information to the child.

Section 205. Placement for Adoption by Agencies

This section mandates agency services necessary for placements of children for adoption.

Priority of Family Assessments

Applicants for children designated as waiting for adoption because of age, race, color, ethnicity, physical, mental or emotional handicaps, or need to be placed with siblings must be given priority for a family assessment by the agency. State data-gathering systems on children awaiting placement should convey this information to agencies (Section 601).

Eligibility of Applicants

Good practice dictates that adoption first be explored with foster parents who have provided a stable, nurturing home for the child and who have a psychological commitment to the child; the Act requires that foster parents not be excluded from consideration as adoptive parents.

Since the goal is to provide the child with a stable, nurturing home and since the field of social work acknowledges the validity of a variety of parenting styles, agencies cannot restrict the eligibility of applicants solely on the basis of such factors as age, race, marital status, income, religion, employment, physical conditions, or disabilities, or number of children already in the family.

Because of the need for flexibility in determining which families can meet the needs of individual children, all applicants deserve consideration. Rigid, arbitrary eligibility criteria eliminate opportunities for children to benefit from the experience of family life. Therefore, the maintenance of such restrictive criteria by an agency cannot be justified.

Agencies should establish flexible standards and make them accessible to applicants. The following areas regarding eligibility should be covered in these standards:

Residence. In general, the family being studied should live within the catchment area of the agency.

Marital Status. Single parents should not be excluded, and prior divorce should not be a barrier to adoption.

Citizenship. U.S. citizenship should not be required.

Age. The law states only that applicants be adults. The setting of maximum age limits should be eliminated.

Income. Families with low incomes should be considered. The key issue is the family's ability to manage the resources it has, not the amount of income.

Employment. Either or both parents may work, provided they can arrange adequate child care.

- *Subsidy.* Applicants should be informed of the subsidy program, and told whether the child in which they are interested is eligible for a subsidy.
- *Housing and Neighborhood.* These should be adequate for rearing the child, with appropriate consideration given to differing lifestyles and cultures, as well as the type of housing available to the applicants.
- *Religion.* Which religion a family practices or whether they practice a religion should have no bearing on the acceptance of an application for an assessment. However, religious practices should be noted during the assessment with respect to their implications for a child placed in the home, especially a child of a different religion.
- *Health.* Applicants' health should permit them to rear a child. Applicants with handicaps such as deafness, blindness, and diabetes may become excellent adoptive parents.
- *Children.* Families having other birth or adopted children are appropriate adoptive resources. The presence of other children may enhance a familiy's ability to rear another child, especially a child with special needs.
- *Fertility.* Proof of infertility should not be required. Although infertility is not in itself a deciding factor, it should be explored during the assessment. A couple's reasons for adopting if they can have their own children should also be explored during the assessment.
- Rejection of applicants by another agency should not necessarily affect their future eligibility.
- The applicants' refusal of a child should not affect their future eligibility, though repeated refusals of children may indicate a loss of interest in adoption.

Recruitment

Aggressive recruitment programs must be designed by the agency to attract families for children awaiting adoption (Section 601).

Every inquiry to the agency, whether in person or by mail or phone, must be viewed as a potential adoptive resource for a waiting child. All inquiries must be dealt with in a prompt, courteous, and encouraging fashion. The agency must ensure the availability of sufficient staff to respond to inquiries, especially for night and weekend appointments. An agency may expect a considerable number of inquiries following any specialized recruitment activity, and it should assume the initiative for finding appropriate volunteers from adoptive parent groups and community organizations if it does not have the staff capability to respond to the recruitment campaign.

The agency should inform applicants of the approximate time the assessment will take, eligibility standards, types of children available for placement, availability of subsidy, and their rights to appeal if they believe they have not received fair treatment.

Family Assessment

All workers in the family assessment process must be knowledgeable about the adoption process and experienced in the dynamics of family life. They should also be highly skilled in a variety of family assessment techniques developed through formal training and experience.

The role of the agency is to enable applicants who wish to parent a child to do so successfully through a process that prepares them for adoptive parenthood. This process is a joint venture between applicants and the agency designed to explore adoption so that each can make an informed decision as to whether the applicants can meet the needs of specific children awaiting adoption. Family assessment should be a mutually educative process focusing on general issues related to adoption and specific matters related to necessary parent-child adjustments before, during, and after placement.

The exploration and assessment of the following parental characteristics are necessary to reach a decision regarding the applicant's capacity to parent an adopted child:

- The capacity to give and receive affection.
- Commitment to the child.
- Ability to cope with problems, stress, frustrations, crisis, and loss.
- Flexibility and ability to change.
- Ability to accept the intrinsic worth of a child, as well as to respect and share his past and have realistic expectations and goals.
- Ability to provide for the child's physical and emotional needs.
- Knowledge of the child's developmental level and full knowledge of the child's history.
- Ability to use community resources.
- Positive feelings about parenting an adopted child and the ability to recognize the uniqueness and potential of every child.

Children with problems can cause additional stress on families who seek to adopt. Family assessments must, therefore, address the applicants' ability to meet the needs of the child with possible problems which can include such severe difficulties as:

- Mental retardation.
- Mental illness.
- Physical problems of the birth parents and the child such as epilepsy, Down's Syndrome, diabetes, and conditions which may be genetically linked such as hemophilia, sickle cell anemia, and Huntington's Disease.
- Physical and sexual abuse of the child.
- Drug and alcohol abuse of the child or his birth parents.
- Emotional disturbance of the child.
- Children for whom adoptive placement involves legal risk.

Applicants should be responsible for furnishing the agency with a physician's report of their physical status or a medical report indicating their physical capacity to rear a child. If the family cannot afford a medical examination, the agency should assume the costs. If the agency questions the findings of the medical report, it should consult with its medical personnel and subsequently with the applicants and their physician to arrive at a fair decision.

The agency should seek to conduct the family assessments in a manner designed to reduce anxieties of both the applicants and the agency staff and to facilitate the education and decision making that the process entails. Consideration must be given by the agency to conducting family assessments at the convenience of the family through evening or weekend appointments.

Family assessment methods should include individual and group sessions. Groups are frequently effective in stimulating applicants to discuss issues of vital importance in the assessment process. They also offer applicants the opportunity to meet other potential adoptive parents upon whom they can later call for mutual assistance. Materials should be used that will encourage applicants to develop their self-awareness and will increase their sensitivity to and understanding of issues in the adoption program. Adult adoptees, experienced adoptive parents, and birth parents are excellent resources as speakers for applicant groups.

The agency's written record of the family assessment should concentrate on the applicant's parenting ability. It is possible to include biographies and comments written by the applicants themselves. The written report should be accessible for review, comment, and signing by the applicants.

If an applicant is rejected, the worker must sensitively and honestly convey to the family the specific reasons for rejection, both orally and in writing. The rejection notification must be conveyed to the applicant in a timely fashion and must inform the family of their right to appeal the agency's decision.

When a family has previously adopted a child with special needs, the agency should update the previous assessment and focus on major family changes and the adjustment of the children in the home, rather than undertake a fully new family assessment.

Foster Parent Adoption

The assessment of a foster family home for adoption varies from a regular family assessment. In a foster parent adoption, the agency must fully explore the situation of a child already living in the foster home. The discussion must focus on the meaning of permanence to a child, the agency's responsibility for subsidy, and postadoption services.

If the foster parents want to pursue adoption of the child, the original foster family assessment should suffice as the basis for the adoptive assessment, but should be supplemented with a current description of the child's adjustment and needs, the foster parents' commitment to the child, and any significant family changes. There should also be exploration with the foster family of significant difference between foster family care and adoption. The foster parents as adoptive parents will have a more important role in making decisions concerning the child and, if the foster family has other children, a permanent sibling relationship will be created with sharing of family joys and sorrows.

If the foster parents choose not to adopt the child, the agency should evaluate the child's age, wishes, strengths, and resilience in the face of change and attempt to develop an alternative permanent plan. One alternative may be long-term foster care in the foster home, if the foster family expresses interest in such an arrangement. The other alternative is to make every effort to seek an adoptive family. Both of these possibilities are based on the assumption that return to

the birth parent has already been explored and is not a viable plan.

Services to Birth Parents Prior to Placement

If the birth parents can be identified and located, the agency must provide services that are not limited only to helping them make a decision to relinquish their child (Section 201, Section 303).

Counseling must be an integral part of services to the birth parents so they can make an informed decision about the best plan for their child. The birth parents must be reasonably confident that they can live with their decision, which includes future as well as immediate effects for both the child and themselves. Counseling explores various ways of caring for and rearing the child and should include, among other factors:

- A determination of the birth parents' interest in continuing their education.
- Discussion of any carrer plans they have.
- Discussion of their relationships with their parents and those parents' support, both financial and emotional, of the plan for the child.
- Discussion of whether marriage to each other or another is imminent, if they are not presently married to each other.
- Discussion of their ability to parent the child.
- Discussion of the needs of children for a permanent family.

If possible, opportunities should be available for the birth parents to join groups of other birth parents who have decided to rear their children. If an agency does not have access to such groups, birth parents should be given the names of local groups or national organizations from which they can receive the necessary information and support.

Agencies must help birth parents recognize that prolonged foster care is seldom in their child's best interest and is usually not an option. The agency and the birth parents need to identify what impediments there are to making a permanent plan for the child and to develop a written service plan with concrete goals, specific time frames, and a clear statement of the consequences of failure to meet the provisions of the agreement. The possibility of court action for termination of parental rights should be discussed by the birth parent and the agency; this discussion should include the purpose, process, and result of court termination of parental rights.

Implementation of a service plan requires that the worker initiate a discussion to identify the case goals and begin development of an agreement which includes factors such as living arrangements, financial support, and medical care. The agency must assume responsibility for providing assistance to the parent either directly or by referral to obtain these services. Modification of the agreement to reflect situational changes should be permitted, but in no case should the parent be led to believe that foster care may be prolonged until the child reaches majority. Adoption should be discussed in terms of its importance to the child and the parents' present needs and plans for the future.

The agency must provide to birth parents considering relinquishment of parental rights with a written description of possible alternatives and available services (Section 303). There must be exploration of the possibility of continuing contact with the child and the adoptive family (Section 104(c), Section 303(d)(5)). Birth parents must be informed of their right to restoration of parental rights if the child is not placed for adoption within a year or is removed from an adoptive placement (Section 307).

When the agency determines, after the required services have been provided, that the birth parents cannot or choose not to care for the child, it is responsible for instituting a plan for adoption to provide the child with the benefits of family life. The agency must then act as quickly as possible to place the child for adoption. Moreover, the agency must approach adoption with the philosophy that every child is potentially adoptable; children should not be arbitrarily excluded from the benefits of adoption because of age, race, physical, mental, or emotional handicapping conditions, or need to be placed with siblings.

A written report of services provided to the parents, listing dates of contacts, discussions, and responses of the parents, must be completed by the agency for submission to the court with a petition for involuntary termination of parental rights. This report should be developed from case records and reflect the agency's actual work with the birth parents and their responses. Accurate documentation must be kept for use in the event that an involuntary termination becomes necessary. If parents cannot be located after a diligent search, the report will state that as the reason services could not be provided (Section 309).

Content of Records

The case records developed by the agency must be as complete as possible, and must include summaries of all contacts, accurate factual history, background information, and documentation of all assessments and consultations. Feelings expressed by the individuals interviewed and counseled also have significance.

Records are an important tool in the decision making process and form the basis for reports to the court. More important, the agency's records are a resource to the adoptee if he decides to search for his identity when he reaches adulthood.

For a child who will be or may be placed for adoption, the agency is responsible for obtaining and preparing the child's medical and social history and the genetic, medical, and social history of the birth parents. This information should be as complete as possible and should be recorded in the case record because it serves a number of important purposes:

- To assess the physical and emotional needs of the child.
- To help the adoptive family understand the child and make the initial decision to adopt.
- To serve as historical background if the child later decides to seek information about himself or his origins.
- To clarify the legal and jurisdictional rights of an American Indian child.

Information about the child and the birth parents should be obtained from both birth parents. They should be assisted in understanding why the material is necessary and why information from both parents should be included. Other information should be obtained from direct study and observation of the child by the social worker, the foster parents, and the pediatrician; from school reports and teacher's observations; and from reports and observations of any other consultants.

Extensive information about the birth parents should be obtained and should include, but not be limited to, social history and factual material from the birth parent; physical appearance of the birth family, including pictures, education, kinds of employment, interests, hobbies, and talents; health; likes and dislikes; experiences which have meaning to birth parents; feelings about the child and hopes for his future; race, nationality, ethnicity, and religion; and any written material prepared by the birth parents for their child.

Medical history and other medical information on the birth parents should be as complete as possible and should include the following for both the mother and father: significant illnesses or handicaps; known hereditary and genetic factors; birth information; reports of medical examinations; nature and degree of any existing handicap,

including any treatment program for the handicap; report of any psychological or psychiatric assessment; and assessment of health and medical information by the agency medical consultant.

Social History of the Child

The child's own history has a special value for him and material on the topic should be as complete as possible. It should address:

- Developmental history, including birth and infant health history, locomotor development, feeding experiences, and toilet training.
- Racial, ethnic, and religious background.
- Tribal affiliation for an American Indian child.
- Characteristic way of responding to people and situtations.
- Any deviations from the range of normal development.
- Any special talents or abilities.
- Continuity of parental affection and care.
- Separation experiences.
- Foster care experiences.
- School experiences, including educational ability, continuity of school attendance, number of schools, social experiences in school, and attitude toward school.
- Living and emotional experiences with birth parents and in foster home.
- Psychological and other evaluations.

Selection of an Adoptive Family

An adoptive family for a specific child should be selected by a team that includes the child's social worker, the worker who studied the family and, if possible, the worker who will continue to provide services to the child and family after the placement.

Criteria that enter into the selection of a family include the capacity and interests of the adoptive family to meet the individual needs of a particular child, the capacity of the child to benefit by placement with the adoptive family, and the expressions by the adoptive family, the birth parents, and the child of their wishes and hopes for the future.

Selection of a family at this point, however, must be recognized as preliminary, dependent upon later reactions of the adoptive family and the child to each other.

Evidence to show the suitability of the adoptive family for the child should also be included in the agency report and presented to the court with the petition for adoption (Section 401(d)(5)).

Preparation and Placement Process

Prior to the placement of a child other than an infant with an adoptive family, the agency must help the child understand why he is being placed, where he will be going, and what adoption means. This step is vital in preparing the child for integration into a new family unit.

Older children being placed for adoption need to come to grips with their past. Their recollections need to be respected and supplemented with additional factual material, if available. More important, they need help with any feelings of guilt, grief, rejection, or fear, so they can be free to develop a new relationship with their adoptive parents.

Preparation for placement should be consistent with the child's age, understanding, and emotional maturity. The child must be helped to understand why he cannot live with his birth family, why the family is unable to care for him, and their wish for him to have a permanent home. If the child is being removed from a foster home, the worker should explain why the child cannot remain there permanently, and the child should have the opportunity to express his feelings about the impending separation.

The foster parents have an important place in the preparation of the child, but the social worker has the major responsibility. Preparation may require several sessions and should include participation of the foster parents. There should also be an opportunity to discuss with the child the meaning of living with a family permanently and having their name.

Sometimes the worker's own feelings of discomfort with such material and a desire to protect the child from unpleasant feelings lead to dealing superficially with this preparation or not dealing with it at all. Workers must receive training in the importance of helping the child understand his past and the use of special techniques, such as the following, to prepare the child for his adoptive placement:

- Construction of a life story book.
- Visits to important physical landmarks in the child's life, such as the hospital of his birth and places where he has lived.
- Use of children's groups.
- Taping or writing an autobiography.

The child's and the adoptive family's social workers must fully review and interpret *all* material on the child with the family to help them decide whether to meet the child and to consider placement in their home. It is unfair to the child and to the family to interpret such material in solely positive or negative terms. The family must be helped to a realistic understanding and acceptance of the child—past, present, and future. They should be able to read the child's record, ask questions, and talk to their doctor, family, or other important persons in their life before deciding whether to meet the child. Desires of the birth parents and the child relating to future contact with each other should be discussed. The adoptive family should also be informed of services and resources that will be available to them and the child.

The child's social worker should, after the initial preparation of the child, talk to the child about the family. As one way of reinforcing a sense of continuity, the child should be assured that it is not necessary for him to give up his background and past associations. The child should be provided with information on the adoptive family's customs and their methods of discipline, and should see pictures of the family, their home, and their neighborhood. The child should also be given any written material the family may have prepared to help him gain an initial understanding as to what life in the adoptive family will be like.

Preplacement visits between the child and the adoptive family are desirable, whenever practical. The number of visits and their location must be based on the child's needs, and not determined by standard agency policy. Visits should not always consist of special activities but should include typical family activities such as meals at the family home. Social workers must be available to the child and family to answer their questions, facilitate their understanding of each other, and to help them acknowledge and accept their feelings. The timing and method of placement should not be prescribed by agency policy but by what is best for the child and the family.

Following the child's placement, the birth parents' social worker should notify them that their child has been placed with an adoptive family and answer any questions about the family, excluding any information that might assist the birth parents in identifying the adoptive family.

Section 206. Placement for Adoption by Parents

This section outlines the procedures to be followed when a child is placed for adoption by the birth parents in a family of their own selection. The procedures, which are to be followed in all placements except those with a stepparent or close relative, provide safeguards for the child, the birth parents, and the adoptive parents. It should be noted that the law does not prohibit the parent from selecting a

representative or intermediary to effect the placement of a child.

After receiving the Notice of Parental Placement the court will order an agency to conduct an assessment of the child, interview the birth parents and the prospective adoptive parents, and then report back to the court with the results of the investigations.

The agency should assign sufficient staff to ensure that the required assessments are thorough and can be completed within the time limits established by the Model Act. The number of assessments of placements for adoption by parents and the geographical area covered by the agency should be considered in staff allocation. It is important that staff members assigned to conduct assessments are thoroughly familiar with the requirements of the law. Agencies may charge fees for these services (Section 107).

The law requires the agency to provide counseling for the birth parents and a written statement of alternatives to adoption and available assistance in exploring the alternatives offered. This discussion reveals whether the parents have carefully considered the implications of placing the child for adoption and whether they have in any way been coerced into their decision. The right of the birth parent who is not placing the child to contest the placement should be made known to him. When the parents select adoption as the plan of choice for their child, they must sign a statement to this effect. If one of the birth parents cannot be located or refuses to cooperate, the agency report must detail what efforts have been made to locate and interview him following procedures of diligent search (Section 311). Finally, the assessment of the parents must include a complete social and medical history.

The agency must interview the prospective adoptive parents as to their emotional and physical ability to parent an adopted child as well as their reasons for seeking to adopt. If the prospective parents are a married couple, both partners must be interviewed. The circumstances of the placement and how the prospective adoptive parents were selected to have this child placed with them should be discussed, as well as what costs and fees, if any, have been paid. The agency assessment should provide an evaluation of the suitability of the prospective adoptive family for the child and should include their medical and social history.

An assessment of the health of the child, including birth history, neonatal development, and other pertinent information, should accompany the agency report.

The agency must complete the assessment and report its findings to the court within 30 days, but no sooner than five days after the child's birth. The report should contain information from interviews, observations, and assessments, such as medical assessments. The agency's recommendation of the suitability of the prospective adoptive family for the child should be included.

If, at the hearing on the Notice of Parental Placement, the court finds that the child's interests are not served by continuing his placement with the prospective adoptive family, the court will order the agency and the birth parent to develop an alternative placement plan and remove the child from the custody of the prospective adoptive family. The agency should work with the birth parent to develop a suitable alternative plan for the child, and should provide whatever planning services are necessary.

If the child has been placed for adoption outside the boundaries of the state where the parent resides, the provisions of the Interstate Compact on the Placement of Children (ICPC) must be followed. The ICPC procedures and the notice of Intent to Place a Child Independently apply in these cases. Any agency which the court has ordered to conduct an assessment for a placement made by a parent should ensure that the parent is aware of the ICPC and should assist the parent as necessary to initiate the required forms.

Section 207. Postplacement Services

This section provides for supportive services to the adoptive family after placement of the child, but prior to the consummation of the adoption. It also outlines what procedures must be followed if, during this period, the adoptive placement no longer appears to be in the interest of the child.

Postplacement services should be available to the adoptive family as needed and desired by them in the development of the parent-child relationship and in the resolution of any problems related to the adoption. Supportive services can be provided by the adoptive family's social worker in a variety of ways—by telephone, letter, through individual counseling or group counseling sessions, as well as by referral to another agency. The frequency and number of contacts with the family can be determined by the child's and family's needs, but the family should be aware of the worker's availability to assist them and should be encouraged to contact the worker whenever necessary. The agency, through its staff, has the responsibility to assure that the child's best interests are being met by this placement and to make itself available for assisting the child's and family's adjustment to each other. The agency must provide training to the workers so that they are qualified and confident in assisting the family during this stage of the adoption process.

If despite the postplacement services offered by the agency and by adjunct community resources such as adoptive parent groups and mental health professionals, the continuation of the placement is not seen as being in the best interests of the child, the court and the agency are responsible for following certain procedures in removing the child from the adoptive placement.

If the agency is the legal guardian of the child, the agency must notify the adoptive parents in writing of its intention to remove the child. Such notification must clearly state the reasons for removal and must be given 10 days prior to removal unless the agency determines that the child's health or safety is endangered. Adoptive parents should be given the opportunity to appeal this decision to the agency and must be advised of their right of subsequent appeal to the court (Section 604).

An agency not having legal guardianship or custody of the child must immediately recommend the termination of the placement to the court, and clearly state the reasons for its recommendation. The court will then notify the adoptive parents of a hearing and give all parties an opportunity to be heard.

When a child is removed from an adoptive placement, the agency's role varies according to who placed the child for adoption. If the agency placed the child, it is the agency's responsibility to assess the child's circumstances and arrange a new placement. A highly skilled worker must prepare the child for removal from the home and for his new family unless an emergency replacement makes this impossible. If, however, the parent made the adoptive placement, the parent must be notified and may choose to locate another adoptive family for the child. If the parent's rights have been terminated or the parent chooses not to be reinvolved, the agency must, with the court's approval, proceed to find a new adoptive family.

TITLE III. TERMINATION OF PARENTAL RIGHTS

Title III outlines the provisions for voluntary and involuntary termination of parental rights. It includes the

provisions, procedures, and roles of the parent, agency, and the court.

Section 301. Voluntary and Involuntary Termination of Parental Rights

Parental rights may be terminated voluntarily by the parent's relinquishment of the child to an agency (Sections 302 and 303), or through a voluntary court proceeding (Sections 305 and 306). Involuntary termination can only occur through court action (Sections 309–315). American Indian children from federally-recognized tribes are subject to the provisions of the Indian Child Welfare Act (Section 105).

Termination of parental rights is a serious legal step that affects the future of both the child and the birth parents. Agency services must ensure that all persons involved in the decision have the maximum amount of information and complete opportunity to fully consider all options, including termination.

Section 302. Relinquishment of Parental Rights in General

This section describes general relinquishment provisions.

A voluntary relinquishment to an agency terminates parental rights and serves as the consent to adoption, except when the right to revocation and restoration of parental rights is exercised as described in Sections 304 and 307.

The child's mother cannot sign a relinquishment until at least 72 hours after the birth of the child. Caution must be exercised by the agency to assure that the mother is physically and emotionally well enough to proceed with relinquishment and that she has received appropriate counseling (Section 303). The mother should be informed that she can have additional time before signing the relinquishment if she is not ready to make a decision . This opportunity can permit the relinquishment process to be conducted so that there is less emontional stress for the mother and may reduce the possibility of a challenge based on duress.

The child's father may, if he chooses, sign a relinquishment, prior to the birth of the child, but he must be notified of the child's birth unless he waives the notice. The father must receive information regarding alternatives to adoption, the child's need for permanence, the meaning of the relinquishment process, and the waiver of notice of the child's birth (Section 303). If the birth father has not signed a waiver, the agency must immediately notify him of the child's birth, by mail to his last known address.

The birth father should be told that he can wait until after the birth of the child before signing the relinquishment documents. As with the mother, however, he may not execute a relinquishment in the 72 hours immediately after the birth of the child.

The law expressly permits a minor parent to sign a relinquishment of his child and further stipulates that the relinquishment may not be voided by reason of the minor's age. If the agency is concerned about the minor's emotional maturity or the minor's ability to comprehend the present and future implications of the relinquishment, the agency has an obligation to assist the minor through the voluntary court procedure by filing a petition for voluntary termination of parental rights (Section 305).

Section 303. Procedures for Relinquishment

This section describes a series of procedures for agency relinquishments, which are designed to provide protection to all parties involved in the relinquishment.

General Agency Considerations

The agency must be assured that the birth parents' decision to relinquish their child is informed and is being made without undue influence or pressure.

The birth parent who speaks another language or is illiterate, blind, or deaf must have appropriate assistance provided by the agency to help him understand the meaning of relinquishment. Thus the proceedings and forms should be in the parent's chosen language. Agencies normally serving populations speaking languages other than English should have forms in those languages and utilize bilingual workers. Moreover, agencies should develop a resource file of persons and organizations able to translate the proceeding into other languages.

The law prohibits the workers who counseled the parent from taking the parent's relinquishment, and further requires that the relinquishment worker be specifically trained to conduct the proceeding. Because of the quasi-legal nature of relinquishment proceedings, the agency may want to consider using paralegal staff members, but at the very least should designate and train one person in relinquishment proceedings. A small agency, however, may choose to call upon a trained relinquishment worker from another agency rather than designating and training one of its own staff.

Services Prior to Relinquishment

The agency is responsible for ensuring that the worker counseling the birth parents has assisted them to explore alternatives for the care of their child other than placement for adoption. The Act mandates that these alternatives be clearly described in writing and fully understood and considered by the parents. These actions must be completed prior to the taking of a relinquishment or the relinquishment will not be informed and voluntary within the meaning of the law.

Relinquishment Proceedings

The relinquishment worker must:

Determine that at least 72 hours have elasped since the child's birth.

Explain the option of the parent to petition the court for a voluntary termination of parental rights. If the relinquishment worker has concerns regarding the mental competency of the person to understand the proceeding, he must halt the proceeding and the agency must assist the parent to file for voluntary judicial termination. This may prevent future challenges to the termination.

Explain in simple, understandable language the meaning of relinquishment, the parent's right to revoke the relinquishment within 14 days, and the procedures for revocation. A written statement of the right to revoke and a revocation from should be given to the parent along with the explanation. To ensure the parent's understanding, the relinquishment worker will ask the parent to state in his own words his understanding of the relinquishment.

Ascertain if the parent desires to maintain contact with the child and his adoptive family following the adoptive placement. The adoptive family must consent to such an arrangement, and the court must aprove the agreement (Section 104).

Explain to the parents their right to be notified if, after one year, the child has not been placed for adoption, or has been removed from placement for adoption and has not been replaced within six months, and their right to a hearing to restore parental rights. They must also be informed of their right to waive the notice and their right to rescind the waiver (Section307). Unless the parent waives the notice in writing, however, he must be notified; no request for notification is necessary.

Ensure that the parent has received a written description of the alternatives to relinquishment, and of the services available to assist him in carrying out an alternative plan for the child.

The relinquishment document must be signed by the birth parents in the presence of two witnesses, one selected by the parents and one selected by the agency, and duly notarized or certified according to a state's practices. The agency should encourage a parent to provide his own witness so possible later claims of pressure and duress can be avoided. The parent may, however, select an agency staff member as a witness.

A tape recording of the relinquishment proceeding must be kept, it becomes the official record of the proceeding. An agency may encounter situations in which a tape recording is not permitted or is not possible. In such a situation, a written record may be substituted for the tape recording, but the record must explain the reasons no tape recording could be made. The parent who was the subject of the proceeding may request and receive a duplicate of the tape or a copy of the record, and the agency may assess the parent a fee equal to the costs of reproduction.

At the end of the relinquishment proceeding, the parent is entitled to receive copies of all documents pertaining to the relinquishment. These documents include a copy—not the notarized or certified original—of the relinquishment document, a revocation form and a written description of the procedures for relinquishment, and a copy of any waiver of notice that the child has not been placed for adoption, along with a description of the procedures for restoration of parental rights.

The agency should retain for its records copies of all documents given to the parent, and the relinquishment worker should prepare a brief summary of the proceeding for the agency record as a written supplement to the tape recording. The agency must also retain the original notarized or certified relinquishment document to file along with the petition for the child's adoption as evidence that the parent's rights have been legally terminated.

A machine or carbon copy of the relinquishment document must also be filed with the state adoption administration; neither this filing nor a failure to file the document, however, has any effect on the validity of the relinquishment. Rather, the information obtained can furnish an accurate count of children in the state who have been relinquished voluntarily for adoption. Section 601 of the Model Act provides for such information to become part of the data collection system of the adoption administration, where it can be used along with related data to develop various statistical analyses of adoption services and trends.

Section 304. Revocation of Relinquishment

Any parent who signs a relinquishment has 14 calendar days after signing in which to revoke the relinquishment. The parent should be informed that weekends and holidays are counted in determining the time, so the actual number of calendar days for revocation could vary between 11 (if the 14th calendar day fell on the final day of a three-day weekend) and the full 14 days. An agency could, of course, permit a parent to revoke on a non-working day but is not required to do so.

If a father signed a relinquishment prior to the child's birth, he has 14 calendar days to revoke the relinquishment from the date the agency mails him notification of the child's birth. No notification is necessary if the father has signed a waiver of notice, but the father may still revoke within the time allowed if he otherwise learns of the child's birth.

The revocation must be signed by the parents and two witnesses and be duly notarized or certified. The law requires the revocation to be made in the presence of an authorized agency official from the agency that accepted the relinquishment who is also responsible for conveyance of the document to the agency. The form could be served on the agency by the parent's own legal counsel after proper execution. The parents should always be advised to keep a copy of the signed form.

If a parent who had custody of the child prior to relinquishment revokes a relinquishment, the child must be returned to that parent within 14 calendar days after the revocation is signed. If the parent who did not have custody revokes the relinquishment and the parent who had custody does not seek to regain custody, the parent who revoked the relinquishment must be given custody of the child. In either of these situations, the agency has the right to a prompt hearing to protest the transfer of the child's custody, if the agency seriously questions the parent's ability to provide adequate care for the child. At the hearing the agency must be prepared to demonstrate the parent's inability or unfitness to care for the child. If the child is to be returned to the parent's custody, the agency must prepare them for reunification, especially if the child has been out of the parental home for more than a brief period or has never been in the parent's custody. The impending change in the child's status should be discussed with the child, as appropriate to his age. The parent should be given current information about the child, including his daily schedule, medical and emotional condition, procedures for school transfer, and any other special needs. Supportive services should be offered and made available to the family to assist them in achieving a successful reunification.

Section 305. Court Petition for Voluntary Termination of Parental Rights

The law provides for voluntary judicial termination of parental rights; only a parent can file a petition for this purpose. A voluntary termination permits a placement for adoption by the parent or by an agency named by the parent.

Any parent relinquishing a child may pursue the option of a judicial termination. In addition, any parent whose competency is questioned by the agency should be assisted to petition for voluntary judicial termination. The agency should provide the counseling required by Sections 205 and 206 of the Model Act to any parent seeking a judicial termination with whom it is involved, but the law ultimately depends on the court to ensure that the parent's rights are protected and that the parent's consent is an informed, voluntary one.

Section 306. Hearing on Petition for Voluntary Termination of Parental Rights: Decree and Disposition

Agencies must be aware that such petitions can be filed prior to the birth of the child, but will not be heard until at least 72 hours have elapsed after the birth of the child or, if the child is an American Indian subject to the Indian Child Welfare Act, until 10 days have elapsed. Procedures for the hearing and possible dispositions are contained in this section. An agency should be aware that, if the court denies the petition for termination, the court may order the agency to investigate the child's situation and report back to the court with a plan or a recommendation for the child's care.

Section 307. Restoration of Parental Rights Relinquished or Voluntarily Terminated

Unless notification is waived, the agency must notify the parent if:

The child is not placed for adoption within one year after the relinquishment or voluntary termination is effective.

The child's placement for adoption is terminated within one year and the child is not again placed for adoption within six months. The agency, however, always has at least one year to make a

successful adoptive placement of the child.

The parent has a right to a hearing within 30 days of the mailing of the notice to request a restoration of parental rights. The agency can present evidence against the request. If the court denies the parent's decision for restoration, the agency must continue to monitor the child's placement and develop a permanent plan for the child, subject to court review every six months.

If the parent has relinquished parental rights or custody has been transferred upon voluntary termination, the agency must inform the parent, on request, on whether the child has been adopted. This provision has a retroactive effect, so the information must be provided to parents whose rights were terminated even before the effective date of the Model Act.

Section 308. Putative Fathers

Prior to the placement of a child for adoption, the rights of any man named as a putative father must be terminated. This section sets forth the legal procedures which provide a basis for the termination of his rights if he chooses not to involve himself in actively seeking custody of the child.

When the putative father has been offered counseling (Section 205 and 206), but does not make a decision within a reasonable time or refuses to cooperate with the agency in making a plan for the child, the agency must file a Notice of Intent to Terminate Parental Rights in the court located when the agency or mother plans to place the child for adoption.

The Notice of Intent allows the putative father 30 days in which to take one of four courses of action:

He may disclaim paternity of the child, in which case he has no further rights with respect to the child. A disclaimer of paternity, like a relinquishment, serves as evidence that the child has been legally freed for adoption and must be filed along with the petition for the child's adoption.

He may relinquish the child to an agency.

He may file a petition for the voluntary termination of his parental rights.

He may file an Intent to Take Custody of the child in which case the court will hold a hearing within 15 days to adjudicate paternity.

If a finding of paternity results, the father has 60 days to take physical custody of the child, and the agency will be ordered to assist the father in developing a plan for his child. If the father fails to take custody, the court may proceed to terminate his paternal rights.

If the putative father takes no action after receiving a Notice of Intent to Terminate, the court may terminate his rights on the basis of his inaction (Section 313(d)(3)). When the Notice of Intent cannot be served upon the putative father, the agency is required to make a diligent search for him (Section 311).

The procedures outlined in this section should help to prevent undue delay in making permanent plans for a child. Because of the effect of a disclaimer of paternity, the state adoption administration is given the responsibility to design forms and procedures which will assure that the father is fully aware of the consequences of disclaiming paternity.

Section 309. Court Petition for Involuntary Termination of Parental Rights

Petitions for Involuntary Termination of Parental Rights may be filed by:

Licensed child placement or child-caring agencies.

Either parent with respect to the other parent.

The child's guardian, legal custodian, attorney, or guardian *ad litem.*

The child's *de facto* parent.

This section specifies the format and outlines the elements to be included in the petition.

Agencies must make every effort necessary to reunite the birth family when a child is placed into foster care. If services do not result in reunification of the child with his family, the agency has the responsibility to consider adoption as a way of providing a permanent family for the child. If the agency determines adoption is the best plan for the child and the parents are unwilling to terminate their rights, the agency must quickly act to petition the court for an involuntary termination. The agency should not delay the filing of a petition for the reason that no adoptive family presently is available for the child.

In the case of an abandoned child, abandonment is conclusively presumed if the parent does not claim the child within two months after the child is found, and the identity and location of the parent cannot be determined by diligent search. Any licensed child-caring or child placement agency having custody of an abandoned child must file a petition for involuntary termination of parental rights on behalf of an abandoned child within 10 days after the agency establishes such abandonment.

When preparing to file a petition for the involuntary termination of parental rights, the agency should:

Consult with its legal counsel to assure that adequate grounds exist to file the petition and that evidence is sufficient to support the allegations in the petition. The legal counsel should prepare social workers for testifying at the hearings.

Prepare the birth parents for court action by explaining the reason for the decision to terminate their rights, advising them of their right to and method of securing legal counsel, and discussing the effects of the termination.

Discuss the proceeding with the child, as age appropriate, and help prepare him for his court appearance, if it is necessary.

Section 310. Notice; Waiver of Appearance

This section calls for the agency petitioning the court to provide a notice and a copy of the petition to be personally served on the individuals specified in the Model Act. If any of these individuals, except for the parent, wish to waive their appearance, they may do so either in writing or by a personal visit to the court.

If personal service of notice cannot be made on a known parent, the court will order substitute service according to its own rules. Substitute service may include:

Sending the notice by certified or registered mail, return receipt requested, to a person's last known address in advance of the hearing.

Publishing the notice in a newspaper of general circulation in the community where the parent is thought to live, or if the parent's where-abouts are totally unknown, in the community where the court is located.

When attempting to identify or locate a birth parent, the agency is required to conduct a diligent search, which includes:

Checking any parent registry in which the parent could reasonably be expected to have registered a claim of paternity.

Discreet inquiry among relatives, friends, community, and employers.

Direct inquiries to a postmaster, the division of motor vehicles, appropriate branch of the armed forces, sheriff's office or state bureau of criminal identification, probation or parole office, telephone or city directories, bureau of vital statistics, and local agencies responsible for birth registrations and marriage certificates. In addition, the agency should make full use of the information on the child's birth certificate.

The court will not proceed unless a diligent search is accomplished to identify and locate the parent. The agency must be able to document for the court the efforts they have made in this endeavor (Section 311). If the person is known not to understand spoken or written English, the agency must give all notices in the person's language or through an interpreter. The agency should provide documentation that this procedure has been followed.

Section 311. Preliminary Hearing; Right to Counsel; Competency

This section provides for a preliminary hearing at which the court can verify that all parties have received notice as required by Section 310 and assure that the parties are represented by counsel.

The social worker who is working with the child and birth parents and will be representing the agency at the hearing, should be represented by counsel provided by the agency. It is preferable that the same attorney work with the agency consistently so that he is familiar with the kinds of cases for which his services are needed. The attorney should consult with the staff member representing the agency on the necessary preparation of a case for the court, the adequacy of the evidence, and how to testify in a court hearing. The attorney should also be available to appear at a court hearing to represent the agency, if necessary.

If, during the hearing, the court has doubts about the competency or the ability of the parent to care for the child, the court, on its own motion or the motion of any other party to the hearing, can order an examination of the parent by an appropriate specialist. The costs for the examination can be assumed by the court or assigned to another party. The examination results must be received within 30 days by the court and the individual examined.

If it was not possible to serve notice of the hearing on a parent and the court finds the agency's efforts to identify or locate a parent inadequate, the court may order the agency to make a diligent search if it has not already done so, or if the agency had made a search, the court may order the agency to search more diligently.

The court may also require the known parent to testify regarding the identity and residence of the other parent, or the court may require the known parent to furnish the information in an affidavit.

Section 312. Assessment of Child and Report

When the action for involuntary termination of parental rights is contested, or if the court believes it is necessary, the court will order an assessment of the child's needs by a party other than the petitioning agency. If there are no other examiners available, the agency can complete the assessment upon the court's determination. The court must have the report within 30 days unless it grants an extension.

The agency is responsible for cooperating with the examiner who is preparing the report. The report must address:

The allegations in the petition.

The present physical, mental, and emotional needs of the child and birth parents and any prior medical, psychological, and psychiatric reports.

The past and present relationship of the child to his parents and to his siblings.

The plan for the child's future.

The nature and extent of services to the child and family, and any service plans that have been executed.

Any other facts relating to the child's best interests.

Section 313. Adjudicatory Hearing for Involuntary Termination of Parental Rights

This section provides for an adjudicatory hearing within 30 days of a preliminary hearing to determine whether grounds for termination exist, and outlines what these grounds are.

An agency must be familiar with these grounds, as they form the basis for the agency's decision to petition the court for termination. The agency must also be certain that it has sufficient evidence to prove its allegations at the time of the court hearing. The law discusses in detail what evidence the court will consider in making its decision, and the agency must be aware of these considerations.

The agency will be obligated to show what efforts it has made to offer services to the birth parents and child and to reunite the family. These should include efforts to:

Help the parent visit the child and remain in contact with him as part of the plan for reunion.

Help the parent to find ways to pay a reasonable sum toward the costs of caring for the child.

Help the parent with his own adjustment toward achievement of the child's return to home.

Develop a service plan with the parent and document the extent to which the mutual obligations have been fulfilled.

Help the parent consider the child's wishes if he has been out of the care of the parent for over three years. This has special significance if the child has indicated a desire to remain with his *de facto* parent.

Agencies should note that the Model Act also states that the rehabilitation of the parent is not alone sufficient for continuance of a legal parent-child relationship.

Section 314. Disposition of Petition for Involuntary Termination of Parental Rights

If sufficient grounds exist, the court will enter an order terminating parental rights and appoint a person (usually a representative of the petitioning agency) as the child's guardian. The guardian has the responsibility to develop a permanent placement plan for the child and to report on the implementation of the plan to the court in 90 days, with an update every six months until a permanent placement is made.

If the court does not find sufficient grounds for involuntary termination, the court may return the child to the custody of the parents, or may place the child under the supervision of an agency. If the court elects the latter option, the agency must file reports for the review of the court no later than six months after the order and annually thereafter.

The agency must be prepared to give whatever service the court requests for the child. If the child is under the supervision and in the care of the agency, the agency is responsible for making regular reviews and plans for the child's permanent care. In addition to preparing annual written reports on these reviews and plans, the agency can expect to appear annually before the court or a referee to review the plans and consider the future of the child. To make these hearings as useful as possible in planning for the child, the agency should develop and present to the court alternative plans for the child, including an evaluation of the agency's and the child's preferences with respect to each alternative.

Section 315. Court Order Granting Termination of Parental Rights

This section provides for a written order which is final unless there is an appeal. If there is an appeal, the agency counsel should represent the agency (Section 108).

Section 316. Effect of Termination Decree of Relinquishment; Attack

Section 104 of the Model Act spells out the character and effect of the termination of parental rights; this section adds a number of related considerations. An agency should note that, although birth parents have no right to receive notice of or to

participate in an adopting hearing, they may do so if the adoptive parents agree.

If the termination decree or the relinquishment is challenged:

- The adoptive petitioner or adoptive parent shall immediately be notified by any agency that learns of the challenge. The notifying agency shall certify to the court that such notice was given.
- The child and the adoptive parents are considered interested parties and must have an opportunity to be heard. The agency that participated in the adoption should be sure that the adoptive family, and the child if old enough, understand the implications of the challenge.

Section 317. Appointment of Counsel in Judicial Proceedings To Terminate Parental Rights

There are several situations in which the court must appoint counsel for the child and his parents, and others in which the court has discretion to appoint counsel. At any hearing in which termination is being contested and the agency is a party, the social worker and the agency should be represented by the agency's counsel.

Section 318. Authority and Duties of Guardian of Child's Person

The responsibility, duties, and authority of the child's guardian are outlined in this section. The guardian may be the director of the agency or a social worker in the agency. The guardian is obligated by law to discharge certain duties and will be held accountable by the court for his performance. To ensure that the agency representative appointed as guardian acts in accord with legal requirements, agencies must develop policies detailing the decisions which require the guardian's signature, the extent of the guardian's authority, and the decisions which only the court may make.

Section 319. Restoration of Legal Parent-Child Relationship at Majority

When a child whose parents' rights have been terminated reaches majority and has not been adopted, either the child or the parent may petition for the restoration of the legal parent-child relationship. Agencies should inform parents and children of this provision of the law and assist children reaching majority who wish to file such actions. The establishment of provisions for restoration of parental rights may serve to reduce any reluctance on the part of an agency or the court to terminate parental rights when a specific adoptive home is not available for a child.

TITLE IV. ADOPTION PROCEEDINGS

Title IV sets forth the steps and requirements for the legal consummation of an adoption.

Section 401. Adoption Petition

This section provides for the filing of a petition by the adoptive parents and specifies what it should contain and the documents that should be filed with the petition. The court will file copies of all petitions with the state adoption administration after the adoption is completed (Section 405).

The agency should furnish to the adoptive family's attorney any material and documents the agency has that would assist in preparing and filing the petition. Such material includes:

- A certified copy of the birth record.
- The original relinquishment document or certified copy of the court decree terminating parental rights or a disclaimer of paternity.
- Affidavits of costs associated with the adoption.
- Records compiled by the agency that represent the preplacement history of the child, the approved assessment of the adoptive family and the birth parents' history, as well as reports compiled in connection with Section 205, 206, 303, 312, and 207, if the child had previously been unsuccessfully placed with an adoptive family.

If the child has had a previous relationship with the adoptive family, as might be the case in relative or stepparent adoptions or long-term foster care situations, the petition should be filed as soon as possible. A petition must always be filed within 12 months after the adoptive placement began, except in certain types of intercountry adoptions where the petition must be filed 30 days after the placement (Section 204). The agency should have an administrative review procedure to ensure the timely filing of petitions; Section 207 of the Act places certain responsibilities on the agency providing postplacement services with respect to the timely filing of petitions.

Section 402. Agency Report

The adoption hearing will not be held until an agency has submitted reports to the court that:

- Verify the statements in the petition.
- Assess the adjustment of the child and adoptive family to each other. An assessment of the child's physical, mental, and emotional health furnishes an indication of the child's adjustment to the adoptive family. If the child was identified as one with special needs when he was placed with the family, the child's special needs should be specifically addressed in the report to the court.
- Review the reports of the period of preplacement and placement supervision. This should highlight significant points and provide a rationale for the present adjustment or lack of it.
- Address any matters relevant to the adoption.

The report, together with a recommendation on granting the adoption petition, must be filed within 45 days after the filing of the petition. Agencies must establish and adhere to the court's deadlines so the adoption is not delayed by any agency action or inaction. The agency should have a procedure for administrative monitoring of this process.

If the adoption petitioner is a stepparent or a relative to the third degree or closer, the report should include the results of an interview conducted by an agency staff member with the parent who is consenting to the adoption. The report should indicate whether the parent's consent appears to be voluntary and whether the parent understood the meaning and consequences of the consent and the adoption. The parent's feelings about the adoption should also be a part of the report.

Section 403. Request for Hearing: Appointment of a Guardian Ad Litem, Notice

This section provides for notice of the hearing to all parties—prospective adoptee, prospective adoptee's guardian, all agencies involved. The birth parents will also be included if there is a prior written agreement with adoptive parents to give such notice. If the court determines that there is no person or agency with authority to consent to the adoption, as may be the case in an intercountry adoption, the court will appoint a guardian *ad litem* with the authority to consent.

The Model Act has no requirement for a minimum length of time the child must be in the adoptive home before the adoption hearing. This approach allows the adoptive parents to proceed with the adoption as soon as they are comfortable doing so. The agency providing postplacement services should be prepared to assist the adoptive parents in considering the timing of the adoption, if necessary.

Section 404. Who May Consent to Adoption

A number of consents are necessary before a final decree of adoption can be issued. With the exception that a child

must consent in the presence of the court, consents may be submitted in writing if they are properly notarized or certified.

A child 10 years of age or older must consent in writing, if he is able to do so, and the court will consult a child over seven years but under 10 years of age as to his wishes. Most courts have a brief private discussion with a child if he is old enough and able to understand the meaning of the adoption hearing. The ability of the adoptee with intellectually or emotionally handicapping conditions to understand the intent of the final hearing and the consents should be considered in carrying out this requirement and in preparing the child for the hearing.

In agency adoptions the consent is given by the agency on the basis of a relinquishment or a judicial termination of parental rights. The agency may withhold its consent if it has sufficient documentation for the court to show that the adoption is not in the best interests of the child.

The agency should prepare the adoptive family for the hearing and encourage them to mark the event in a special manner such as a family celebration.

Section 405. Disposition of Petition

This section provides for the court to enter an adoption decree if it finds that the petition, the accompanying documents, and the evidence warrant the granting of the petition.

At the adoption hearing the social worker or a designated representative of the agency, who prepared or is familiar with the documents and the report, should appear to be examined on the contents of the report if the court desires.

The report should cover the postplacement period and include observations on the adjustment of the child and the adoptive family to each other. It should describe the kinds of postplacement services the agency has given to the family, and describe any special services provided to help the child in his adjustment to his adoptive family. The report should clearly state the outcomes of these services.

If any conditions for adoption have not been met but the court believes they could be expected to be met within a reasonable time, the court may continue the hearing for up to six months with the expectation that the problems will be resolved. The final disposition, however, must occur no later than 12 months after the petition was filed.

Section 406. Adoption Decree; Review; Appeal

An adoption decree establishes the legal relationship of parent and child and is considered a final order for purposes of appeal.

If the court order is challenged within the state, the court in which the challenge is filed will notify an agency of the challenge. The agency must then notify the adoptive parents, the adoptee, and the agency that placed the child for adoption (if different from the agency providing notice). All persons or agencies receiving notice are considered parties and will have the opportunity to be heard regarding the challenge.

If the court order is challenged in another state, any agency that learns of this challenge must notify the adoptive parents.

Section 407. Plan for the Child

If the adoption petition is denied, the court will retain jurisdiction unless the child was under the jurisdiction of another court prior to the filing of the petition, in which case the jurisdiction may revert to the court previously exercising jurisdiction.

The court will order the agency to remove the child from the adoptive placement unless the petitioner is the child's birth parent or the agency requests approval to continue the child's placement in the home for foster care; the law permits the court to approve a plan for the child to remain in foster care placement with the petitioners. Agency considerations in recommending such a plan would include the following:

- The reasons for the denial of the petition.
- The wishes of the child and the adoptive petitioners with regard to the continuation of the placement and the relationship.
- The child's need for a stable placement and the likelihood that a foster care placement in this home could provide such stability.
- The wishes of the birth parents if they are involved with the child.

If the continuation of the child's placement in the petitioners' home is not possible or desirable, the agency making the adoptive placement, or another agency with the approval of the court, must make an alternate plan for the child. The law specifies a preference for another adoptive placement for the child, and requires that any plan that does not have as a goal another adoptive placement include a full explanation of the reasons.

After the agency makes a plan, it must be presented to the court for approval. Once the court approves the agency's plan, the agency is required to report to the court at least every six months on the implementation of the plan. These reports must continue to be submitted to the court until another placement for adoption is made or until the child reaches the age of majority.

The agency making a placement plan for a child voluntarily relinquished to it for adoption must consider and adhere to the requirements of Section 307 of the Model Act. This section requires that the birth parents signing the relinquishment be notified after the child is removed from a preadoptive placement unless the child is again placed for adoption within six months, or the birth parent has expressly waived the right to such notification.

When the agency is considering the plan for a child relinquished voluntarily, immediate contact with a birth parent retaining the right to notification should be considered rather than waiting the six months permitted by law. The birth parent may choose to reinvolve himself in planning for the child, or may seek to resume custody and to petition for restoration of parental rights (Section 307).

TITLE V. RECORDS

Recordkeeping requirements imposed by the Model Act serve a number of purposes:

- To impose structure and control over proceedings.
- To assure accountability in performance.
- To create a written social and medical history that must often substitute for the interpersonal contacts in an adoptee's formation of a sense of identity.
- To assist, if indicated, in reuniting the adult adoptee with members of his birth family.
- To provide a means by which quality of service can be evaluated for licensing purposes.

The Model Act—particularly Title V—embodies the recognition that persons involved in the adoption process need information and that the agency has a responsibility to make that information accessible.

Section 501. Retention of Records

The law requires that the records of the agency and the court compiled in any proceedings covered by the Act be retained for 99 years after the child reaches the age of majority. Retention assures that the material will be available in future years to adult adoptees, birth parents, and adoptive parents.

The agency which compiles the records has the primary responsibility

for maintaining and retaining records. If an agency discontinues its operation, all termination and adoption records are to be transferred to the state adoption administration, which has been designated to accept and preserve them.

It is the responsibility of the agency to establish a records retention policy that clearly outlines the following:

- Staff members responsible for preparing the case record for storage.
- Staff members responsible for maintaining a master file that identifies where each case record is stored. It is important that a cross reference system be utilized to aid in the proper identification of case records.
- Documents that are to be retained and those that may be destroyed because of duplication or incorporation in another report.
- The manner of storage. The retention and storage of records can be cumbersome if they are retained in their original state. An alternative for an agency with a large volume of cases is the use of microfilm.

Although each agency can establish its own guidelines for recordkeeping, documents compiled pursuant to the following sections of the Model Act must be retained:

- *Section 104(c).* Written agreement for continuing contact of the child with the birth parents.
- *Section 205.* Adoptive parent application, agency record of preliminary investigation and approval of adoptive applicants for the particular child in question, report on the birth parents, assessment of the child, medical and genetic information on the birth parents, and medical information and medical assessment of the child.
- *Section 206.* Report to court for a placement made by a parent; accompanying forms completed by birth parents and child's examining physicians; and prenatal, delivery, and postnatal reports.
- *Section 207.* Reports on postplacement services and records on a child removed from an adoptive placement.
- *Section 303.* Relinquishment document, tape recording or written record of relinquishment proceeding, and waiver of notice.
- *Section 304.* Revocation of relinquishment.
- *Section 305 and 306.* Petition to terminate parental rights and accompanying documents and court order.
- *Section 307.* Parent's waiver of notice of agency failure to place a relinquished child.
- *Section 311.* Court-ordered report on competency of a party.
- *Section 312.* Assessment of child.
- *Section 318.* Guardian reports to court.
- *Section 401.* Adoption petition and accompanying documents and court order.
- *Section 402.* Report to court on the adjustment of the child and adoptive family to each other.
- *Section 407.* Report on placement plan for child and follow-up reports if adoption petition is denied.
- *Section 703.* Report and agency certification of subsidy eligibility.

In an intercountry adoption, an agency must obtain as much of the foregoing material as is available and maintain it according to the established records retention policy.

In interstate placements and cases transferred between jurisdictions, the agency sending the child should forward whatever materials the receiving agency needs to discharge its duties. The sending agency, however, should retain a complete case file and should be viewed as the primary source of information about the child.

Section 502. Birth Records

Section 502 outlines procedures for amendment and sealing of the child's original birth record once the adoption is completed.

The agency should help the adoptive family understand the importance of having the birth record amended and of having a copy for the child and for themselves. The Model Act specifies the data which are to appear on the amended certificate and provides for the sealing of the original birth certificate. The original certificate remains sealed to the adoptee until he attains majority, at which time he may inspect the original record which contains the names of his birth parents.

Section 503. Court Records

Court records are maintained by the clerk of the court as part of the judicial system and are sealed to prevent inspection by the public. Parties to termination or adoption proceedings, however, may obtain access upon application to the clerk; this right of access includes an agency which had custody or guardianship of a child who was a party to the proceeding.

Section 504. Records of Agencies

This section covers the confidentiality of agency records and the provisions for access to these records. It also provides for access by the public agency to voluntary agency records under certain conditions.

Contents of Records

The law provides access to records to those persons who have legal entitlement and who can verify their identity. Because many adult adoptees may not have any other source of information about their biological heritage, it is imperative that agencies obtain a complete legal, social, and medical history from the birth parents at the time of relinquishment; keep accurate case notes summarizing agency services provided; and maintain records as required by Section 501 of the Model Act. At a minimum, the following information should be included in agency records:

- Information about the birth parents and members of their families, including names, addresses, birth dates, nationality, medical history, physical appearance, education, and employment.
- The reasons the birth parents relinquished their child.
- Information on the child including birth history; all medical, psychological or other evaluation reports; history of foster care placements; and reports on adoption placement and supervision.
- Adoptive family assessment and accompanying documents.

It is advisable for the agency to maintain separate working files on the child and adoptive parents and to insert copies of information pertaining to both the child and the adoptive parents in each record.

Case records are confidential and the information contained therein should not be disclosed except to those who have legal entitlement or when a written consent has been filed or a court order is received. The agency's policies on confidentiality and on retention of records must be shared with all persons whom the agency serves. Individuals should be given an opportunity to authorize broader disclosure of information from their record if they choose.

It is important for an agency to establish a formal written policy regarding access to agency records. The policy must provide for consistent service to all persons who make requests and include release of all available information within the confines specified by the law. The thrust of the law favors openness by placing the burden on the agency to justify nondisclosure of information, but allows for protection of privacy through deletion of identifying or personal information, such as sexual difficulties or infertility. The Model Act clearly states that an adoptive parent may not be given the name of the birth parent

nor may the birth parent be given any identifying information about an adoptee and his adoptive family. It should be emphasized, however, that it is not a violation of the law to reveal the birth parents' identity to their adult son or daughter.

As required in the Model Act, applications, notifications, and consents necessary for disclosure of agency records must be in writing. Responses to these requests must be given promptly to minimize anxiety on the part of the requesting person. The agency's failure to respond promptly may be the basis for an individual appeal. In addition, counseling to the requesting party can play an important role in determining what issues are pertinent and how active a role the agency should assume in the process, but counseling may not be required as a prerequisite to the granting of access.

Depending on the number of requests for access, the agency should consider designating one trained staff person or a staff unit to handle such requests. A state agency or another agency that covers a wide geographic area may wish to designate a local worker to handle requests and to provide any counseling requested by the person seeking information.

An agency's refusal of a request for disclosure should be in writing, with an explanation that the agency's decision may be appealed to the court. The agency should be aware that it has the burden to show why the requested information should not be disclosed.

This section also grants public authorities the right to inspect agency records in certain instances. All public and voluntary agencies must provide access to active case records to representatives of the state licensing agency. The state licensing agency must have access to these records in order to evaluate standards of practice, types of cases served, and compliance with state licensing regulations. A public agency purchasing care or service for a child or family is permitted to inspect the active files of the persons for whom services are purchased in order to monitor the expenditure of funds.

No public agency representative may obtain access to records of closed cases without a court order; this includes the records both of children adopted and of children not adopted.

Section 505. Supplementation of Records, Transmission of Information

Under the Model Act, parties who have a right of access to adoption and related records also have a right to object to supplement or clarify statements contained in those records by submitting written statements which must become a part of the permanent record maintained by the court or the agency.

Agencies should encourage parties to the adoption to supplement the agency records with material such a medical or genetic information that may be of significance to other parties to the adoption. Any agency which receives information of this nature is required to make a diligent search for the person affected to transmit the information (see Section 310 of the Procedures for diligent search).

All contacts the agency has with the parties to an adoption after the case is closed should be recorded. Recording of these contacts may later be useful if a birth parent wishes to contact or seek information about his birth child after the child reaches majority; an agency is required to make a reasonable effort to contact the child in order to transmit the birth parent's request. In this context, a "reasonable" effort might include mailing a letter to the child's last known address or attempt to locate the child through relatives of his foster or adoptive family. Reasonable efforts do not entail the extensive efforts of the "diligent" search required in other instances.

A register with a listing of adoptees cross-referenced by birth name and adopted name, may also be useful in keeping track of children served by the agency over the years.

Section 506. Treatment of Records; Penalty

This section imposes a severe penalty for violation of the records retention and access policies of Title V of the Model Act.

An agency must be familiar with the provisions of Title V as well as the professional and ethical standards for a social service agency for guidance in the storage of records, their preservation, and their handling by staff members. The Model Act is specific about who is entitled to inspect records (Sections 503 and 504), and an agency which permits unlawful access may be prosecuted.

An agency should establish policies for the care and the use of records by agency personnel, for verifying the identity and entitlement of persons requesting information, and for making copies of materials for persons entitled to the information. An agency which provides copies may charge a fee equal to the actual cost for duplication of the materials copied.

Section 507. Retroactivity

This section applies the records access provisions of Title V retroactively, thereby extending the rights of access under Title V to judicial and agency records compiled prior to the effective date of the Model Act. This provision supersedes any prior law requiring confidentiality and is not in any way limited by other assurances of confidentiality given in the past.

Retroactive access to records may have a particularly significant impact on agency practice because of previous agency commitments of confidentiality made under existing law to both parents and adoptive parents. Birth parents may want to locate or be located by their birth children, adoptees may want to search, and adoptive parents are recognizing the importance of greater openness in adoption. Agencies need to prepare both themselves and others for the changing philosophy of adoption.

Staff training should be provided to increase awareness of the effects of the records policies, both on present agency practices and on the parties to adoptions completed in the past. A sensitive and enlightened training program can be achieved by using those persons who are part of the adoption triangle. Hearing their thoughts firsthand has a far greater impact on staff than more theoretical presentations by trainers who are farther removed from the immediate emotional involvement in the adoption triangle.

Agencies may also want to prepare adoptive parents by holding group meetings with families who adopted through the agency during the past 20 to 25 years. These meetings will make adoptive parents aware of the changes in adoption philosphy and help them rethink their own concept of adoption.

By training their own staff, by altering policies to reflect the increasing openness in adoption, and by preparing adoptive parents who may have been assured of confidentiality, agencies can lessen the anxieties of persons who fear contact with another party to the adoption while furthering the intent of the Model Act on behalf of persons who are seeking such contact.

TITLE VI. AGENCY ADOPTION SERVICES

This Title establishes the state's commitment to permanency planning for all children in care. The state must designate a state agency, or a division or section thereof, whose primary service is adoption. This state agency—called the "state adoption administration" in the Model Act—is responsible for monitoring plans for children in care to assure that those who need adoption services are identified, and to provide a range of services to effect the adoption of the children in

need of adoption services. The goal is to provide the stability and nurture of family life to all children who are the responsibility of the state.

The state adoption administration must provide a comprehensive range of services, including counseling and direct services to birth parents; recruitment of adoptive homes for children waiting because of age, race, handicap, or need to be with siblings; assessment and education of adoptive families; services and counseling to the child to prepare, place, and sustain the child in an adoptive setting; and postplacement services. In addition, the state must develop resources for children through public information programs, the establishment of a state adoption exchange or listing service, and the use of regional and national exchanges. Various sections of this Title deal with these services in greater depth, as well as with the licensing of public and voluntary adoption programs.

The major factor in effective implementation of the services specified by Title VI is the use of sufficient numbers of trained staff throughout the state. Program developers, administrators, supervisors, and line workers must possess knowledge about current adoption practices, clients served, and the resources and social environment in order to design effective adoption systems to serve all children who are in need of adoption, regardless of their age, race, handicap, or need to be placed with siblings.

Section 601. Duties of the State Adoption Administration

This section outlines the duties and responsibilities of the state adoption administration in ensuring that the children who need permanent homes through adoption are identified and placed in an appropriate and timely fashion. It also outlines the adoption administration's responsibility in ensuring that staff who deliver adoption services are trained, qualified personnel.

The state adoption administration is responsible for all public adoption services within the state; its authority and responsibility will vary according to the administrative organization of the state's social services programs. In a state-administered program, the adoption administration has direct responsibility for providing appropriate administrative service to every local unit, for providing and training qualified social workers and support personnel, and for providing appropriate program standards.

In a state-supervised, county-administered program, the adoption administration is responsible for setting standards for delivery of services by all public adoption agencies under its supervision. To accomplish this task, the state adoption administration must have an adequate staff of qualified administrative and supervisory personnel to consult with and monitor all public agencies.

Case Planning and Review Systems

To ensure that an appropriate, timely, and permanent plan is made for each child who is the responsibility of the state, the Model Act mandates a system of case planning and periodic case review for every child in foster care. To prevent children from drifting indefinitely in foster care, several levels of review are necessary.

Reviews at the direct service level, between the worker and his supervisor or by the direct service delivery team, should occur at least quarterly. These reviews should be the primary mechanism for developing a case plan and monitoring progress toward attainment of case goals.

There should also be an administrative review team which would be comprised of at least a foster care supervisor, an adoption placement supervisor, and an administrative staff member. Supervisors from other child welfare services, particularly those involved in services to children in their own homes, may serve on the review team on a rotation basis. This team should meet regularly to systematically review the plans of children in foster care placement, and must have the authority to question the case goal and time frames for its accomplishment. If such questions arise, written queries requiring a response within 10 days should be directed to the worker or supervisor, with the understanding that the review will not be finalized until a response is received and discussed by the team.

The review team should use written forms to assure that at least the following information is available for consideration:

- Identifying information.
- Case goal and permanency plan for the child.
- Expected completion date of plan.
- Service plan for parents.
- Date child entered agency care.
- Date of first out-of-home placement.
- Agency's authority for placement.
- Legal status of child, including whether parental rights are terminated.
- Location of parents.
- Date of last parent-child visit.
- Reason why the child is waiting for a placement for adoption.
- Narrative summary.

The completed review form should include the results of the review and should be made a part of the child's case record.

Data included on the review form should also be incorporated into the state's statistical record or computer system that maintains and disseminates a profile of all children in care. One goal of such systems is to identify and designate those children in need of adoption services and the factors affecting the provision of such service. The types of children for whom adoption is the plan will also be evident from the recording of case plans in a computer or manually operated system.

Voluntary agencies must also develop and maintain case planning and case review systems. The effectiveness of their systems in moving children toward permanency should be evaluated as part of the licensing procedure. Results of their reviews of children for whom service is purchased should be submitted to the apppropriate local public agency, and data on these children should be entered into the state's statistical information system.

There should also be an independent review, external to the agency, of the planning for each child in foster care. Some states may encourage, by state law, a periodic court review of each child in care. While endeavoring to ensure that the child's and family's confidentiality is safeguarded, the state agency should fully cooperate in the independent review. The independent review ensures that children do not become "lost" in the foster care system and that plans are developed within a reasonable amount of time. The independent review may also furnish the agency with back-up documentation in several areas of need, such as for additional qualified staff, additional services, and substantiation of the types of children most in need of families.

Recruitment

Recruitment of adoptive homes for children waiting because of age, race, handicap, or any other factors such as the need for placement with siblings, is a service to children that brings results.

Recruitment programs must be adequately funded and staffed in order to include contacts with mass media, local community organizations, and adoptive parents' organizations, as well as with groups with a special interest in certain types of children, such as those with cerebral palsy or mental retardation. To be effective, the recruitment program must also develop material about specific children who are waiting and have it available for distribution.

Recruitment programs demonstrated to be successful have included the following: flyers for inclusion in bank mailings or distribution with consumer goods, brochures, posters, bumper stickers, television and radio public service announcements, articles in weekly and daily community papers, slide shows and movies at various public information meetings, bookmarks, balloons, portable displays used at community fairs and meetings, and speakers' bureaus.

The state adoption administration should develop specialized recruitment programs staffed by persons who show special interest and talents for recruitment, as well as familiarity with adoption services and processes. The recruitment program cannot be a passive program that waits for the applicants to come forward. A motivated, assertive, innovative staff is needed, and persons involved in the recruitment program should have recruitment as their primary responsibility. Adoptive parent groups will usually be willing to work with agency staff in recruitment efforts, and their assistance and advice should be sought in the development and operation of any recruitment program.

Recruitment also requires a sufficient number of trained staff to handle telephone inquiries efficiently and effectively, and a system to ensure that applicants will be seen quickly after responding to publicity. Recruitment should not be a one-time effort geared toward a particular child, but an ongoing, organized, and integral part of the agency's adoption program to ensure that every effort is being made to find homes for waiting children.

When a family applies to adopt a waiting child, the state adoption administration must be in a position to assure them that one of the public or voluntary agencies will be contacting them within a reasonable period of time. To accomplish this the state must have established agreements with agencies on handling requests, including an agreement that agencies will respond quickly to requests for family assessments. Although some agencies, because of geographical coverage and population served, will necessarily receive multiple requests, it should be agreed that family assessments be assigned to the agency closest to a family's place of residence.

Adoption Services

The state adoption administration has the responsibility to ensure that each child is provided with appropriate adoption services before, during, and after placement. Sections 205, 206, and 207 of the Procedures discuss agency services leading up to and immediately following the child's placement for adoption.

The law notes the agencies' responsibility for providing services after the issuance of a final order for adoption. Postadoption services should be available to the family to assist in the strengthening of child-parent relationships and in coping with issues inherent in adoption.

Postadoption Services

Following adoption, services should be available on a voluntary basis to help the adoptive family cope with any problems related to the adoption. Therefore, every agency with an adoption service should have postadoption services available. It is assumed that the majority of adoptive placements will be satisfactory, but services following legal adoption should be available to supplement the study, selection, preparation, and placement processes. These services should be discussed with adoptive applicants during the initial study so that they can perceive these services as a source of help and security. Individual, family, and group counseling should be available.

Group meetings are frequently oriented more toward education than therapy and the problems discussed are common to all parents. The discussion may concern behavior problems of the child, with the group becoming a form of self-help group, or the discussion may center on adoption matters such as telling a child about adoption. Local adoptive parents from an adoptive family organization should also be included in the group discussion. The group should be available to any adoptive family in the community, not just to families with whom the agency has placed a child. A skilled leader should also be available.

Individual counseling may be a direct service of the agency or it may be provided through referral to another resource in the community. This service is related directly to specific problems and feelings of the family. Some examples might be family relationships and questions about heredity or genetics. The agency has an obligation to seek out any additional information on technical matters the family may require which the agency does not have readily at hand.

The agency should share with the adult adoptee any information or record it has about his birth family and his own early development (Section 504). If the adult adoptee wishes it, the agency should offer assistance in contacting a birth parent.

Following termination, the birth parents should be told when the child has been placed for adoption and when the legal adoption takes place. They should also be given, in writing if requested, information about the adoptive family, including an indication of the adoptive family's feelings about the child as expressed in words and actions. If the child has not been placed for adoption within one year of termination, the agency should try to locate the birth parents to determine their interest in the child and ability to resume care for the child (Section 307).

Birth parents and adoptive parents should participate in the transfer of medical and genetic information that becomes known following the placement (Section 505). This is for the benefit of the adopted child and any other children of the birth parent. The agency should serve as the coordinator of this process.

Birth parents should be told that the information and history they have provided will be given to the adoptive family and the adopted child when he is old enough, and that the adoptive child may wish to meet them later in his life. If the birth parents wish to do so, they may keep the agency informed about how to locate them for this purpose.

Following termination, the agency should continue to offer counseling to the birth parents in relation to their own needs, if they request such help. Birth parents may be referred to other appropriate agencies in the community or to self-help groups for services the agency does not provide directly.

Public Information Programs

Information regarding the adoption programs and adoption services within the state should be readily available to the public through the state adoption administration. The adoption administration should be in a position to publish and distribute accurate information on the number and characteristics of children available for adoption and how a family can locate an adoption agency, as well as why a family assessment is needed and what is generally involved in this procedure. This information should be prepared with consideration given to the needs of different racial and ethnic groups and the need for publications in different languages.

An ongoing program of public education on the relevant issues and trends in adoption should be presented through the mass media and community organizations. Good topics for discussion include the reasons for the lack of adoptable infants, the kinds of

children available for adoption, the rewards of adopting an older child, open adoption records, and the subsidized adoption program.

The agency administrator or other designated staff person should participate in television, radio, or press programs addressing current adoption issues and trends, and the agency might also want to maintain a resource file of persons such as adoptive parents who are willing to present programs or information to the media.

State Adoption Exchange or Listing Service

The state adoption administration should operate or provide for the operation of a statewide adoption exchange or listing service available to all public and voluntary adoption agencies within the state. It should be linked with other state and regional exchanges and the National Adoption Information Exchange to create additional resources for agencies within the state. If the state adoption administration operates the statewide exchange or listing service, it should be a separate unit and be adequately staffed.

An adoption exchange multiplies the adoption opportunities for a child with special needs. If the agency caring for the child, after attempting to locate a family, does not have an appropriate family available, the agency may find a home for a child in some other section of the state or country through the efforts of an adoption exchange.

An adoptive family should be registered with the exchange as soon as the agency determines it does not have an appropriate child for them. This multiplies the family's opportunities to adopt, and often results in the adoptive placement of a waiting child.

The director of the exchange or listing service should be a social worker, and must be responsible not only for the operation of the exchange but also to help agencies see its value, so that the exchange will be used to its fullest potential. Regularly scheduled meetings for the users of the exchange will also contribute to its success by furnishing an opportunity for discussion of the philosophy and use of an exchange. Meetings also facilitate the introduction of new or revised procedures.

Exchange procedures must be clear and concise and should be in written form for wide distribution. Since exchange policies may require some adjustment in agencies' own procedures, the rationale for these policies must be cogent. Forms should be used as much as possible to avoid time-consuming and unclear letters. Using the same or similar forms for all the exchanges in the system also saves considerable staff time. Forms should be provided for registering a child and for registering a prospective adoptive family, and there should be prescribed ways of handling materials such as pictures and special reports.

Publicity about the activities of the exchange and the needs of the children registered with the exchange is essential, and placement successes should be emphasized. The state's public education unit may be called upon to assist in disseminating materials about the exchange.

The exchange should regularly issue a newsletter to share routine information about the operation of the exchange and special information about children and families listed with the exchange.

Training Programs

The state is mandated to ensure that staff involved in providing services under the law are trained to deliver those services.

There should be a well-staffed, active unit to provide ongoing training to adoption personnel. The training should be jointly planned by the various adoption agencies, be developed in relation to the needs and knowledge of the staff, and be evaluated by the staff who receive the training.

Training must encompass more than just implementation of the provisions of the law. It should emphasize the importance of adoption and give the participants a clear understanding of changing trends and techniques in the adoption field. In addition to knowledge of techniques for adoption services, specialized training relating, for example, to the effects of a worker's value judgments on family assessments, should be required.

Areas to be covered in the training program might include, but should not be limited to, working with birth parents, studying a child and preparing him for adoption, conducting family assessments, providing postplacement and postadoption services, working with handicapped children, recruiting families (including minority families), legal issues, medical evaluations, and advocacy for children.

Because of the wide range of issues with which adoption workers are involved, involving staff from other disciplines, such as the medical and legal professions, and also from client groups, can be helpful.

Data Collection for Use in Planning and Funding

To provide an accurate picture of the adoption services in the state, the state agency should organize a system of data collection. Compilation of statistics is essential for future statewide planning that will ensure that the children in care are receiving appropriate adoption services. A data collection system will also provide information needed to obtain adequate funding of adoption programs.

This data collection system should not be confused with the data collected on case review forms. The system should be designed to collect data from all public and voluntary adoption programs in the state, as well as data on all independent and intercountry adoptions. To avoid the difficulties created by a manual system, the data collection should be automated, if possible. To reduce the chance of error and reduce resistance from providers of the data, the system should be designed to collect only essential information in as simple a manner as possible. The system should, however, collect at least the following information:

- Number of children in foster care for whom adoption is the goal and their characteristics (including age, sex, race, handicaps, and length of time in care).
- Number of birth parents to whom services have been provided, and number whose parental rights have been terminated (including method of termination).
- Number of children placed for adoption by agencies and by parents; intercountry adoptive placements; characteristics of these children (age, sex, race, handicap, length of time in care).
- Number of families who have applied to adopt; number who have received family assessments; number of adoptive families available for a child, including types of children sought.

When these data are complied, agencies should have a more accurate appraisal of the needs for specialized services and programs and of the directions which future planning must take.

Forms

The state adoption administration is required to develop whatever forms are necessary to implement the provisions of the Model Act. In addition to this general mandate, the Act specifically mentions that the relinquishment document (Section 302) and the disclaimer of paternity (Section 308) be developed (or approved) by the state adoption administration and be used by all agencies within the state.

Policies and procedures may vary enough from agency to agency that only a few other forms could be used uniformly throughout a state. Among the

other forms which might lend themselves to uniform use are the following:

- Forms for revocation of a relinquishment (Section 304).
- Forms for registering a child and a family on the adoption listing or exchange (Section 601).
- Forms for collecting data for the statewide adoption information system (Section 601).
- Forms for certifying a child as eligible for a subsidy (Section 703).

Many other forms may be necessary to conduct business efficiently and to maintain uniform records. Because the state adoption administration may have ready access to the technical skill required to design forms, it should develop sample forms which agencies can then adapt to their own particular needs and practices.

Any forms developed should be simple, usable, and useful. Directions for using forms should be clear and concise. The person designing the forms should consult with adoption agency staff at both the administrative and direct service levels to ensure that the data requested are useful and are the minimum necessary. Forms must, above all, remain an instrument for data collection, not a determinant of practice.

Various organizations may already have developed forms; these should be reviewed and adapted whenever possible. Individuals from these organizations may also be consulted about material essential for the forms. Some of the agencies and groups to contact for assistance are the American Academy of Pediatrics, the National Council of Juvenile and Family Court Judges, the Child Welfare League of America, state and local bar associations, and groups of adoptive parents, adult adoptees, and birth parents.

Records

The state adoption administration is specifically required to maintain three categories of records:

- Records of any agency which goes out of business within the state (Section 501).
- Copies of all relinquishment and revocation documents (Sections 303 and 304).
- Copies of all petitioners for adoption filed within the state (Sections 405 and 601).

The state adoption administration must provide a way to store these records and to ensure access by persons having a right to access under the Model Act. A staff member should be assigned to handle inquiries and to locate the file and information sought, and should also be able to provide counseling to the individual seeking information if the person requests it.

If the person making inquiry inspects the record but cannot locate the information he is seeking, it may be possible to refer him to a group within the community who may be of assistance in suggesting ways of locating the desired information.

To facilitate identification of the court in which an adoption was completed, the adoption administration should develop a registry of petitions for adoption cross-referenced by an adoptee's birth and adoptive names. The court may often be the first source of information for an adoptee, or the court may need to be identified by a birth parent who is seeking to have the court records opened on a showing of good cause.

Subsidy Program

The state agency has the responsibility for supervising the adoption subsidy program and familiarizing both public and voluntary agencies with the provisions for certifying a child's eligibility for subsidy. Procedures for operation of the subsidy program appear in Title VII.

Interstate Placements

Opportunities for adoptive placement of children can be expanded by using resources available through agencies in other states. The National Adoption Information Exchange, the network of regional adoption exchanges, and established interstate placement procedures make possible the placement of children in adoption across state lines.

Planning and Placement Procedures. In considering the placement of a child into another state, the agency must weigh the child's need for permanence against factors which favor keeping the child geographically close at home:

- Any agreements with the child's birth parents regarding their wish to remain involved after the child's adoption.
- The child's relationship to siblings and other birth relatives, and the importance to the child of maintaining those ties.

Procedures governing the placement of children (Section 205) and the use of an exchange (Section 601) generally apply to interstate adoptive placements, but there are some special considerations:

- The agency placing the child bears the major responsibility for all planning and for ensuring that laws and policies of both states are followed.
- The prospective adoptive family, if at all possible, should travel to the child, so the child will be in familiar surroundings to meet and become acquainted with the family.
- Scheduling for preplacement visits must take the geographical distance between the child and the family into account.
- The agency responsible for the child must arrange for the adoptive subsidy, if any (Title VII), and payment of the subsidy remains the responsibility of the appropriate agency within the state of the child's origin.

After the child has been placed with the adoptive family, the agency providing postplacement services to the family has the responsibility to monitor the placement and to follow the procedures outlined in Title IV for the consummation of the adoption. An important decision is the court in which the petition for adoption is filed; Section 401 of the Model Act permits the filing of the petition in the court where the adoptive petitioners reside or where the agency which placed the child has its principal place of business. In most interstate adoptive situations it will be more convenient and less expensive for the adoptive family to file the petition in the court nearest to them. There may be some situations, however, when the adoptive family may choose to file the petition in the out-of-state court where the agency is located. An example of the latter situation is a placement within a metropolitan area which extends across a state line; there may be no reason to involve a new court when the court with jurisdiction is geographically near.

The Interstate Compact on the Placement of Children. The Interstate Compact on the Placement of Children (ICPC), enacted in 44 states, sets up uniform procedures and requirements for certain interstate placements of children. When an adoptive placement is made between two states party to the ICPC, ICPC procedures must be followed.

The state agency which administers the ICPC has a responsibility to adopt internal procedures which will protect children placed into interstate adoption but will also ensure that placements can proceed smoothly and quickly. Adequate staffing of the interstate unit and an agency philosophy dedicated to securing permanent homes for children—both within and outside of the state—are essential ingredients.

Extensive procedures have been developed and are operating for placements made through the ICPC; they are available through a state's ICPC office. In general, however, the following considerations should be noted:

• The ICPC applies both to placements made by agencies and to those made by parents without the assistance of an agency.

• Section 205(h) of the Model Act requires that both ICPC procedures (when applicable) and the Notice of Parental Placement be used in interstate placements made by parents (with or without the assistance of a representative).

• The interstate office, with the assistance of the state adoption administration, should develop a system to assure that the local agency to which a request for placement is referred for service completes that service within 30 days. Such request for service will include requests for family assessments of prospective adoptive parents, counseling to a birth parent when the child's other birth parent is proposing to place the child, and verbal presentation of a child to a prospective adoptive family.

• The interstate office in the state in which the child is to be placed has the responsibility to ensure that all its applicable laws and policies have been followed before it approves the request for placement of a child.

• Each interstate office has a responsibility to educate the public in the use of the ICPC to ensure that persons engaged in the placement of children do not unknowingly violate the law.

• The interstate office and the state adoption agency should work cooperatively to ensure that all children placed across state lines are placed legally. Persons or agencies which knowingly violate the law should be prosecuted under penalty provisions of the ICPC or those pertaining to placement of children in the Model Act (Sections 107 and 206).

When the ICPC is not used, children placed across state lines may be among the most vulnerable of all children in placement because of geographical distance from a responsible agency and the potential loss of the court's authority when the child moves out of state. Adherence to established interstate placement procedures, however, should help to ensure out-of-state adoptive placements that protect all parties to the adoption to the same extent they can be protected in an intrastate placement.

Section 602. Licensing of Adoption Agencies

The state must establish a licensing agency or division that will have exclusive authority to license public and voluntary agencies according to specific minimum licensing requirements. The licensing agency must be a separate entity with sufficient numbers of staff qualified to assess the operation of both public and voluntary agencies according to these licensing requirements.

Prior to arranging an adoptive placement or offering any services related to adoption, an agency must have a current and effective license. Section 602 of the Model Act spells out the general requirements and procedures for obtaining a license.

The state licensing agency is delegated the authority to promulgate regulations containing specific licensing requirements; these regulations should be written with the assistance both of agency personnel and members of the public interested in and knowledgeable about adoption. The proposed regulations must also be reviewed by the state advisory committee in adoption (Section 605) prior to issuance. Development of licensing regulations through an open process such as this should contribute not only to the quality of the final product, but also to the general acceptance of the regulations themselves.

Section 603. Licensing of Family Assessment Practitioners for Intercountry Adoptions

This section provides for the licensing of independent practitioners to make family assessments for intercountry adoptions. This provision of the Act should assure competent and prompt service for families interested in adopting a foreign-born child.

Licensing will be under the authority of the state licensing agency which also licenses adoption agencies (Section 602). The licensing agency should publicize the need for a license and the qualifications required, and must develop an application form and establish regulations within the requirements of the Act. The regulations must also provide for the suspension, revocation, and renewal of licenses.

An applicant will be required to submit documentation to establish his qualifications, including evidence that the applicant holds a master's degree in social work and verified statements of sufficient experience in adoption or adoption-related services to meet the requirements of the Act.

The state licensing agency should also develop procedures for monitoring the performance of a person licensed under this section, including the quality of work and the charging of fees (Section 107). Any complaints received about a licensed practitioner should be investigated promptly and a report on the results of the investigation provided to the complainant.

Section 604. Agency Appeals

This section outlines procedures for agency appeals and the bases upon which an appeal may be taken.

The agency is responsible for informing all persons receiving services—including birth parents, adoptive parents, and foster parents—of their right to an agency appeal and, if they are not satisfied with the agency's decision, of their subsequent right of appeal to a designated court. This information must be written in simple, understandable language and given to persons at the time they apply to the agency for service.

The agency must establish an appeals panel to handle appeals knowledgeably and expeditiously. Some considerations for the establishment of the appeals procedure include:

• An appeals panel should have either three or five members, since an odd number will prevent tie decisions.

• Members of the review panel should not be involved directly with the case under appeal.

• Birth parents, adoptive parents, foster parents, adult adoptees, agency board members, persons from related disciplines such as psychology and medicine, and representatives from interested community organizations should be considered for membership.

• Panel members should receive training from the agency on the law and agency policies and should demonstrate sensitivity to children and adults involved in the adoption process.

• To ensure continuity, panel members should be appointed by the agency director or board of directors for overlapping terms. One member should be designated as the chairperson.

• Panel members must be available to hear and render disposition on an appeal within sixty days of its receipt. They must also be available to convene on short notice to hear appeals deserving immediate attention, such as those involving the removal of a child from an adoptive placement.

• A clear and simple system must be developed to initiate an appeal, acknowledge receipt of the appeal, set a hearing date, establish a format for the hearing, and convey the written disposition to the person initiating the appeal. Ideally, the reverse side of the written right to an appeal can be designed as a form for the initiation of the appeal, with a notation for the person to retain a machine copy for these records.

Decisions of the panel are binding upon the agency unless the agency initiates court action to set aside the decision. Only when the agency believes

the child to be in danger should it seek to overturn the decision of the appeals panel.

Section 605. State Advisory Committee on Adoption

This section provides for the establishment of a state-level advisory committee on adoption. The committee, representing the interests of the general public, those who use adoption services, and the professionals in the adoption field, can become involved in current issues in adoption and make recommendations both to the state adoption administration and to the state licensing agency for policy and procedural changes. The advisory committee can also serve to expand public awareness of adoption and the children awaiting adoption.

The commissioner of the state agency will appoint to the committee 11 to 17 members, including a chairperson, for overlapping four-year terms. The committee should include members with knowledge and professional expertise in the adoption field, as well as birth and adoptive parents, adult adoptees, and members of racial, cultural, and ethnic minorities. To the extent possible, the advisory committee should be representative of the various professional and interest groups concerned with adoption services in the state.

The state licensing agency should consult with the committee on policies and problems of adoption and adoption services. All licensing regulations and revisions of regulations proposed under Sections 602 and 603 of the Model Act must be presented to the committee for its advice before the regulations or revisions become effective.

TITLE VII. SUBSIDIZED ADOPTION

Title VII establishes a program of adoption subsidies, details criteria for a child's eligibility for subsidy, and outlines procedures for the operation of the subsidy program.

Section 701. Purpose

The purpose of a subsidy is to assure the most appropriate adoption through public financial subsidy for each child who might not otherwise be adopted. The children who "might not otherwise be adopted" are those with physical, emotional, or mental handicaps, minority backgrounds, older children, and family groups; and those who have developed close emotional attachment to their foster parents.

An adoption subsidy program must be part of a state's comprehensive adoption services program. Subsidy is one way to fulfill the agency's responsibility for the adoption of children with a variety of special needs, and also to assure that families interested in and capable of becoming parents to these children will be able to do so. The subsidy program serves as a supplement to an effective recruitment program for adoptive families and provides an additional resource for the children who are waiting.

Section 702. Administration

The state adoption administration must establish a unit at the state or local level to administer the subsidy program. The subsidies and attendant services may be financed from foster care funds, funds appropriated for other adoption services, or from funds specifically appropriated for subsidies.

The availability of subsidies for children must be publicized in every possible way:

- Agencies must inform all foster and adoptive parents about the program.
- Descriptions of subsidies should be included in all written materials about adoption, especially recruitment materials.
- Public information meetings should include a segment dealing with subsidies.

Information about subsidy should include its status as taxable income under federal, state, or local taxation regulations. The status may vary from location to location or time to time; current information should be obtained from the appropriate tax office. Notation should also be made that a subsidy has no effect on the level of an AFDC payment.

When foster parents or prospective adoptive parents are notified of the possibility os subsidy for a specific child, they should be asked to state their interest or lack of interest in the subsidy within 30 days after notice. As a means to induce a prompt response, the written notice of subsidy could be designed with a tear-off section or could enclose a postcard which could be easily completed and quickly returned.

The role of the unit designated to administer the program is to certify children as eligible for subsidy after reviewing the documents submitted in support of the child's eligibility and to make annual recertifications of children who continue to be eligible. If the required documentation is submitted and other provisions of the law are followed, the staff must certify or recertify the child. Attempts to second-guess the local agency or provide social work services from a distance will only result in a disservice to the child who is awaiting placement.

Section 703. Eligibility for Subsidy

This section outlines the conditions of eligibility for a child to be certified for a subsidy. Any child legally free for adoption, whether the responsibility of a public or a voluntary agency, may be proposed for a subsidy if he is in special circumstances as outlined in the Model Act and if reasonable efforts have been made to place the child without subsidy. The state adoption administration will certify the child as eligible upon receipt of an application and the required documentation.

The child's social worker must prepare the necessary documents for the child's certification for subsidy, including a simple request form stating identifying information and the type of subsidy requested. Termination papers and special documentation may also be needed.

Special documentation pertains to the child's particular handicap or other condition of eligibility and might include such things as the child's need for special schooling or tutoring, prosthesis, and special clothing, as well as the diagnosis, prognosis, and future plans for treatment of the condition. The evidence necessary to document the child's condition should be provided by a physician, psychologist, psychiatrist, or other appropriate professionals.

For the child with significant emotional ties to foster parents who wish to adopt, documentation should include a summary of the placement experience, including the date the child was placed with the family, the reason he remained there, his adjustment to the placement, and his emotional attachment to members of the family. A subsidy approved for a child because of his emotional ties to his foster parents is not valid if the child is subsequently not adopted by them; the child may, however, be certified for other reasons if no other adoptive family is found without the use of subsidy.

For other factors such as age, race, ethnicity, or the need to be placed with siblings, documentation should include a record of referral to state, regional, and national exchanges, or referral to a specialized adoption agency. The documentation should show that the referrals did not result in the location of a family for the child within 60 days after they were made.

Section 704. Subsidy Agreement

When an approved adoptive family is available for a child certified for a subsidy, the family should sign an agreement with the state adoption administration prior to the issuance of a final decree of adoption.

The agreement should be prepared by the subsidy unit and contains the conditions of the subsidy:

- Starting date of the subsidy—at adoptive placement or upon completion of the adoption.
- Type of subsidy—special services, time-limited, long-term, or a combination of these.
- The amount of the subsidy, including a statement that the amount may vary with the needs of the child and the availability of other resources for the child, such as funds for crippled children, insurance, and social security benefits.
- Provisions for payment of fees under a special service subsidy, including a requirement that such fees must be reasonable.
- Conditions for continuation of the subsidy, including a statement that the subsidy is dependent on state appropriations and so may be discontinued before the time specified in the subsidy agreement.

The Act establishes three types of subsidies—special service, time-limited, and long-term—and it is important for the child's social worker to include sufficient and appropriate information with the request for certification so that the agreement contains the correct type of subsidy.

If the subsidy continues for more than a year, the subsidy unit should ask the adoptive parents to prepare a form stating that the child remains in their care and noting any facts about the special services required that would affect the subsidy. Actions necessary for recertification may be completed by mail.

Termination of modification of the subsidy may be requested by the adoptive parents at any time. The subsidy for a child who has been certified will not be affected by a change of residence of the adoptive parents, even if they move to another state.

The subsidy may be continued even after the child reaches the age of majority if other resources are not available and the subsidy is still needed.

Section 705. Confidentiality

This section provides for the confidentiality of all subsidized adoption records, subject to disclosure as outlined in Title V of the Model Act.

Appendix

Definitions of Terms From the Model State Adoption Act

Section 102. Definitions

(a) As used in this Act, unless the context otherwise requires:

(1) "Abused or neglected child" means a child whose physical or mental health or welfare is harmed or threatened with harm by the acts or omissions of his parent or other person responsible for his welfare.

(2) "Adoptee" means a person of any age who has been legally adopted.

(3) "Adoption" means the act of creating the legal relationship between parent and child where it did not exist genetically.

(4) "Adoptive parent" means an adult who has become the mother or father of a child through the legal process of adoption.

(5) "Adult" means a person 18 or more years of age.

(6) "Adult adoptee" means a person who was adopted as a child and who has attained majority.

(7) "Agency" means a public or voluntary agency, licensed by any jurisdiction within the United States, and expressly empowered to place children as a preliminary to a possible adoption.

(8) "Amended birth certificate" means the official document, issued by and registered with the state Office of Vital Statistics, showing that an adoptee is legally the son or daughter of his adoptive parents.

(9) "Birth parent" means the mother or father of genetic origin of a child, but does not include a putative father of a child.

(10) "Child" means a son or daughter by birth or by adoption, under the age of 18 years.

(11) "Counsel" means legal representation by a qualified attorney.

(12) "Court" means the [ ] court.

(13) "*De facto* parent" means a person, other than a parent, legal custodian, or guardian of the person, who has exercised physical care, custody, or control of a child for one year and with whom the child has developed significant emotional ties.

(14) "Emancipated minor" means [insert applicable definition from state law].

(15) "Foster care" means substitute care of a child for a planned period of time when the parent of the child cannot or chooses not to care for the child for a temporary or extended period.

(16) "Foster parent" means an adult who has the care and physical custody of a child pursuant to a court order or a placement made by an agency. The term includes both persons who are related to the child and those who are not, but does not include a parent.

(17) "Guardian *ad litem*" means an attorney or other person appointed by the court during litigation to represent the interests of a party.

(18) "Legal custodian" means an individual, including a representative of an agency, to whom legal custody of the child has been given by a court having jurisdiction over the child.

(19) "Legal custody" means a status created by court order under which a legal custodian has some or all of the following rights and duties:

(A) to maintain or supervise the physical custody of a child;

(B) to protect, nurture, train, and discipline a child;

(C) to provide adequate food, clothing, shelter, and education as required by law, and routine medical care for a child; and

(D) to consent to emergency medical and surgical care, and to sign a release of medical information to appropriate authorities, pursuant to state law.

(20) "Minor" means a person under eighteen years of age.

(21) "Original birth certificate" means the official document issued by and registered with the Office of Vital Statistics showing the facts of the birth of an individual, including the date of that birth and the names of the birth parents of that individual.

(22) "Parent" means the birth or adoptive mother, or the birth, adoptive, or legal father whose parental rights have not been terminated.

(23) "Parent-child relationship" includes all rights, powers, privileges, immunities, duties, and obligations existing between parent and child, as defined by state law.

(24) "Placement for adoption" means the transfer of physical custody of a child with respect to whom all parental rights have been terminated to a person who intends to adopt the child.

(25) "Relinquishment" means the informed and voluntary release in writing of all parental rights with respect to a child by a parent to an agency for the purpose of adoption. Relinquishment transfers from the parent to the agency all guardianship powers and duties of such parent, including the right to place the child for adoption and the right to consent to the adoption of the child.

(b) As used in this Act, pronouns of the masculine gender include the feminine.

Model State Adoption Act, With Commentary

Recommended by Model Adoption Legislation and Procedures Advisory Panel

Submitted to Patricia R. Harris, Secretary of Health, Education, and Welfare, October 24, 1979

U.S. Department of Health, Education, and Welfare, Office of Human Development Services, Administration for Children, Youth, and Families, Children's Bureau

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Introduction

Development of the Model Act

The development of the Model State Adoption Act was mandated by the United States Congress in Title II of Pub. L. 95-266, the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978. In Title II—Adoption Opportunities, Congress found that many thousands of children—most of whom are of school age, handicapped, or both—remain in foster care because of the barriers which exist to the adoption of these children. As one means to eliminate these barriers to adoption, Congress provided for the development and issuance of model adoption legislation and procedures which can be used by the States and territories of the United States.

Section 202 of Pub. L. 95-266 required that the Secretary of the Department of Health, Education, and Welfare appoint an independent panel whose responsibility it is to propose to the Secretary "model . . . legislation and procedures relating to adoption." The members of the panel so appointed were to be eleven to seventeen in number and broadly representative of persons, agencies, and groups concerned with and having expertise in adoption.

In accordance with the Congressional mandate, HEW Secretary Califano appointed a seventeen-member panel during the summer of 1978. The Model Adoption Legislation and Procedures Advisory Panel represents a broad range of interests and experience. Members include an adoptive parent, an adult adoptee, and a birth parent; lawyers, social workers, and a physician; and representatives from the public and the voluntary sectors, advocacy groups, and minority organizations. The panel met for the first time on October 16-19, 1978. During the course of the following year, the panel met eight times, for a total of twenty-five days. In addition, panel members devoted many days outside their meetings to reviewing successive drafts of the legislation and procedures, researching issues, discussing their task with colleagues, and in other activities related to their charge.

Panel meetings were conducted according to Federal regulations governing the operation of advisory boards. They were announced in the Federal Register and were open to the public. Many members of the public observed the panel at work; many also submitted statements for the panel to consider. Panel meetings were led by the chairperson appointed by the HEW Secretary, and were staffed by an Executive Secretary representing the Children's Bureau. Contractor staff from the American Public Welfare Association also attended the meetings to record the panel's deliberations and prepared successive drafts of the law and commentary according to the panel's directions.

Panel meetings were characterized by free and frank discussion and a willingness to consider all sides of a question. The Model Act passed through six drafts before reaching its present form as issues were debated, reconsiderd, and thoroughly explored. Members brought to the panel their particular experiences, expertise, and points of view. As might be expected when such a diverse group drafts a law, the panel often found itself debating the merits of various approaches to a particular provision. When compromise proved inadequate to resolve an issue and an acceptable alternative could not be found, a vote was taken and the majority position prevailed. the rationale for many of the decisions is noted in the commentary which accompanies each section of the Act.

The results of the panel's efforts—the Model State Adoption Act and the accompanying Model State Adoption Procedures—contain the panel's best thinking regarding the legal, procedural, and practice approaches designed to eliminate or ameliorate the barriers which currently prevent children from enjoying a permanent family.

Philosophy of the Model Act

The Model State Adoption Act is the first comprehensive adoption law developed under Federal sponsorship. Designed to address the many facets of the adoption process, the Model Act places particular emphasis on the adoption of children with special needs. It includes elements of the draft Model Act to Free Children for Permanent Placement and the Model State Subsidized Adoption Act, but goes beyond these to address issues such as the openness of adoption, comprehensive recordkeeping, and postadoption services.

The Model Act has been written at a time when national attention has been focused on the many children in foster care for whom adoption might offer a permanent family. National estimates of the numbers and characteristics of these children vary, but one recent study found that of the 502,000 children in foster care in the United States, 102,000 were legally free for adoption. Adoptive families had been located for most of the young children legally free, but not for the order children. The Model Act emphasizes the placement for adoption of the many children awaiting adoption because of their age, race, handicap, or need to be placed with siblings, while simultaneously providing for the adoption of other children.

Philosophically, the Model Act approaches the act of adoption as a service to a child. It also, however, recognizes the importance of adoption to the child's birth parents and adoptive parents—the other parties whom adoption also serves. As set forth in the Preamble, the Act also acknowledges adoption as a "life-long change of family status" for a person who is adopted, and so establishes services for the adoptee and his birth and adoptive parents that continue after the completion of the adoption itself.

To increase the likelihood that children who need adoption services are identified and then placed for adoption, the Model Act focuses on ameliorating or eliminating various obstacles to adoption which exist in present law and practice. Negative attitudes about adopted children, restrictive eligibility criteria established by agencies for adoptive parents, reluctance of courts to free children for adoption: these are only three examples of the many obstacles which may impede the adoption process. The Model Act concentrates on those obstacles which an adoption law can reasonably be expected to reach: the barriers in the legal process and in the operation of public and voluntary adoption agencies. The Model Act does not directly attempt to legislate changes in the social context in which adoption occurs, although it does require a program of public information and education regarding adoption.

In addition to attempting to remove legal barriers to the adoption of children, the Model Act also provides for a range of adoption services.

Counseling and other services are mandated to birth parents, adoptive parents, and prospective adoptive parents at critical junctures throughout the adoption process. The purpose of these services is to provide all parties with the full information they need to make informed decisions, decisions which will have a life-long effect both for themselves and for a child.

Readers of the Model Act will note that it deals only indirectly with the many services and supports families may need prior to the commencement of the adoption process. It does not, for example, have provisions which require services to the families of children in their own homes, nor does it mandate other services designed to reunite families where a child has been placed in foster care. This limitation, while intentional, is not designed to deny the importance of such services, but is merely a recognition that the scope of the Model Act is restricted to the adoption process. Various provisions of the Act, however, demonstrate that adoption is only one segment of a continuum of service to children; for example, parental rights generally may not be terminated unless there is evidence that services have been offered or provided to the parents, and the state adoption administration is required to coordinate adoption services with foster care services to ensure that adoption is considered as one option for children in foster care.

The Model State Adoption Act appears at an opportune time, when attention has been drawn to the need to improve adoption services to children and their families. Although the Act may still stand as a model in the future, it may also be that a new model will be needed to build upon the progress the present Act can bring to adoption services. The nature of adoption services will evolve with the passage of time; so must the law, either in response to changing needs and services or in anticipation of furture needs and services.

Model Adoption Legislation and Procedures Advisory Panel

Albert Burstein, Panel Chairman, Majority Leader, New Jersey General Assembly, Fort Lee, New Jersey

Mary Lee Campbell Allen, Program Specialist-Child Welfare, Children's Defense Fund, Washington, D.C.

Lee H. Campbell, President, Concerned United Birthparents, Brewster, Massachusetts

Elizabeth Cole, Director, North American Center on Adoption, Inc., Child Welfare League of America, New York, New York

Marie W. Copher, Chief, State Placement Unit, Georgia Division of Family and Children's Services, Atlanta, Georgia

Joanne W. Small, Adoptees in Search, Bethesda, Maryland

Willie V. Small, Director of Social Work, Children's Services, Inc., Philadelphia, Pennsylvania

Sydney C. Duncan, Executive Director, Homes for Black Children, Detroit, Michigan

Laurie M. Flynn, Executive Director, North American Council on Adoptable Children, Washington, D.C.

Linda Hanten, Staff Attorney, Mexican American Legal Defense & Educational Fund, Inc., San Francisco, California

Donald Lewis, Chairman, American Academy of Pediatrics Adoption & Dependent Care Committee, Seattle, Washington

Helen Ramirez, Director, Los Angeles County Department of Adoption, Los Angeles, California

Margaret A. Sullivan, Director, Placement Division, Catholic Charitable Bureau of Boston, Boston, Massachusetts

kenneth W. Watson, Assistant Director, Chicago Child Care Society, Chicago, Illinois

John P. Steketee, Judge, Kent County Juvenile Court, Grand Rapids, Michigan

Thelma J. Stiffarm, Native American Rights Fund, Boulder, Colorado

Sproesser Wynn, Chairman, American Bar Association Committee on Adoption, Fort Worth, Texas

Executive Secretary to the Panel

Diane D. Broadhurst, Children's Bureau, Administration for Children, Youth and Families, Department of Health, Education, and Welfare, Washington, D.C.

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Preamble

The legislature finds that family life is optimal for the rearing of children, and

that birth families should be stengthened and preserved. It further finds that there are many children whose families cannot or choose not to rear them. For such children, age, race, handicap, or the need to be placed with siblings must not preclude their enjoyment of the benefits of family life. It is the policy of this state that adoption is a positive social and legal process intended to serve these children.

Although adoption constitutes a life-long change of family status for an adopted person, it shall not deny the adoptee any rights, privileges, and benefits to which he is entitled under law. Adoption shall also respect the racial, ethnic, cultural, and religious heritage of the adoptee.

The adoption process shall treat all persons fairly, but the principle that adoption is a service for adoptees shall govern where rights are in conflict and compromise is not possible.

Commentary to Preamble

The first paragraph of the Preamble articulates society's belief that a family environment usually best provides the intimate emotional attachments and behavioral instruction necessary for the healthy development of children. This concept of "family" generally implies a biological relationship. *Smith* v. *Org. of Foster Families for Equality and Reform*, 431 U.S. 816, 843 (1977). The blood tie is not essential to the concept of family, however; the primary purpose of the Model State Adoption Act project is to provide families for the many children whose relatives are not providing them with a family life. *See* Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, 92 Stat. 205 § 201.

The Preamble acknowledges, in the second paragraph, that adoption is an act with long-term emotional and legal implications for those involved. Agencies providing services to adoptees and their families should recognize the long-term nature of their potential involvement with adoptive families.

Three additional principles are embodied in the second and third paragraphs. The Model Act may not be construed to deny any adoptee a statutory or civil right solely on the basis of the adoptive status. Placements for adoption and other plans for children made pursuant to the Act should, whenever possible, reasonably protect each child's heritage. While differences in race, religion, or ethnicity will not be a bar to adoption, every effort should be made to place a child with a family of like heritage. In the event that such a family cannot be found and a transcultural placement is made, the implications of such an adoption must be made clear to all parties involved.

Finally, where the rights of parties to the adoption process are in conflict, the rights and best interests of the adoptee, whether a minor or adult, should prevail. These principles are most consistent with the legislative purpose of having adoption be a means of serving children in need of families.

TITLE I. GENERAL PROVISIONS

Section 101. Policy and Purposes

(a) It is the policy of this state to respect and facilitate the care and upbringing of children in family units consisting of parents and their birth children. Some children, however, may not have the opportunity for a permanent home and familial relationship with their birth parents. It is found and declared to be generally true that adoption is the optimal means of providing these children with the stable and nurturing environment of a permanent home, and that vesting legal guardianship in a *de facto* parent is the best alternative for those children for whom adoption is not desirable or possible. It is further declared that the termination of parental rights and adoption services to children, and public policy requires that these services be governed by substantive laws and procedures which are administered by highly qualified staff, supported by adequate funding, and provided at reasonable fees. These laws and procedures are intended to protect the rights of all parties involved, but when conflicts arise between the right of the adoptee and of others, the rights of the adoptee shall prevail.

(b) In keeping with the above Preamble, the purposes of this Act are:

(1) to provide that each child in the state who needs adoption services receives such services;

(2) to provide procedures and services which will safeguard and promote the best interests of each child in need of adoption and which will protect the rights of all parties concerned;

(3) to provide prompt legal procedures for terminating parental rights after the birth parents have been provided or offered appropriate services and cannot or choose not to care for their child;

(4) to remove obstacles to adoption, particularly adoption of children who are waiting because of age, race, handicap, or need to be placed with siblings, in order to enhance the opportunities in family life for all children whose birth parents' rights have been terminated;

(5) to establish a system which will identify each child in need of adoption services, and which will monitor and assure that such services are provided;

(6) to assure that quality adoption services are provided by establishing and furnishing the means to administer licensing standards which will be equally applicable to public and voluntary agencies;

(7) to encourage and utilize the desires and capabilities of persons who are willing to assume the responsibilities and accept the privileges of parenthood toward children not biologically their own;

(8) to provide financial assistance which will make it possible for children who are waiting because of age, race, handicap, or the need to be placed with siblings to be adopted;

(9) to assure that the adopted person's biological heritage is recorded, preserved, and made accessible; and

(10) to assure that any expenses or compensation paid in connection with adoption proceedings and services are reasonable and do not exceed the cost of the service provided.

(c) The provisions of this Act shall be liberally construed to effectuate the purposes thereof.

* * * * *

Commentary to Section 101

Subsection (a). The subsection expands upon the principles articulated in the Preamble. The state policy of support for the birth family is embodied in several subsequent provisions of the law, particularly in the safeguards against ill-considered parental surrender of children in Sections 205, 206, and 306 of the Model Act; and in the requirements in Section 313(e) of the Model Act that the court, before involuntarily terminating the parent-child relationship, consider what rehabilitative services the child and birth parents have been provided.

While adoption is the preferred means of providing permanent homes for children, it is recognized that this option will not be available for some children. In these cases legal guardianship, vested in an individual who has been personally caring for the child, is preferable to guardianship vested in an institution, public official, or other professional not directly involved with the child's day-to-day care.

The need for qualified personnel and adequate public appropriations to provide adoption services is widely recognized. These factors are essential if the children presently placed in "temporary" unstable, long-term foster care are to find permanence.

The final section of the subsection reiterates the principle that the rights and interests of adoptive parents, birth

parents, agencies, and others must bow to those of the adoptee when a complete balancing of interests cannot be achieved.

Subsection (b). The purposes of the Model State Adoption Act address a number of serious problems in the delivery of adoption services by the states.

Many children who need adoption services are not receiving them. One purpose of the Act is to assure that adoption services are provided to these children, whether in institutional, foster, or other substitute care—formal or informal, public or voluntary. Often children do not receive needed adoption services because of state or agency failure to identify such children as adoptable. Such failure may be due to the lack of adequate case review or to obstacles which could be removed through legal or other action, particularly the termination of parental rights, or through interstate efforts to recruit adoptive parents for children formerly viewed as unadoptable. The identification of children in need of adoption, removal of obstacles to their adoption, and vigorous recruitment of appropriate adoptive families are all express purposes of the Act, and the implementation of these purposes is addressed primarily in Title VI of the Model Act. One other purpose of the Act is to make the benefits of adoption a reality for those children with special characteristics or handicaps which constitute a liability in locating adoptive homes. The Act promotes the adoption of these children by providing for staff training, special programs to assist special needs children and their adoptive families, and postplacement support services. Such children should also be assisted with a financial subsidy, as provided in Title VII of this Act.

Although most adoption laws recognize that at least three parties may have a legal interest in any potential adoption—the child, the birth parent, and the adoptive parent—these various interests are sometimes inadequately protected, resulting in extended and disruptive legal challenges. It is an express purpose of this Act to provide procedural safeguards for the rights of all parties. In keeping with this purpose, the members of a troubled family have a right to supportive state services, yet when such services cannot lead to rehabilitation, the child's right to a family environment requires that prompt measures be taken to make the child legally free for adoption. Titles II, III, and IV deal primarily with these purposes of the Model Act.

One legal interest of adoptees—their interest in the preservation and availability of information concerning their lives prior to adoption, and subsequent medical or genetic developments in the birth family—has been inadequately protected by most adoption laws of the past. One purpose of the Model Act is to provide appropriate procedures regarding the preservation of and access to records. This purpose is carried out in the provisions of Title V of this Act.

Because adoption services are services to children, profit-making in the provision of such services, with the accompanying specter of exploitation, is to be avoided. Furthermore, the costs associated with adopting a child should not be a barrier to permanent placement of a child, and therefore any fees charged for services to prospective adoptive families should be reasonable. *See* Model State Adoption Act § 107 (hereinafter cited as M.S.A.A.).

Finally, the Act addresses the well-known problem of assuring that adoption and related child welfare services are provided by competent and efficient agencies and personnel. For provisions relating to this purpose, see Sections 602 and 603 of the Model Act.

Because the modern practice of adoption is strictly a creature of statute and was unknown to the common law, the established rule of construction requires a narrow interpretation of adoption legislation. Many courts, however, have cited the beneficent purpose underlying statutes as a rationale for liberally construing such laws in favor of what judges perceive to be the best interests of the parties involved, particularly the adoptee. The Model Act follows this general approach; however, liberal construction should effectuate the express purposes of the Act, rather than individual interpretations of "best interest."

Section 102. Definitions

(a) As used in this Act, unless the context otherwise requires:

(1) "Abused or neglected child" means a child whose physical or mental health or welfare is harmed or threatened with harm by the acts or omissions of his parent or other person responsible for his welfare.

(2) "Adoptee" means a person of any age who has been legally adopted.

(3) "Adoption" means the act of creating the legal relationship between parent and child where it did not exist genetically.

(4) "Adoptive parent" means an adult who has become the mother or father of a child through the legal process of adoption.

(5) "Adult" means a person 18 or more years of age.

(6) "Adult adoptee" means a person who was adopted as a child and who has attained majority.

(7) "Agency" means a public or voluntary agency, licensed by any jurisdiction within the United States, and expressly empowered to place children as a preliminary to a possible adoption.

(8) "Amended birth certificate" means the official document, issued by and registered with the state Office of Vital Statistics, showing that an adoptee is legally the son or daughter of his adoptive parents.

(9) "Birth parent" means the mother or father of genetic origin of a child, but does not include a putative father of a child.

(10) "Child" means a son or daughter by birth or by adoption, under the age of 18 years.

(11) "Counsel" means legal representation by a qualified attorney.

(12) "Court" means the [ ] court.

(13) "*De facto* parent" means a person, other than a parent, legal custodian, or guardian of the person, who has exercised physical care, custody, or control of a child for one year and with whom the child has developed significant emotional ties.

(14) "Emancipated minor" means [insert applicable definition from state law].

(15) "Foster care" means substitute care of a child for a planned period of time when the parent of the child cannot or chooses not to care for the child for a temporary or extended period.

(16) "Foster parent" means an adult who has the care and physical custody of a child pursuant to a court order or a placement made by an agency. The term includes both persons who are related to the child and those who are not, but does not include a parent.

(17) "Guardian *ad litem*" means an attorney or other person appointed by the court during litigation to represent the interests of a party.

(18) "Legal custodian" means an individual, including a representative of an agency, to whom legal custody of the child has been given by a court having jurisdiction over the child.

(19) "Legal custody" means a status created by court order under which a legal custodian has some or all of the following rights and duties:

(A) to maintain or supervise the physical custody of a child;

(B) to protect, nurture, train, and discipline a child;

(C) to provide adequate food, clothing, shelter, and education as required by

law, and routine medical care for a child; and

(D) to consent to emergency medical and surgical care, and to sign a release of medical information to appropriate authorities, pursuant to state law.

(20) "Minor" means a person under eighteen years of age.

(21) "Original birth certificate" means the official document issued by and registered with the Office of Vital Statistics showing the facts of the birth of an individual, including the date of that birth and the names of the birth parents of that individual.

(22) "Parent" means the birth or adoptive mother, or the birth, adoptive, or legal father whose parental rights have not been terminated.

(23) "Parent-child relationship" includes all rights, powers, privileges, immunities, duties, and obligations existing between parent and child, as defined by state law.

(24) "Placement for adoption" means the transfer of physical custody of a child with respect to whom all parental rights have been terminated to a person who intends to adopt the child.

(25) "Relinquishment" means the informed and voluntary release in writing of all parental rights with respect to a child by a parent to an agency for the purpose of adoption. Relinquishment transfers from the parent to the agency all guardianship powers and duties of such parent, including the right to place the child for adoption and the right to consent to the adoption of the child.

(b) As used in this Act, pronouns of the masculine gender include the feminine.

* * * * *

Commentary to Section 102

The following definitions should be noted:

"Abused or neglected child." This definition is taken from the Children's Bureau's draft Model Child Protection Act (August 1977).

"Agency." The definition excludes private, for-profit agencies. Adoption and related services are unique in that the child is the "product" as well as the recipent of these services. This has created a situation where children and parents have been exploited in the lucrative buying and selling of children. For that reason, profit-making in the provision of such crucial services is to be discouraged.

Adoption agencies which exclusively serve American Indian families and are expressly so empowered by Indian tribal law should be considered licensed public agencies for the purposes of this definition.

"Amended birth certificate." This is the new certificate of birth issued by the Office of Vital Statistics following a final decree of adoption, containing substantially the same information as the original birth certificate except that the names of and information concerning the adoptive parents are substituted for references to the birth parents. *See* M.S.A.A. § 502.

"Birth parent." Several different terms are presently used in various states and agencies to denote a child's mother or father of genetic origin—"biological" parent, "natural" parent, "birth" parent, "original" parent, "genetic" parent—and there is some controversy surrounding the use of each of these terms. Arguments have been raised, for example, that "natural" implies that an adoptive parent is unnatural; "original" creates an ambiguity as to the blood relationships of parent and child; and "genetic" and "biological" are overly technical for general usage. The term "birth parent" is used in the Model State Adoption Act because of the increasing preference for the use of that term among the individuals to whom it refers, especially among those parents who have relinquished a child.

"Court." The court designated by the legislature in this definition will be that court with jurisdiction over all the types of proceedings set out in the Model Act: termination of parental rights (and perhaps the related area of child abuse and neglect adjudications), child custody and child placements, adoption, and appointment of guardians. Because of the broad knowledge and expertise which should reside in this court, it is recommended that the court be a division of, or equal in stature to, the highest trial court of general jurisdiction. *See* Model Family Court Act (1975); ABA Comm. on Standards for Judicial Administration, *Standards Relating to Court Organization,* § 1.10 (1973).

"De facto parent." This concept is introduced in the Model Act in order to confer some legal standing upon persons who, as a result of assuming parental caretaking responsibilities for an extended time, develop a parental relationship with a child based upon strong emotional and psychological bonds. For example, a foster parent with custody of a child for the required time might be a *de facto* parent, provided that sufficient emotional ties have developed. Short-term interruptions of the physical caretaking function, as in the case of a child intermittently hospitalized during the foster care period, should not preclude the foster parent from fitting the definition of *de facto* parent.

"Legal custodian" and "legal custody." The term "custody" is frequently confused with "guardianship" ("guardian" and "guardianship" are not defined in the Model Act, rather the duties and responsibilities of a guardian are spelled out in Section 318 of the Model Act) in discussions of child welfare laws of different states. The occasions for appointment of a guardian of a child's person differ from state to state. *Compare* Mass. Gen. Laws Ann. ch. 201 §§ 4, 5, 14 (1979 supp.); Minn. Stat. § 525.24 (1975); Tex. Prob. Code § 109 (1978 supp.) *with* Mich. Comp. Laws Ann. §§ 700.424, 427, 431(c) (1979 Supp.). The distinction between the two terms is frequently blurred, particularly when states make use of concepts such as "temporary guardianship" or "permanent custody."

The concept of "guardian" is usually broader than that of "custodian" or "legal custodian." *See generally* Model Family Court Act (1975); L. Costin, *Child Welfare Policies and Practice* 65–80 (1979). As used in the Model Act, the authority and duties of a guardian encompass those of the legal custodian and also include the authority "to make decisions permanently affecting the child's welfare," including consent to the adoption. *See* M.S.A.A. § 318. However, to provide enough flexibility to accommodate variations in state law, the Model Act also presumes that a court may appoint a guardian without terminating parental rights. *See* M.S.A.A. § 314(b). Also in the interest of flexibility, the definition of "legal custodian" does not preclude delegation of the right and duty of overseeing the child's physical care and control to a person exercising only physical custody of the child.

Legislatures considering enactment of the Model State Adoption Act may need to adjust these definitions to fit previously established usages in their own jurisdictions.

"Minor." The age limit specified here may require adjustment in accordance with individual state law.

"Parent." There are two circumstances in which an identifiable birth parent would not be considered to be the present parent of a child. The first is where the birth parent's rights have been judicially terminated or irrevocably relinquished. If the child is subsequently adopted, the adoptive parent is thereafter the "parent" unless and until his rights are terminated or relinquished. If the child has not been adopted, the child's court-appointed guardian exercises the authority of a legal parent, but the child has no present parent. The second situation is where the child was born under circumstances

in which state law has presumed another man to be the child's father, as when conception occured as the result of intercourse between the child's married mother and a man not her spouse. The law presumes that such a child is the product of the marital union; the legal father of the child is the mother's husband unless he asserts evidence to rebut the presumption. Similarly, the legal father of a child born as the result of artificial insemination would be the spouse of the woman who so conceived rather than the sperm donor, although the latter is technically the birth father.

All "parents," as defined in this subsection, possess full legal rights with respect to their child. The Model Act does not distinguish between the parental rights of wed and unwed birth parents, nor of mothers and known fathers. Because the definition of "birth parent" expressly excludes putative fathers, however, the term "parent," likewise, does not extend to them.

Section 103. Who May Be Adopted

(a) Any minor who is not emancipated may be adopted if the requirements of this Act are met, and:

(1) such minor has no living parent; or

(2) the parental rights of all living parents of such minor have been terminated according to the laws of this state or of another jurisdiction; or

(3) the adoptive petitioner is a stepparent, and the parental rights of the parent who is not the petitioner's spouse have been terminated or such parent has consented to the adoption of the child by the adoptive petitioner; or

(4) the adoptive petitioner is a relative of the child to the third degree or closer, and the rights of any parent with respect to the child have been terminated or such parent has consented to the adoption of the child by the petitioner.

(b) Any consenting [emancipated minor or] adult may be adopted under the state law applicable to the adoption of adults.

* * * * *

Commentary to Section 103

Subsection (a). This subsection sets forth the principle that termination of parental rights must in every case precede a court decree of adoption, with only a narrow exception in the case of stepparent or relative adoptions to which the birth parent has consented. This principle is a departure from the rule in a majority of the states, where a parent has the right to directly consent to his child's adoption by any other. Because parental rights are terminated prior to adjudication of the adoption petition, the only consent required for a child's adoption under the Model Act is that of the guardian of the child's person or of an agency empowered to consent to the adoption of a child following a formal relinquishment by the child's parent. *See* M.S.A.A. §§ 318, 302. It should be noted that although the termination of parental rights is a precondition to adoption, this provision does not make termination contingent upon the availability of an adoptive home. *See* M.S.A.A. § 313(h).

There are three major reasons for bifurcating the adoption process. When termination of parental rights can be accomplished prior to placement of the child for adoption, the child and potential adoptive parents will benefit from knowing that the child is legally free for adoption. *See* M.S.A.A. § 202 (commentary). In addition, a two-step adoption process can provide a framework for agency efforts on behalf of many children who have been in the foster care system for too long. Many of these children have been considered ineligible for adoption because their parents, while not effectively exercising custodial rights or parental responsibilities, nonetheless refuse to consent to their child's adoption. The fact that termination of parental rights is a mandatory first step in the adoption process should help to determine what course of action is best for a child. If there are grounds for terminating parental rights, such a proceeding should be initiated without delay. If not, the child's custodian is bound, by virtue of legislative policy and the child's interest in a permanent home with his birth family whenever possible, to make efforts to rehabilitate the child's parents and reunite the family.

Finally, as a matter of procedure, it is sounder to distinguish the process by which society terminates the status of parent and the accompanying constitutional rights, *see generally, Stanley v. Illinois,* 405 U.S. 645 (1972); *Meyer v. Nebraska,* 262 U.S. 390 (1923); *Pierce v. Society of Sisters,* 268 U.S. 510 (1925), from that by which society confers parental status. Due process requires a solicitude for the parent whose rights are being terminated; comparable procedural protections for an adoptive petitioner at an adoption hearing are legally unnecessary, since there is no right to become the parent of the offspring of another.

Theoretically, whenever a direct consent is a prerequisite to the granting of an adoption petition, the court, by virtue of its *parens patriae* role, should have the descretion to waive that required consent upon finding that it is being withheld contrary to the interests of the child in question. However, in states which require direct parental consents in all adoptions, the court, in waiving the required consent of a parent, effectively terminates parental rights, often without the benefit of statutory guidelines for determining the best interests of the child or the fitness of the parent in question. Such unfettered discretion is inappropriate in light of the fundamental nature of the right to family integrity. It is particularly inappropriate in the context of an adoption hearing, at which the court would then be likely to consider the fitness of the parent whose consent is required relative to that of the adoptive petitioner. Such a "balancing" of parental competence is appropriate as between persons with no vested legal interest, for example, two adoptive petitioners. Where a party (the parent) stands to be deprived of a fundamental consitutional right, however, the characteristics of a third party (the adoptive petitioner) are irrelevant and potentially prejudicial; the child's best interest and—to the extent such conduct bears upon that interest—parental conduct, should be measured according to an objective legal standard.

The Model Act, therefore, requires a two-step process, with parental rights being terminated in accordance with express statutory guidelines prior to the adoption hearing. Furthermore, even in stepparent and relative adoptions, where direct parental consent may be required, the court is not permitted to exercise its discretion to override the veto authority of the parent. *See* M.S.A.A. § 404 (commentary).

Subsection (b). The Model Act is limited in scope to adoptions of minors for two major reasons. First, state law and policy regarding adoption of adults serve purposes which are clearly distinct from the state's interest in providing stable, nurturing families for its children. Second, the mandate for creation of the Model Act emphasizes the need for more uniform law and improved adoption services for the many children in foster homes and institutions throughout the nation. *See* Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 92 Stat. 205 § 201 *et seq.* Primarily because of this special mandate, the subject of adult adoptions has been omitted from the Model Act.

In the case of an emancipated minor, for whom provision of a home is no longer a responsibility of parent or state, the public purpose served by adoption is virtually the same as that underlying adoption of adults. Hence emancipated minors are also excluded from coverage

under the Model Act. States which do not recognize the concept of emancipated minor, or which do not allow adoption of adults, may delete all or part of subsection (b).

Section 104. Character and Effect of Termination of Parental Rights and of Adoption

(a) A relinquishment to an agency, a parental consent to adoption by a stepparent or relative to the third degree, or a judicial order terminating the parent-child relationship, while not severing the genetic ties between parent and child, divests the parent and the child of all legal rights, powers, privileges, immunities, duties, and obligations with respect to each other, except that:

(1) no relinquishment, consent, or court order or decree entered pursuant to this Act shall deprive a child of any benefit due him from any third person, agency, state, or the United States; nor shall any action under this Act be deemed to affect any rights and benefits that a child derives as a member of a federally-recognized American Indian tribe;

(2) the right of the child to inherit from and through the parent whose rights have been terminated shall be eliminated only by a final order of adoption; and

(3) any debt incurred by the parent on behalf of a son or daughter prior to the termination of parental rights shall be enforceable.

(b) Adoption redefines the social and legal relationship among an adoptee, his birth parents, and his adoptive parents. Except with respect to specific rights and duties established under this Act, rights or benefits conferred by the federal government, and the legal rights of an American Indian child, there shall be no legal distinction between an adoptee and a person not adopted.

(c) Nothing in this Act shall be construed to prevent the adoptive parents, the birth parents, and the child from entering into a written agreement, approved by the court, to permit continuing contact of the birth relatives with the child or his adoptive parents.

* * * * *

Commentary to Section 104

Subsection (a). Because termination of parental rights itself does not substitute a new parent for the parent whom the child loses, this subsection protects against the loss of inheritance or other rights and benefits to which a child may be eligible through the parent whose rights are terminated. Hence the provision implements, for state benefits, a policy comparable to that enabled under Title II of the Social Security Act. For example, a child who has been receiving social security benefits on the basis of a parent's disability is eligible to continue to receive such benefits until and, in some instances, after, he has been adopted by another person; custody of or other parental rights with respect to the child are not eligibility criteria. 42 U.S.C. § 402(d) (1976). An example of a benefit due from a third person would be a gift by trust or will made to the child as the son or daughter of the named parent. Such a gift, likewise, will not be lost by the termination of parental rights.

Subsection (b). Most adoption statutes contain a provision similar to this one, stating the principle that the adoptive family, for all legal purposes, supersedes the birth family. This Model Act provision, likewise, emphasizes the character of adoption as a process with lifelong implications for the family and the social relationships of the parties involved. It is impossible for any act of law to sever the genetic ties of a child to his birth parents; yet, upon completion of the adoption, the adoptee becomes in all legal respects as the birth son or daughter of the adopting persons, and, through them, acquires relationships to other adoptive family members. These new relationships are, for inheritance and all other purposes, equivalent to those of a son or a daughter born to the adoptive parents.

An exception is made for tribal and other federal benefits, since sometimes the receipt of such benefits by an adopted child, on the basis of a status the child had prior to adoption, creates an anomaly with respect to his current family circumstances.

Subsection (c). The practices of shrouding relinquishment and adoption proceedings in secrecy, and of isolating birth and adoptive families from each other—practices which have characterized adoption policy in this country for many years—should not necessarily be imposed upon the parties to an adoption if they together prefer a different approach and if continued contact between birth and adoptive families would not be detrimental to the adoptee. There is a growing literature suggesting that, for at least some families, more open adoption practices could benefit the adoptee and other parties to the adoption. *See e.g.,* A. Sorosky, A. Baran & R. Pannor, *The Adoption Triangle: The Effects of the Sealed Record on Adoptees, Birth Parents and Adoptive Parents* (1978).

Courts have traditionally held that there can be no enforceable right of a birth parent to visit a child once an adoption decree has been entered, *Spencer v. Franks,* 173 Md. 73, 195 A. 306 (1937); *Jouett V. Rhorer,* 339 S.W. 2d 865 (Ct. App. Ky. 1960); and that a divorced parent's suitability to enjoy visitation rights with her child was incompatible with the child's adoption. *In re Gustafson's Adoption,* 28 Wash. 2d 526, 183 P. 2d 787 (1947).

However, in recent years there have been decisions recognizing that, in certain cases, continued contact between birth parents of family and the adoptee may be desirable. *See, e.g., In re Estate of Zook,* 62 Cal. 2d 492, 399 P. 2d 53 (1965); *In re Adoption of N.,* 78 Misc. 2d 105 (Surr. Ct. 1974); 355 N.Y.S. 2d 950, *Rodgers v. Williamson,* 489 S.W. 2d 558 (Tex. 1973) (Court grants recognition to Illinois adoption decree giving birth father visitation rights, as not necessarily repugnant to public policy of Texas); *Matter of Abraham L.,* 53 App. Div. 2d 669, 385 N.Y.S. 2d 103 (1976).

The Model Act does not require courts to grant or consider granting rights of continued contact between birth and adoptive families in all cases. It simply provides that, for parties who wish to approach the adoption process with openness and who are serious enough to express their commitment in writing, a court may not refuse to consider the agreement in determining the potential adoptee's best interests.

Section 105. Jurisdiction of courts

(a) The [ ] court shall have exclusive original jurisdiction over all proceedings arising under this Act. The court may make orders necessary or appropriate thereto and relating to the placement and care of children, and shall review at least annually the case of every child over whom it has retained jurisdiction, until the child is adopted or attains majority.

(b) The court having jurisdiction over a child may, for good cause shown, continue its jurisdiction after the child reaches majority, but shall review the continuation of its jurisdiction at least annually.

(c) Except as provided in Section 316, review of any determination or order made in connection with any proceeding arising under this Act shall be in accordance with the laws and procedures applicable to review of judgments and other findings or orders of the court.

* * * * *

Commentary to Section 105

Subsection (a). The principle is well established that all proceedings relating to the custody of children and their personal guardianship and welfare should be under the exclusive jurisdiction of one court with broad

authority. *See* Model Family Court Act § 7 (1975); ABA Comm. on Standards for Judicial Administration, *Standards Relating to Court Organization* § 1.10 (1973). Such a court is more likely to foster consistent and informed application of the law and judicial discretion than a variety of specialized courts with overlapping jurisdiction.

It is highly recommended that statutes or court rules regarding venue consider primarily the residence of the child, and that transfer of venue be required when a proceeding involving a child is brought in one county while another proceeding involving the same child is pending in another county.

Subsection (b). This provision allowing the court to retain jurisdiction beyond the age of majority is intended to meet the need of handicapped or other persons who could remain eligible for financial assistance or other governmental benefits so long as there is a judicial mandate for such services. *See* Model Family Court Act § 9 (1975).

Annual court review of continued jurisdiction is explicitly required, not only under this subsection, but also under termination of parental rights and adoption titles of this Act. *See* M.S.A.A. §§ 314, 407. Mandatory periodic judicial review is also required for all other cases in which the court retains jurisdiction. Such review helps to assure that children do not remain in the foster care system merely due to inadvertence of the court or agency involved and to move children more rapidly toward a stable long-term placement. A comprehensive judicial hearing is envisioned, rather than a mere *pro forma* review. The court will make an in-depth inquiry into the present status and substantive plan for each child through the examination and cross-examination of witnesses, and through the presentation of other evidence. For an example of a statutorily-mandated periodic court review procedure, see N.Y. Soc. Ser. Law § 392 (McKinney Supp. 1978). For courts with too few judges to perform such reviews, it is suggested that this function be delegated to a standing master or referee. *See,* Model Family Court Act § 4 (1975).

Section 106. Governing Law

(a) Full faith and credit shall be given to the public acts, records, and judicial proceedings of an American Indian reservation or another state or jurisdiction of the United States. The courts and agencies of this state shall extend recognition, in accordance with applicable principles of comity, to the public acts, records, and judicial proceedings of a jurisdiction outside the United States whenever the interests of the child or the adopted person will be served thereby.

(b) Nothing in subsection (a) of this section shall prevent a person from petitioning a court of this state to adopt a child as to whom the petitioner is already an adoptive parent pursuant to law or decree of a jurisdiction outside the United States.

(c) The validly enacted laws of the United States relating to termination of parental rights and adoption of American Indian children shall be given effect in any instance to which they apply.

* * * * *

Commentary to Section 106

Subsection (a). In spite of the constitutional mandate of "full faith and credit," which provides some uniformity of treatment to citizens beyond the boundaries of their own states, the lives of adoptees have traditionally been plagued with legal uncertainties. The fact that a decree of adoption is recognized by a state different from the issuing state does not assure "equal" treatment of all adoptees, since the legal effects accorded the adoptive status, particularly with respect to matters of inheritance, vary among the states. *Compare* Mass. Gen. Laws Ann. ch. 210 § 70 (1958) and Me. Rev. Stat. tit. 19 § 535 (1964) *with* Calif. Prob. Code § 257 (West 1978); La. Const. art. 4 § 16 (1955); Tenn. Code Ann. § 31–206 (1977); Tex. Prob. Code Ann. § 40 (1974); Utah Code Ann. § 78–30–10 (1977); and Vt. Stat. Ann. tit. 15 § 448 (1974).

Although an adoption may not be subject to attack in the state which granted it, the courts of other states need not apply the same statute of limitations, or may cite due process considerations in overturning the decree. Various other facets of the adoptive process which are of importance to the adoptee or other parties, such as placement contracts, agency relinquishments, or agency policies regarding access to records, may not be within the full faith and credit guarantee if not deemed public acts, records, or judicial proceedings.

These uncertainties are compounded for foreign-born children who enter the United States as adoptive children of United States citizens or enter for the purpose of being adopted here. These children frequently emigrate after a parental relinquishment or an official declaration of abandonment made under laws based upon concepts of due process quite different from those that prevail in the United States.

Unless each of the jurisdictions of the United States enacts a uniform adoption law, there will continue to be some element of uncertainty in the legal implications of adoption for the parties directly and indirectly involved. Three points should be made regarding these uncertainties. First, the courts and officials of each state owe an obligation to other states and to their own litigants to make a record that will tend to withstand collateral attack and merit full faith and credit.

Second, the procedures by which children are made available for adoption in foreign countries may not accord with United States' concepts of due process, and it must be acknowledged that the intercountry placement process often affords fewer safeguards for all the parties involved. However, it is important for courts to recognize the jeopardy in which these children may be placed by judicial refusal to give effect to a foreign decree terminating parental rights, or a parental release for adoption. Such children, if not returned to their country of origin, could be left in a state of permanent legal limbo with respect to their adoptive status in the United States.

Third, courts considering arguments based upon the principle of full faith and credit should, in keeping with the overriding philosophy of this Model Act, make the interests of the adoptee paramount in deciding close questions of choice in law and public policy.

Subsection (b). There are special legal uncertainties which often accompany the intercountry adoption process, as discussed under subsection (a). The principles of comity governing recognition of acts or decrees of foreign countries are of much less certain application among the fifty states than is the full faith and credit clause of the constitution. Therefore, it is highly recommended that children who have been adopted by United States citizens or residents under the laws of a foreign country be readopted in a domestic judicial proceeding. Readoption gives the child an adoptive status which must be recognized by all other states under the full faith and credit clause.

Subsection (c). The regulation of affairs of federally-recognized Indian tribes is primarily within the province of the federal government. For that reason, any valid federal law regarding the subject of this Act supersedes state law in all circumstances to which the federal law applies.

Section 107. Fees

(a) No agency, public or voluntary, shall charge fees:

(1) for adoption services to children who are the responsibility of an agency and are in special circumstances

because of the factors enumerated in Section 703(a)(1) and (2) of this Act, or to the birth or prospective adoptive parents of such children; or

(2) for postadoption services to the adoptive family of any child who, immediately prior to adoption, was the responsibility of the agency and in special circumstances because of the factors enumerated in Section 703(a)(1) and (2) of this Act; except that the provisions of this subsection shall not apply to services provided in connection with adoptions pursuant to Section 204(a) of the Act.

(b) No agency shall charge fees for short-term counseling services to adoptive families, adult adoptees, or birth parents whose rights have been terminated.

(c) The state adoption administration shall reimburse voluntary agencies which provide adoption, postadoption, or short-term counseling services to persons to whom fees may not be charged pursuant to subsections (a) and (b) hereof. Such reimbursement shall not exceed the actual cost of services provided, and shall be in accordance with purchase of service rates established by the state adoption administration.

(d) Fees not prohibited by subsections (a) and (b) hereof may be charged for adoption and postadoption services, but shall not exceed the actual cost of the services provided and shall be in accordance with fee schedules maintained and published by each agency.

(e) The state adoption administration shall maintain and publish a schedule of fees which may be charged for a family assessment by a family assessment practitioner licensed pursuant to Section 603 of this Act.

(f) No person, agency, association, or corporation shall offer, give, request, receive, or accept payment of cash or other consideration for the procurement of a child for a prospective adoptive family, except that:

(1) reasonable fees for professional services may be charged for services provided with respect to the placement of a child pursuant to Section 205 of this Act; and

(2) an agency, or the prospective adoptive parents of a child to be placed for adoption pursuant to Section 206 of this Act, may pay the actual medical expenses associated with the birth of the child to be placed for adoption.

(g) Any violation of subsection (f) of this Section 107 shall be punished by a fine of no more than $20,000 or imprisonment of no longer than ten years, or both.

Commentary to Section 107

The Preamble to the Model Act establishes that adoption is a service to children, and that children with special needs should not, because of their needs, be denied the benefits of family life. In keeping with this philosophy, the Model Act abolishes fees for services to these children, their birth families, and their prospective adoptive families. The Preamble to the Model Act also recognizes, however, that adoption creates a life-long change of status for the parties to an adoption, and so provides for services without fees to adoptees who were children with special needs, and their adoptive families.

Not all children adopted, however, have special needs, and this section permits the charging of fees for services to or on behalf of this group of children, but both the nature and the amount of the fees are carefully circumscribed so as to reduce the possibilities for exploitation of children and their families.

Subsection (a). This provision prohibits both public and voluntary agencies from charging fees for children in special circumstances as defined by Section 703(a) of the Model Act, the section which establishes criteria for a child's potential eligibility for an adoption subsidy. By their nature, fees may act as deterrents to families who seek to adopt a child; they may erect psychological or very real financial barriers to families, thereby reducing the chances a child has to be adopted.

One of the purposes of the Model Act is to remove such barriers to the adoption of special needs children awaiting adoption. *See* the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, 92 Stat. 205 § 201. Proscription of fees for services to or on behalf of these children removes one of the obstacles to their adoption.

Subsection (a)(2) allows the adoptive family of a special needs child to procure services, after the adoption, for assistance in working out difficulties attendant to the adoption of the child. Extending the prohibition on fees beyond the completion of the adoption itself recognizes the continuing change in status adoption creates, and may again encourage families to adopt a child with special needs by assuring them of continued support.

Subsection (b). The state has a clear interest in the preservation of family units. This interest extends not only to the birth family unit, but to the adoptive family as well. Adoptive families may have many of the same needs for services as do birth families, but they may also occasionally require assistance to deal with issues surrounding the adoption of a child and the integration of the child into the family unit. This provision thus permits all adoptive families to receive short-term counseling services from an agency, without the necessity for payment of fees.

Permitting adult adoptees and birth parents whose rights have been terminated to turn to an agency for short-term counseling services, again without a charge, is a further extension of the philosophy inherent in the Model Act that adoption is a continuing status, not a one-time act. Short-term counseling services may include, for example, assistance to a birth parent to resolve feelings surrounding the relinquishment of a child, or assistance to an adult adoptee to explore ambivalent feelings about a search and a later reunion.

Subsection (c). Costs of all services for which no fees are permitted will be borne by the state, either directly through its support of public agencies, or indirectly through reimbursement to the voluntary sector.

Subsections (a) and (b) of this section clearly prohibit the charging of fees for some types of services for which fees may, depending upon the agency, now be charged. In so doing, these two subsections also extend the range of services for which no fees may be charged. To require a voluntary agency to offer, at no fee, such a range of services could imperil the existence of the agency itself; the agency would have either to greatly increase its contributions or to close its doors to those families and children to whom no fees may be charged.

The financial burden for the extension of services is thus transferred back to the state through the requirement that it reimburse voluntary agencies, as well as offer a similar range of services without any cost to the users of the service. Implementation of the philosophy of the Model Act demands that comprehensive services be available at no cost if the thousands of children awaiting adoption are to be placed with permanent families. Legislators debating enactment of the Model Act should also, when weighing the benefits against the potential for increased costs, consider the potential for continued (and perhaps even increased) costs to the state of not enacting this provision: the expense of keeping a child in foster care, including social and medical services, or the expense of a child re-entering the foster care system if an adoption breaks down because the necessary postadoption services were not available. Careful

dollars-and-cents arguments, when based upon actual projections for any given state, may or may not favor a liberal approach to fees, but any financial argument must be balanced against the social benefits of securing permanent homes for the waiting children.

Subsections (d) and (e). Agencies are free to charge fees for adoption services other than as proscribed by subsections (a) and (b). In all instances where fees are permissible, charges must be reasonable and in accordance with fee schedules maintained by the agency. Fees charged by family assessment practitioners licensed under Section 603 of the Model Act, however, will be established and regulated by the state adoption administration.

Subsection (f). Because the Model Act permits direct placements by parents or their representatives, it is critical that there be protection against the risks involved. The receipt of excessive fees by third party representatives (or intermediaries) is a major area for abuse. This provision prohibits what has often been called "baby-selling" by restricting the compensation to a reasonable fee for professional services; no compensation of any sort may be made for the "procurement" of a child, in other words, for finding a child for a family. *See* M.S.A.A. §§ 203 (commentary), 206 (commentary). It is important to note that this prohibition extends not only to individuals such as physicians and lawyers who act as intermediaries, but also to organizations performing placement services without a license. *See* M.S.A.A. § 602.

Both the receipt and the payment of compensation are proscribed by this subsection, so prospective adoptive parents and birth parents, as well as intermediaries, are subject to the penalties in subsection (g).

Subsection (g). The Model Act stipulates that stiff penalties may be applied for violation of the fees provisions of subsection (f). Prosecuting attorneys should be encouraged to vigorously pursue suspected violations, and courts, to stringently apply the penalties the law provides. Penalties serve not only as punishment, but as a deterrent; non-enforcement may encourage potential violators to disregard the law and engage in "selling" children.

Section 108. Priority of Proceedings; Judicial Review

(a)(1) Judicial proceedings for parental placement, termination of parental rights, and adoption, and objections thereto shall be considered to have the highest priority and shall be advanced in the dockets of trial and reviewing courts so as to provide for their earliest practicable disposition.

(2) An adjournment or continuance of a proceeding under this Act shall not be granted without a showing of good cause therefor.

(b)(1) Any party aggrieved by an order, judgment, or decree of the court may, within ten days after notice of its entry, file notice of an appeal to the [ ] court. Procedures for an appeal is governed by the rules applicable to appeals from the [ ] court in civil cases. An order of the court entered pursuant to the action which is the subject of the appeal will be stayed during the pendency of the appeal if such order removes a child from the custody of its parent, unless there is a clear danger of physical harm to the child. A petition for the child's adoption may not be heard pending the appeal of a decree terminating a parent-child relationship.

(2) Appeals from orders under this Act shall be given priority in the reviewing court and shall take precedence over all other matters, except for already docketed appeals from orders in other termination or adoption proceedings and other matters which are given priority by specific statutory provision. No postponements, continuances, recesses, or adjournments for longer than three days shall be granted except with the consent of all the parties, and none shall be granted after the appeal has been docketed for sixty days. An appeal from an order under this Act shall be decided within ninety days of filing.

(c) Subject to the disposition of an appeal, upon the expiration of one year after a decree of termination of parental rights or adoption is issued, such decree cannot be questioned by any person including the petitioner, in any manner upon any grounds whatsoever, including fraud, misrepresentation, failure to give any required notice, or lack of jurisdiction of the parties or of the subject matter.

* * * * *

Commentary to Section 108

Section (a). The policy articulated supports the right of children to have matters regarding their interests adjudicated with the greatest promptness. The provision pays deference to the great significance which the passage of time has in the life of a young person. The requirement that a person who requests a continuance must show cause for the postponement is designed to discourage the tendency of courts as well as attorneys and agencies to unnecessarily delay difficult cases.

Subsection (b). The time limits imposed upon appeals are deemed the maximum that should be allowed in light of the commitment to affording stability and permanence to the children who come within the court's jurisdiction.

The interest of an adopted child in a stable and permanent family also underlies the one-year statute of limitations which is imposed upon collateral attack of termination or adoption decrees. This time period is equal to or longer than that allowed for such attacks in several states. *See, e.g.,* Fla. Stat. Am. § 63.182 (1978); Haw. Rev. Stat. § 578-12 (1976); Md. Ann. Code art, 16 §§ 79, 84 (1973); N.H. Rev. Stat. Ann. § 170-13:17 (1968); N.M. Stat. Ann. § 22-2-33 (1975); Ohio Rev. Code Ann. § 3107.16 (Page 1978) (all allowing only one year from entry of adoption decree); Miss. Code Ann. § 93-17-11 (1972); VA Code § 63.1-237 (1975) (both allowing only six months from entry of decree).

It has often been held that a decree obtained by fraud upon the court, or obtained in violation of constitutional due process, may be attached regardless of a statute of limitations, and need not be accorded full faith and credit by the courts of other states. The rationale of the present provision, which is intended to cut off attacks based upon any error, although not to bar constitutional challenges, is grounded upon a balancing of the interests of the child, other parties, and society. When a child has been in an adoptive home for one year or more, that child's right to a stable and permanent family environment outweighs the right of a parent who, for whatever reason, has not been involved enough with the child to have had knowledge of the decree in question; the child's right also outweighs society's interest in protecting the integrity of the judicial process in cases of fraud.

Section 109. Contempt

Any person who disobeys an order of the [ ] court or whose failure to appear when compelled to do so contributes to a delay of proceedings under this Act may be adjudged in contempt of court, provided that the court has found that the citation was presented in a manner and in a language that allowed the person cited to comprehend fully the meaning of the order and the consequences of failure to obey.

* * * * *

Commentary to Section 109

The trial court which hears matters under this Act should, pursuant to its enabling law, already be empowered to cite persons for contempt. *See* M.S.A.A.

§§ 102(a)(12) (commentary), 105 (commentary), The purpose of this provision is to ensure equitable treatment of persons whose backgrounds or previous court experiences make it difficult to appreciate the mechanics and purposes of these judicial proceedings.

While a court should not hesitate to punish irresponsible behavior which delays judicial proceedings, the court must not find willful contempt where a person's transgression was the result of a language or cultural barrier. The provision is not intended to allow greater leniency toward misconduct in proceedings under this Act than is allowed generally; it is simply meant to impose a requirement that the court, in finding willful misconduct, make specific findings of fact to support its conclusion that a particular offense to the court was willful.

Section 110. Severability

If any provision of this Act or the applicability thereof is held invalid, the remaining provisions of this Act shall not be affected thereby.

* * * * *

Commentary to Section 110

The severability clause is a common device to ensure the continued effectiveness of other provisions of the Model Act in the event that any single section or subsection is declared invalid. For a similar clause, see the Uniform Child Custody Jurisdiction Act § 25.

Section 111. Effective Date

This Act shall take effect on _____.

* * * * *

Commentary to Section 111

Generally, an effective date should be set at three to six months after enactment to afford sufficient time to adopt whatever administrative changes are necessary to implement the Act.

Section 112. Prior Laws Repealed

The following laws or portions thereof are hereby repealed [suspended] by this Act:

* * * * *

Commentary to Section 112

Since many states already have statutes dealing with child abuse and neglect, child protective services, termination of parental rights, foster care and adoption, each state should make a special attempt to be consistent in the use of definitional terms. Other areas that might need evaluation include prior legislative statements of general purposes and intent, sections covering conduct of hearings, the standard of proof, rights to counsel and appointment of guardians *ad litem*, and agency licensing provisions. Enactment of this Model Act should occasion careful review of other child welfare statutes.

TITLE II. PLACEMENT FOR ADOPTION.

Section 201. Adoption as the Plan for the Child

(a) A child shall be placed for adoption only upon a determination by a parent relinquishing or placing a child for adoption, or by an agency responsible for planning for a child, that adoption is most likely to meet the physical and emotional needs of the child during his minority. Such a determination shall be made only after consideration of alternative short-term and long-term plans for meeting the needs of the child for a family and home.

(b) The services to parents mandated under Sections 205, 206, and 303 of this Act shall be provided with the primary purpose of assisting them in arriving at the best available permanent plan for their child. Provision of services to a parent shall not be dependent upon the decision of such parent to relinquish a child.

* * * * *

Commentary to Section 201

Subsection (a). The provision imposes upon a child's parent or the agency with responsibility for the child the legal duty of making an affirmative decision that adoption is preferable to other possible alternatives for the child's long-term care, before the child is relinquished or placed for adoption. The birth parent who is relinquishing a child to an agency should be assisted in making this decision by the counseling required pursuant to Section 303 of the Model Act. A birth parent making a direct placement will likewise be assisted by the counseling required pursuant to Section 206. The court approving a direct parental placement, in accordance with Sections 206(f)(2), and 306 of this Act, may wish to question the parent to assure that the duty imposed by this subsection has been performed.

Subsection (b). The services referred to are the counseling and referral obligations of the agency to which a child is being relinquished, *see* M.S.A.A. § 303, or of the agency which interviews the biological parent prior to a direct adoptive placement, *see* M.S.A.A. § 206. It is obvious that a parent cannot make an informed decision regarding the child's best long-term interests without knowing of alternative resources and arrangements. The child's right to be reared within his birth family, whenever possible, should not be prejudiced by the parent's need to seek assistance from an adoption agency before finally deciding whether relinquishment of the child would be in the child's best interests. Hence the last sentence of the subsection prohibits an agency from making the provision of services or the determination of a fee contingent upon the parent's relinquishment of the child.

Section 202. Freeing the Child for Adoption

Except as provided by Section 206(g) of this Act, placement for adoption shall occur only when there is satisfactory evidence that all parental rights over the child being placed have been terminated according to the laws of this state or of another jurisdiction.

Commentary to Section 202

Under most circumstances, when a child is placed with a family, the parties involved should not be encouraged to look upon the placement as leading to adoption unless the child is legally free for adoption; that is, unless all parental rights with respect to the child have been terminated. *See* M.S.A.A. § 103(a). The fact that a child has been freed for adoption prior to placement relieves the child, the prospective adoptive parents, and the agency, if any, of the uncertainty inherent in the birth parents' continued legal interest in the child. When placement occurs only after termination of parental rights, all parties' efforts may be wholeheartedly devoted to the creation of a viable family bond between child and adoptive parents.

There will be some special circumstances, however, in which it may be in a child's interests to be placed with a prospective adoptive family before all parental rights have been terminated. This section would not preclude such placements, but would require that they be characterized as foster care placements. When an agency has located an appropriate adoptive family for a special needs child and the process of terminating the rights of an uninvolved parent has just begun, the child should not be expected to forego the benefits of living with the potential adoptive family for the months necessary to complete termination proceedings. Likewise, when a mother wishes to directly place a newborn for adoption, but termination of an absent putative father's rights will not be possible for several weeks, it may be in the interests of the infant to be placed with the prospective adoptive family

prior to the termination of all parental rights.

As stated above under the Model Act such pre-termination placements are not characterized as placements for adoption, but as foster care placements; as such, they are subject to the state's foster care regulations and licensure requirements. It should be emphasized, however, that these are a special category of foster care placement since all parties have, at the outset, a set of expectations which are quite different from the usual for foster placements. Because of the hazards inherent in combining the role of foster parent with the status of potential adoptive parent, two points should be emphasized.

First, premature adoptive placement clearly runs counter to the state policy of support for the birth family. Therefore, foster placements with prospective adoptive families should occur only when appropriate conditions exist. Services should have been provided to, or offered and refused by, the birth parents. There should also be a very strong likelihood that all parental rights will be terminated within a matter of days or weeks after the placement, as, for example, when one parent has already relinquished, the other parent is absent and has not been located after good faith efforts, and a court hearing to involuntarily terminate his parental rights has already been scheduled.

Second, the potential adoptive family with whom a child is placed prior to termination of all parental rights should be made fully aware, by the placing agency or the court, that the change from a foster care to an adoptive placement is contingent upon termination of all parental rights with respect to the child.

Section 203. Who May Place a Child for Adoption

Except as provided by Section 204 of this Act, a child may be placed for adoption only by:

(a) an agency; or

(b) the child's parent.

* * * * *

Commentary to Section 203

This provision follows the practices of the great majority of states in allowing placements to be made by a parent without the direct mediation of an adoption agency. Even among the few states which explicitly prohibit such parent ("independent") placements, most exclude certain categories of placements, generally relative or stepparent placements, from the prohibition. *See, e.g.,* Colo. Rev. Stat. § 19-4-108 (1973) (excludes stepparent situations); Conn. Gen. Stat. Ann. §§ 45-63, 45-66d (West 1979 Supp.) (prohibition subject to waiver by Adoption Review Board); Del. Code tit. 13 § 904 (1975) (excludes placements with stepparents and blood relatives); Mich. Comp. Laws Ann. 710.28 (5) §§ 710.43 (7), (1979 Supp.) (excludes placements with relatives to third degree); Minn. Stat. Ann. § 259.22 (2) (1979 Supp.) (excludes stepparent, relative, and extra-state placements, placements of children fourteen or more years of age; prohibition subject to court waiver in best interests of child.)

The approach taken by the Model Act is to recognize that independent placements exist and would probably continue to occur even if proscribed. By permitting them to continue, the Model Act can also establish means by which they can be regulated. In addition, permitting independent adoptions offers an alternative to parents who wish to place their children for adoption, and no evidence has been found that these placements are less successful than those handled by agencies. Finally, prohibiting independent adoptions might divert scare agency resources from the service of children with special needs to the placement of infants.

There are certain recognized risks involved in the adoptive placement of children in homes selected without the assistance of an agency. *See* W. Meezan, S. Katz and E. Russo, *Adoptions Without Agencies* 3-9 (1978); H. Witmer, F. Herzog, E. Weinstein, and P. Sullivan, *Independent Adoptions: A Follow-Up Study* 359 (1963). These risks, however, have been minimized under the Model Act through safeguards written into Sections 107, 206, 305, and 306; these sections structure the manner in which "independent" placements for adoption may be accomplished and impose sanctions for realization of financial gain in providing adoption services to children.

This section does not prohibit a parent's use of a third party, such as a physician, attorney, or clergyman, in order to locate a potential adoptive home for a child. However, the authority by which any such third party assists in an adoptive placement is not independent, but flows from that person's role as a representative of the parent making the placement. Unless a parent has a separate attorney, it would be presumed that any third party involved in a parent placement is the agent of the placing parent. As such, the representative (often called an intermediary) would owe the parent the duty of assuring that the requirements of the law regarding such placements—including agency counseling of the parent—are met.

It should be noted that any change in the legal rights of a guardian with respect to a child will not result simply from the guardian's placing the child for adoption. Only a legally-binding relinquishment or a termination or limitation of rights under law will change a parent's or a guardian's right to custody, control, and guardianship of his child. This principle is especially important in the context of direct adoptive placements by parents. Only after a court has approved the adoptive family and terminated the parent's rights are the parent's right to custody and guardianship of the child and the corresponding legal duties terminated.

The provisions for parents' direct adoptive placements contemplate cases involving newborn children whose parents wish to place them immediately and, perhaps, to have no further involvement in the rearing of the children surrendered. These situations are to be distinguished from the informal adoptions which result where a parent transfers the care of a child to a relative or a friend—perhaps in response to a transitory set of circumstances—and the child later becomes integrated into the second family. Although the birth parent may retain some contact with, and interest in, the child, the child becomes for all practical purposes an adoptive member of a new family. Such informal adoptions are not uncommon. *See* R. Hill, *Informal Adoptions among Black Families* (1977). The state adoption administration may be able to design a means to provide the children in these families with appropriate services to safeguard their legal rights, such as the right to benefits under Social Security programs.

Section 204. Intercountry Adoptions

(a) Where a foreign-born child is being brought to the United States for purposes of adoption pursuant to Title 8, Section 1101(b)(1)(F) of the United States Immigration and Nationality Act, such a child may be placed for adoption by:

(1) A parent or an agency pursuant to Section 203 of this Act; or

(2) a court in the country of origin of the child; or

(3) an individual or agency guardian with the right to consent to the adoption of the child; or

(4) an agency expressly empowered to consent to the adoption of the child by the laws of the country of origin of the child.

(b) No child shall be placed for adoption pursuant to this section unless the [Commissioner of the state

department of social services] certifies to the United States Immigration and Naturalization Service that all state preadoption requirements have been met. For the purposes of this section, "state preadoption requirements" shall include:

(1) evidence that all parental rights with respect to the child have been terminated in accordance with the laws of the country of origin of the child;

(2) evidence that the child is being placed in accordance with subsection (a) of this section;

(3) as required by Section 205 of this Act, a family assessment of the prospective adoptive family which recommends the family for the adoption of a foreign-born child;

(4) information on the child as required by Section 205(c)(3) of this Act or, if any such information is unavailable, a statement attesting to the reasons for its unavailability;

(5) identification of an agency to provide postplacement services to the prospective adoptive family; and

(6) [add any other applicable requirements from state law].

(c) Where a child is placed for adoption pursuant to subsection (a) hereof, the family assessment may be conducted either by an agency or by a family assessment practitioner licensed pursuant to Section 603 of this Act.

(d) Where a child is placed for adoption pursuant to subsections (a)(2) through (a)(4) of this section, the prospective adoptive parents shall file a petition for adoption within thirty days of the date the child is placed with them.

(e) The state adoption administration shall provide or cause to be provided postplacement services to any family who seeks to adopt a child pursuant to this Section 204. Notwithstanding any other provisions of this Act, fees may be charged for such postpacement services in accordance with Section 107(d) of this Act.

* * * * *

Commentary to Section 204

Section 1101 of the United States Immigration and Nationality Act establishes two methods by which a United States family may adopt a foreign-born child. The family may adopt the child in the foreign country according to that country's laws, in which case the adoptive parents and child return to this country as a newly created family unit; or the family may bring the child into the United States for the purpose of adoption, in which case the adoption is completed according to the laws of the state in which it occurs. 8 U.S.C. § 1101(b)(1)(F)(1976).

The Immigration and Nationality Act specifies certain conditions under which both types of adoptions must occur. When the family elects to adopt the child abroad, the only provision of state law which applies is that under which agencies or individuals are licensed to perform home studies (equivalent to the "family assessment" in the Model Act); the Immigration and Nationality Act requires that families adopting abroad have a home study performed by a person or agency licensed by a jurisdiction of the United States.

When the child is to be brought to the United States for the purpose of adoption, however, the Immigration and Nationality Act requires certification that the preadoption requirements of the state in which the child is to be adopted are met before a visa is issued for the child to enter the United States. State law defines what each state's preadoption requirements are, so it is to this latter category of intercountry adoptive placements that the provisions of this section apply.

To the extent possible, and to the extent that any state law can control an intercountry transaction, the Model Act attempts to afford the prospective adoptive parents and the child the same protections as for an adoption occurring wholly within the United States, while recognizing that some portions of the process, such as termination of parental rights, are not within the legitimate reach of any domestic law, state or federal. Each country must ultimately decide to what extent it wants to regulate actions such as termination of parental rights and adoption, if at all; the Model Act respects the legally established procedures for these actions while attempting to ensure that foreign-born children and their adoptive parents receive the same protections as do native-born children and their adoptive parents.

Subsection (a). Authorities in a number of countries such as El Salvador prefer to place children directly with a United States family rather than to work through a domestic agency. This section empowers foreign courts, individual and agency guardians with the right to consent to the child's adoption, and properly authorized agencies to make such placements, as well as parents and domestic agencies. Only in unusual circumstances, however, could a parent make a placement of his child for adoption under this section. The Immigration and Nationality Act requires that a child be classified as an "eligible orphan" (in general, a child legally free for adoption) if the child is to be admitted to the United States for adoption, whereas Section 206 of the Model Act contemplates that a parent may place his child for adoption only prior to the termination of his parental rights with respect to the child.

Subsection (b). This subsection sets forth the preadoption requirements under the Model Act, and requires that a high state official, such as the commissioner of the state's department of social services, certify to the Immigration and Naturalization Service that all the state's preadoption requirements are met.

Under subsection (b)(1), state officials must ascertain that the evidence of termination of parental rights according to the laws of the child's country of origin is sufficient for the adoption to be completed once the child arrives. Termination standards and procedures vary from country to country, but in general there may be four types of evidence to substantiate termination of parental rights: a parental surrender or a certified copy of the parent's consent to the adoption; a certified copy of a court order terminating parental rights and including the grounds for termination; a consent of an authorized representative from an orphanage, agency, governmental body, or individual having custody of an abandoned child and having the right to consent to adoption by law rather than by a court order; or a statement from the child's custodian describing the circumstances under which an abandoned child was found and indicating the steps taken to identify the child's parents. American Public Welfare Association, *Intercountry Adoption Guidelines* 40 (1979) (prepared under HEW Contract No. 105-77-1019).

The requirement that state officials determine the sufficiency of the evidence supporting termination of parental rights may be viewed as burdensome, especially in that the Immigration and Naturalization Service makes an independent determination of the child's status as an "eligible orphan." Termination of parental rights prior to the child's entry into the country and placement for adoption is, however, clearly in the interest of all parties to the adoption and is in keeping with the philosophy of the Model Act. *See* M.S.A.A. §§ 103(a), 202. Evidence of termination of parental rights must also be filed along with the petition for adoption, and the court must find that termination has occurred prior to issuing a decree of adoption. *See* M.S.A.A. §§ 401, 405. Including sufficient evidence of termination of parental rights as a preadoption requirement might prevent the situation in which a court refuses to

issue a decree of adoption on the basis that the evidence of termination is insufficient. The court hearing the petition for adoption, however, is not bound by an administrative certification, and could require additional evidence of termination beyond that found sufficient by the state officials.

The preadoption requirements of evidence of termination of parental rights and evidence that the child is being placed in accordance with Section 204(a) of the Model Act should also serve to deter unscrupulous child placers in a foreign country from attempting to place children without the authority to do so, just as various provisions of the Model Act discourage potential domestic child placers from acting illegally. *See, e.g.,* M.S.A.A. §§ 107(f), 206(d), 602(j), and 602(k).

Other state preadoption requirements in subsection (d)(5) may include those established by the Interstate Compact on the Placement of Children (when an intercountry placement is also an interstate placement within the meaning of the Interstate Compact) or by a state's child importation statutes.

Subsection (c). So that agencies do not have to divert scarce resources from providing family assessments to families seeking to adopt domestic children with special needs, the Model Act permits properly licensed individuals to perform family assessments for families adopting a foreign-born child. *See* M.S.A.A. § 603.

Subsection (d). When a child is placed by a foreign court, guardian, or duly authorized agency pursuant to subsections (a)(2) through (a)(4) of this section, no United States agency or court will have any legal authority over or responsibility for the child. To ensure that a United States court has jurisdiction should any problems arise with the placement, this subsection requires the filing of the petition for adoption of the child within thirty days after the placement is actually made.

Section (e). Subsection (b)(4) of this section requires that only an agency, not the independent practitioner licensed according to Section 603 of the Model Act, provide postplacement services to the adoptive family. The state adoption administration is given both the legal responsibility and the legal mandate to ensure that every family who adopts a foreign-born child can procure postplacement services from an agency. Fees may be charged for these services, however, and permitting the charging of fees should serve as a stimulus for the development of the services necessary to carry out this provision of the Model Act.

Section 205. Placement for Adoption by Agencies

(a)(1) Any person desiring to adopt a child who is the responsibility of the state and is awaiting adoption because of his age, race, handicap, or need to be placed with siblings, or any other child whom the state had designated to be most in need of adoption services, shall be given priority for a family assessment. Any adult applicant who expressly requests to adopt such a child shall receive an assessment of his suitability to adopt such a child within six months of his request for an assessment. Such assessment shall be performed by the agency to which application is made or by the state adoption administration. If the applicant is married, the application shall be made by both spouses jointly.

(2) Where an agency denies the application of a person who has applied to adopt a child pursuant to this subsection (a), the agency shall inform the applicant, in writing, of the denial and of the reasons therefor.

(b) An agency shall not exclude from consideration as a potental adoptive parent:

(1) the foster parent of a child who has been placed in foster care with that individual solely because of his status as the child's foster parent; or

(2) any applicant solely by virtue of restrictive criteria including, but not limited to, age, marital status, employment, religion, race, physical condition or disability, or number of children already in his family.

(c) Before making a placement for adoption, an agency shall:

(1)(A) provide assistance to each parent as required by Sections 201 and 303, except where a parent cannot be identified or located after a good faith effort by the agency; and

(B) compile a written report describing the services provided to the parents, which report shall be submitted to the court with the petition for termination of parental rights or, if such a petition is not filed, with the petition for adoption; if a parent cannot be identified or located, the report shall state that services could not be provided, and the reason therefor;

(2) determine, in accordance with Section 201 of this Act, that adoption is the best available permanent plan for the child;

(3) compile written reports, to be retained by the agency and included in the report to the court accompanying the petition for adoption, which describe:

(A) the medical and social history of the birth parents of the child;

(B) the health and social history from birth of the child to be adopted and the present physical, intellectual, and emotional needs of the child; and

(C) the suitability of the proposed adoptive family for the child in question;

(4) provide other services necessary to carry out the purposes of this Act.

(d) If any information required by subsection (c) of this section cannot be obtained, the agency report shall state the reasons therefor.

* * * * *

Commentary to Section 205

The section sets out the adoptive placement procedures which agencies must follow.

Subsection (a). The limited resources of adoption agencies, and the consequent delays in applicants' obtaining aproval as potential adoptive parents, are well known. Because of the mandate in the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 to "facilitate the elimination of barriers to adoption and to provide permanent and loving home environments for children who would benefit by adoption, particularly children with special needs," *see* 92 Stat. 205 § 201, the Model Act attempts to assure optimal use of agency resources for the adoptive placement of special needs children. Providing family assessments to applicants willing to adopt older or handicapped children is a crucial step in facilitating placement of these children.

Many approaches to the problem of allocating scarce agency resources could be taken: mandating a state-sponsored family assessment, perhaps within a certain time limit, for all applicants for special needs children; providing an appeals process for applicants who wish to adopt a special needs child but who have failed to obtain a family assessment; requiring all public and voluntary adoption agencies to spend a certain percentage of time assessing families wishing to adopt special needs children; establishing special recruitment and family assessment programs to meet the needs of certain groups of children; or providing for state licensure of agency-approved adoptive applicants as a means of monitoring agencies' deployment of their resources. Each of these possibilities would be more or less effective, depending upon the population of waiting children in a state at any particular time and upon the availability of adoptive applicants, their need for agency services, and the types of agency resources available within the state.

A principle of general applicability which should guide resource allocation

decisions by particular agencies is embodied in the first sentence of subsection (a)(1): how many, how often, and how quickly family assessments are provided to adoptive applicants should be governed by specific requirements established by the state and be periodically adjusted in light of the actual numbers and types of children waiting to be adopted.

As one means of preventing an agency from screening out applicants arbitrarily, subsection (a)(2) requires the agency to notify an applicant, in writing, of the denial of his application and to include a statement of the reasons for the denial. An application to adopt might be denied on the basis of objective criteria, independent of the family assessment, or on the basis of the findings of that assessement. Denials may be appealed in accordance with Section 604 of the Model Act.

Subsection (b). The first restriction imposed by subsection (b)(1) relates to two traditionally controversial issues: 1) should foster parents be precluded from eligibility as adoptive parents in order to maintain integrity of the foster care system? 2) If not precluded, should foster parents be given priority consideration to be adoptive parents for children who have been in their care? Subsection (b)(1) explicitly answers the first of these questions in the negative. With respect to the second issue, some foster parents (i.e., *de facto* parents) should indeed receive priority consideration as adoptive parents. Some of the factors which an agency might find relevant in designating particular foster parents as eligible for priority consideration are: length of time the child has been placed with the parent, evidence of emotional and psychological bonds between the child and the foster parents, and the effects of this relationship upon the child's total development.

Subsection (b)(2) recognizes that agencies in the past have established restrictive eligibility criteria such as age, marital status, employment, religion, race, physical condition, or number of children already in the family, any one of which lacks a substantial relationship to parenting ability. With respect to an agency's consideration of an approved applicant for suitability to adopt a specific child, however, the law does not prohibit the agency from taking into account any of the factors listed in (b)(2).

Subsection (c). The agency has the responsibility to serve several different parties prior to making an adoptive placement.

Birth parents.—It is imperative that birth parents be offered alternatives to placing their child for adoption, in order to assure that the decision to relinquish the child is truly voluntary and not the product of economic or emotional duress. For a list of efforts which an agency might make or be expected to make on behalf of parents for the sake of keeping the birth family together, see J. Carrieri, *The Foster Child: From Abandonment to Adoption* 72–73 (1978).

The child.—The child's needs must be assessed, a comprehensive record made of his health and social history, as well as that of his birth parents, and a permanent plan must be made for his future.

Prospective adoptive parent.—Although adoptive applicants will already have received a family assessment, a plan to place a particular child with a particular family warrants an evaluation of how appropriate that home is for the child in question.

The requirement that reports be retained and filed with the court assures that a comprehensive medical and social history can be obtained, upon the adoptee's attaining adulthood, from either the court which granted the adoption or the agency which made the placement.

Section 206. Placement for Adoption by Parents

(a) No parent shall make a placement of a child for adoption with a person who is neither a stepparent nor a relative of the child to the third degree or closer unless such parent files a Notice of Parental Placement with the [ ] court for the county in which the prospective adoptive parent or the parent making the placement resides.

(b) The Notice of Parental Placement shall be filed within forty-eight hours of the placement of the child with a person who intends to adopt the child, and may be filed at any time prior thereto. The Notice of Parental Placement shall be in writing and shall state:

(1) the name and address of each parent of the child, if known, and if unknown, the reason therefor;

(2) the name and address of each prospective adoptive parent, unless the parent making the placement has consented to omission of such name and address;

(3) the name and address, or expected date and place of birth, of the child; and

(4) the name and address of counsel, guardian *ad litem,* or other representative, if any, for each of the aforementioned parties.

(c) Upon receipt of a Notice of Parental Placement, the court shall:

(1) cause an agency to examine the child and conduct interviews with the birth parents and prospective adoptive parents, and report to the court within thirty days, but no sooner than five days after the birth of the child. The report must state:

(A) (i) that, except as provided in subsection (ii) hereof, each of the parents or alleged parents of the child as to whom there do not appear to be grounds for involuntary termination of parental rights:

a. has been counseled and given a written statement regarding the possible alternatives for future care of the child, including adoption; that assistance to explore such alternatives has been offered; and that, in a written statement, each parent or alleged parent has either disclaimed an interest in the child or has acknowledged his or her choice of adoption for the child and the reasons for that choice;

b. knows of the intended placement and intends either to disclaim parenthood of the child, to voluntarily terminate his parental rights with respect to the child with full knowledge of the consequences, or to contest the proposed placement at the hearing on the Notice of Parental Placement; and

c. has given a medical and social history which accompanies the report;

(ii) what efforts have been made to identify or interview any parent who is unknown or cannot be located or who refuses to cooperate with the agency, and any information regarding that parent which has been obtained;

(B) that a health assessment of the child including birth, neonatal, and other medical history has been made; a copy of such assessment shall accompany the report;

(C) that, as a result of the interview with the prospective adoptive parents, the agency is convinced of the suitability of the prospective adoptive parents for the child;

(2) appoint a guardian *ad litem* to represent the child until completion or the hearing on the Notice of Parental Placement, where the court believes that the interests of the child cannot be adequately represented by the appointed agency; and

(3) schedule a hearing to consider the proposed placement for adoption. Such hearing shall be held not more than sixty days from the date of receipt of the Notice of Parental Placement by the court or, if the child is not yet born when said Notice is filed, not more than thirty days from the date of the birth of the child.

(d) At least ten days prior to the scheduled hearing, notice of the hearing on the proposed placement of the child for adoption shall be served upon the parent making the plaement, the parent who is not placing the child, the

prospective adoptive parents, and any guardian *ad litem* appointed to represent the child. When one parent is unknown or cannot be located, notice and service shall be accomplished in the manner required under Section 311 of this Act.

(e) The hearing on the Notice of Parental Placement shall be closed to all persons except those entitled to notice or their representatives, their counsels, and any other person claiming a right to custody of the child.

(1) At the hearing the court shall require that an itemized affidavit of costs and fees regarding the placement be submitted by each parent, each prospective adoptive parent, and each representative, if any, of birth parents or prospective adoptive parents. On the basis of the agency report pursuant to subsection (c)(1) of this Section 206 and the completed affidavits and, if necessary, an examination of the parties, the court shall determine whether all requirements of law in arranging the proposed placement for adoption have been met.

(2) If the court finds that all requirements of this Section 206 have been met and no violations of law appear, the court:

(A) shall enter an order stating its findings that all requirements have been met and no violations of law have occurred; such order may be entered notwithstanding any violations of Section 107(f) of this Act;

(B) may schedule a hearing for termination of parental rights; such hearing shall occur no later than thirty days following the heaing on the Notice of Parental Placement.

(3) If the court finds that not all requirements of this Section 206 have been met, or that violations of the law have occurred, including violations of Section 107(f) of this Act, the court shall determine whether, by continuing the hearing for a period not to exceed fifteen days, the defect may reasonably be expected to be remedied.

(A) If the court finds that the defect may be remedied by such a continuance and that the interests of the child will be served thereby, the court may continue the hearing for a period not to exceed fifteen days and may order the person or agency responsible to correct the defect.

(B) If the court finds that the defect cannot be remedied or that the interests of the child will not be served by a continuance, the court shall order the agency and the parent making the placement to develop an alternate plan for the child and, if the child had been placed with the prospective adoptive parent, the court shall order the child to be removed from their custody, except that, where a violation of Section 107(f) of this Act has occurred the court, in its discretion, may permit the child to remain in the custody of the adoptive parents if such a plan is in the interest of the child.

(C) If the court orders a continuance and the defect is not remedied by the end of the continuance, the court shall proceed according to subsection (B) hereof.

(4) Where an order is entered pursuant to Section 206(e)(2)(A)(i) hereof, nothing in this subsection (e) shall be construed to bar the prosecution of violators of Section 107(f) of this Act.

(f) A Notice of Parental Placement filed pursuant to this section confers jurisdiction on the court with which it is filed over any person, only to the extent necessary for the court to carry out the provisions of this Section 206, except that jurisdiction over the child may continue until a petition for termination of parental rights with respect to the child has been filed.

(g) The requirements of subsections (b) through (f) of this Section 206 shall not apply when a parent is making a placement of a child for adoption with a relative of the child to the third degree or closer or with a step-parent of the child.

(h) In the case of an interstate placement of a child for adoption, the procedure of the Interstate Compact on the Placement of Children shall also apply. The Notice of Parental Placement pursuant to this Section 206 shall not supplant nor be supplanted by the notification of intention to place and the finding of the placement would not be contrary to the interests of the child as required by Article III (d) of the Compact.

* * * * *

Commentary to Section 206

The section creates a number of safeguards for children and parents when the parents choose to place their child without using an agency to help select the adoptive family.

Subsection (a). A parent is expressly prohibited from making a direct adoptive placement without notification to the court, which can then initiate action to assure that the procedural requirements of the remainder of Section 206 are met.

The parent's Notice of Parental Placement may be filed with the court where the prospective adoptive parents reside or where the parent resides. This provision is consistent with the venue provision in Section 305 of the Model Act. The child may be residing with the prospective adoptive family at the time the Notice of Parental Placement is filed; thus, both the hearing on the placement and the hearing on the voluntary termination of parental rights may be held in the same court, either where the child is located or where the birth parent resides.

Subsection (b). When a parent decides to make a prospective adoptive placement without prior agency involvement, a notice of the intended placement must be sent to the court. This requirement, which triggers a minimal standards review of the proposed adoptive home, is designed to protect all parties involved from many of the hazards traditionally involved in "independent" adoptive placements.

The placements, which are subject to the notification requirement of this section, do not include situations in which a child is "placed" with a stepparent or relative to the third degree or closer. In such situations the child either continues to be in the care of one parent, in which case court involvement is inappropriate, or, presumably, the parent's acquaintance with the relative involved adequately ensures the child's well-being. Although the general approach to parent placements envisioned by the Act is an open one, in that all parties will know the names of all other parties, there is a provision for anonymity of the adoptive parents if they so request and the birth parent consents. Although this concealing of identity where the birth parent is theoretically making the placement with a specific chosen family may seem incongruous, the provision allows for a parent to rely upon the judgment of his personal representative (physician, attorney, or clergyman, for example) in selecting an adoptive home. In such cases the parent would not necessarily need or want to know the identity of the proposed adoptive parent(s).

The Notice of Parental Placement may be filed at any time prior to the proposed placement and no later than forty-eight hours after the placement, in order that any agency evaluation of the adoptive home may be completed as early as possible.

Subsection (c). Upon receipt of a Notice of Parental Placement, the court must order a prompt investigation by a local agency to assure that the parents have made a voluntary and informed decision, that comprehensive records have been compiled on the birth parents and the child, and that the proposed adoptive parents are minimally suitable to receive and rear a child. The court will also appoint a guardian *ad litem* to protect the interests of the child, if necessary, and set a hearing date for approval of the placement. Only an

authorized agency is allowed to provide the investigation and required counseling; only an agency would realistically be able to provide services to a parent who underwent a change of heart and decided to keep the child. Likewise, only an agency could provide appropriate supportive services in the event the adoptive placement were eventually disrupted.

It is possible that the Notice of Parental Placement will be filed with the court prior to the child's birth. Although a child's mother is not allowed to voluntarily terminate or relinquish her parental rights until at least seventy-two hours after the child is born, her intention to place the child for adoption may be registered with the court at any time. In this way some of the preliminary investigative matters may be accomplished in advance, and the placement of the child after birth will thereby be accelerated.

The time limits imposed by this subsection and subsection (e) are designed to provide the investigating agency the time required to compile necessary reports, while assuring expedition of the proceeding. Particularly in the case of a newborn, it would be desirable for the court to schedule the hearing as soon as possible after the child's birth.

Subsection (d). Among the interested parties entitled to notice of the court hearing is the child's birth parent not making the placement. The providing of notice, and hence the opportunity for the noncustodial parent to appear and claim the child rather than allow adoptive placement, is most consistent with the Model Act's philosophy of facilitating the rearing of children by their birth parents, if those parents are willing and capable of meeting their children's needs. If the parent who is not making the placement is unknown or cannot be located, efforts must be made to identify and find him for service of notice, pursuant to Section 311 of the Model Act.

Subsection (e). The court hearing is, in keeping with the privacy traditionally accorded family matters, closed to the public. It is conceivable that, in the course of the placement hearing, the right to the child's custody could be found by the court to legally reside with someone other than the parent who is attempting to place the child for adoption. Such a person, who stands to be deprived of legal custody of the child, must have a right to appear at the hearing. Hence the provision allows the presence of "any other person claiming a right to the custody of the child."

The purpose of the court hearing on the placement is to insure that no violations of law have occurred and that all requirements for a parental placement have been met. The most critical of these affirmative requirements is, of course, that the proposed adoptive parents meet minimum standards. Other requirements include those enumerated in subsection (c) of this section.

An important aspect of the court's inquiry is the determination that there has been no violation of law in the arrangement of the proposed adoptive placement. The court must take very seriously its obligation to inquire into the specifics of the proposed placement, particularly where an intermediary has been involved. The information contained in the affidavits required under (e)(1) is a major element in this inquiry. The expenses cited must of course be reasonable and actual, and must not evidence the realization of financial profit on the part of any party. *See* M.S.A.A. § 107(f).

Also demanding special scrutiny are placements across state lines. Judges should be alerted to the possibilities for abuse in this area and should, as a matter of course, inquire of the attorneys and parents involved whether the provisions of the Interstate Compact on the Placement of Children have been followed, in jurisdictions where that law has been passed.

If the court finds defects in the placement process it may choose to continue the hearing on the Notice of Parental Placement, and may enter an order directing that such defects be remedied. This is an important means for enforcing the requirements of the law regarding parental placements. If, for example, unreasonably high fees have been received by an intermediary, the court could order a refund of the excessive portion of the fee to the parent making the placement, and could enforce such an order through its contempt powers.

If the court finds a continuance to be inappropriate in a case (*e.g.*, if the proposed adoptive parents do not meet minimum standards), or if a continuance is granted but the defects are not remedied, the court also has the power to order the child to be removed from the placement, and to order the birth parent and the agency to develop an alternate plan for him. These powers enable the court to protect the child who has been placed without agency supervision. In addition, because parental rights cannot be terminated until a court finds the parental placement to be in full compliance with the requirements of the law, the birth parent can regain custody and continue to be involved in planning for the child if the attempted parental placement fails.

Violations of the law regarding fees for intermediaries (*see* M.S.A.A. § 107(f)) are a special case under this subsection. The Model Act provides criminal penalties to deter and punish acts of "baby-selling" *and* "buying." The inquiry into fees paid and the court's power to order the return of improper compensation pursuant to this section are other means by which such exploitative practices are controlled. However, where the adults involved in a direct placement have violated the law, willfully or inadvertently, any sanctions levied upon them should not be detrimental to the child. In most direct placements the child will be in the custody of the proposed adoptive parents by the time the hearing on the Notice of Parental Placement is held. Removing the child from their custody and prohibiting them from proceeding to adopt may unduly disrupt the life of that child. Because the interests of the child must prevail in this matter, the court has the discretion to enter a positive finding regarding the proposed placement even if fee violations are found, if to do so would be in the interests of the child. It should be reiterated that the court still has the duty to inquire into the propriety of the financial arrangements and to order the correction of any violations which are discovered.

After an order is entered finding that all placement requirements have been met and that no violations of law have occurred, a hearing must be held to terminate the rights of the parent making the placement. (*See* M.S.A.A. §§ 305–307). In order to expedite the judicial process and thereby settle the legal status of the child as swiftly as possible, the termination petition and the notice of Proposed Parental Placement may be filed simultaneously; indeed, both may be filed prior to the birth of the child although no judicial action may occur at that time. Because it is possible for venue to be in the same court for both these proceedings, it is possible for the termination proceeding to take place immediately after a favorable decision on the parental placement.

Subsection (f). The jurisdiction of the court in which the Notice of Parental Placement is filed is limited to that power necessary to carry out the court's responsibilities under this section, and its jurisdiction is terminated once an order has been entered in the hearing on the placement. This limitation is intended to avoid potential conflicts from overlapping jurisdiction over the parties in involved, which might result if the petition to terminate parental rights had been filed in a second state.

The court hearing the Notice of Parental Placement may continue its jurisdiction over the child, however, in the event that there is a delay in filing a termination petition. This would provide a continuity of jurisdiction over the child by a court familiar with his circumstances, at least until the termination petition is filed, and ensures that there is some court involved with the child at all times.

Subsection (g). For the reasons discussed in the commentary to subsection (a) above, stepparents and relative placements are exempt from the requirements of subsections (b) through (f) of this section. The court which hears the petition for adoption in such a case will, however, require an agency to report favorably on the placement before a decree of adoption will be issued. *See* M.S.A.A. § 402.

Subsection (h). The provision emphasizes the continuing applicability of the Interstate Compact on the Placement of Children. There is a critical need for individual state administators of the Compact to martial adequate resources to effectively monitor interstate adoptive placements. The potential of the Interstate Compact for improving legal protection of children who are moved across state lines for purposes of adoption is inhibited by a lack of judicial awareness of the requirements of this law and by poor recordkeeping on the part of Compact administrators and involved agencies. *See generally* Children's Defense Fund, *Children Without Homes* 66–73 (1978); N. Baker, *Baby Selling* 147 (1978).

Section 207. Postplacement Services

(a) After a placement for adoption is made, the agency which made the placement or has reported on a placement by a parent shall provide or cause to be provided supportive services to the adoptive family and the child until the planned adoption has been completed. Such services shall include periodic visitation and may include counseling. The agency shall provide reports on the placement as required by the court and Section 402 of this Act.

(b) The agency which is providing postplacement services shall inform the adoptive family that a petition for adoption shall be filed within twelve months of the child's placement for adoption, or in the case of a child placed pursuant to Section 204(a)(2)–(4) of this Act, within thirty days of such placement, and the agency shall provide such services as are appropriate to assist the adoptive family to file the petition in a timely manner.

(c) If, after the placement has been made and before the adoption is completed, the agency providing postplacement services determines that the placement is no longer in the interests of the child, the agency shall:

(1) in the case of a placement made by that agency or by another agency, or in the case of a child for whom any agency has legal responsibility:

(A) provide the adoptive applicants with at least ten days' notice of the intent to remove the child from the custody of the adoptive applicants and the grounds for such removal, except that no prior notice shall be required before removal of the child if the agency finds the child to be in immediate danger; and

(B) provide the adoptive applicants with an opportunity to appeal the decision in accordance with Section 604 of this Act; or

(2) in the case of a placement made by a parent or where no agency has responsibility for the child, immediately recommend to the court that the placement be terminated and specify the grounds upon which such termination is recommended. The court shall provide the adoptive applicants an opportunity to be heard before ordering removal of the child, unless the court finds the child to be in immediate danger.

(d) Where a placement for adoption has been made by a parent, if the court orders the removal of the child from the custody of the adoptive applicants, the court shall also:

(1) if the rights of the parent have not been legally terminated, provide the parent with notice and an opportunity to make a new placement of the child, unless the parent has waived the right to such notice; or

(2) if the rights of the parent have been legally terminated, notify the parent of the removal of the child, unless the parent has waived the right to such notice.

(e) If the child is removed from the custody of the prospective adoptive parents, the court shall dismiss the petition for adoption of the child if one has been filed.

(f) The agency which provided postplacement services to a family from which a child was removed pursuant to subsection (c) hereof shall offer and, upon the family's request, provide such counseling services as may be necessary to assist the family in adjusting to the removal of the child.

* * * * *

Commentary to Section 207

Subsections (a) and (b). In order to maximize the positive character of agency involvement with the adoptive family after placement, the provision mandates performance of supportive services as well as the traditional reporting function performed by the agency at this stage. Where the placement has been made by a parent directly, the agency which reported on the placement for the court will monitor the placement and provide such postplacement services. An agency of the adoptive parents' selection will provide the postplacement services where a foreign-born child was placed pursuant to subsections (a)(2) through (a)(4) of Section 204 of the Model Act.

Subsection (c). In the case of an agency placement, fair hearing procedures have been imposed upon an agency which decides to remove a child from the custody of the proposed adoptive parents. Notice of the intent to remove and the grounds for such action must be timely provided to permit the adoptive applicants to seek administrative appeal of the agency decision.

Where there has been a parental placement, however, judicial intervention is required before removing the child. The requirement of a court hearing in these cases is in deference to the right of a parent to select a prospective adoptive home for his child. *See* M.S.A.A. § 206. In the case of certain intercountry placements, where no domestic agency or court has legal responsibility for the child, the court must also intervene to remove the child from the placement. *See,* M.S.A.A. § 204.

Subsection (d). This provision implements the right of the parent who has made a direct adoptive placement to be notified in the event the placement fails, either for the purpose of seeking restoration of parental rights, *see* M.S.A.A. § 307, or to permit the parent's continued involvement in planning for his child's placement.

Subsection (f). The agency which provided postplacement services should continue its involvement with the proposed adoptive family in the event that a child is removed from their home. Counseling services must be offered to aid in their adjustment to the child's removal.

TITLE III. TERMINATION OF PARENTAL RIGHTS

Section 301. Voluntary and Involuntary Termination of Parental Rights

(a)(1) Except as provided in subsection (2) hereof, a parent may voluntarily terminate parental rights with respect to his child by acknowledging his parental status and relinquishing the child to an agency for the purpose of adoption, in accordance

with Sections 302 and 303 of this Act, or by obtaining a court decree granting the parent's petition to terminate parental rights, in accordance with Sections 305 and 306 of this Act.

(2) A voluntary relinquishment by an American Indian parent who is a member of a federally-recognized tribe shall conform to requirements of federal law.

(b) The rights of a parent with respect to his child may be involuntarily terminated only by judicial decree in accordance with the provisions of Sections 309 through 316 of this Act.

* * * * *

Commentary to Section 301

Subsection (a). There are two means by which a parent may give up a child for adoption: by signing a legally binding relinquishment of parental rights, or by petitioning a court for termination of parental rights.

More than fifteen states presently allow a parent to relinquish a child to a licensed agency without court involvement or approval. In these states relinquishments are given binding legal effect as of the time of execution, or as of the expiration of a period of time in which the parent may revoke the relinquishment. The Model Act similarly provides for the finality of an agency relinquishment. *See* M.S.A.A. §§ 302(a), 316. The arguments against such a method of terminating parental rights—that parents of newborns, particularly, might be subject to undue agency pressure to give up their children and that due process protections of parents' and children's rights cannot be assured—are outweighed by a number of factors favoring agency relinquishments as one option for parents. Many parents are intimidated by judicial proceedings, and will use the services of an agency to place their children for adoption only if they can be spared the personal trauma of a court appearance. Others wish to avoid the delays inherent in judicial proceedings, or the expense of hiring legal representation for a court appearance. (This latter consideration applies equally to agencies which are required to have all relinquishments approved or reviewed by a court.) The rights of these parents and their children are adequately protected by the strict procedural requirements imposed upon the taking of agency relinquishments. See M.S.A.A. § 303.

The option of voluntary judicial termination of parental rights is also available for parents who prefer the greater legal certainty inherent in such a proceeding. There are two ways in which a judicial decree terminating parental rights creates more certainty for the parties involved than does an agency relinquishment. The agency relinquishment, even after expiration of the revocation period, may, like other administrative actions, still be challenged in court upon due process or other rounds (subject to the applicable appeals period and statute of limitations). *See* M.S.A.A. § 108. Although a judicial decree is also subject to appeal and, for a certain period, collateral attack, review of the trial court's determination will be much narrower in light of that court's discretion as sole fact-finder. Hence a judicial finding that all necessary safeguards have been imposed is a clearer sign of due process than is an agency proceeding.

Another source of legal uncertainty inherent in agency relinquishments is the effect which such surrenders have outside the state in which they are rendered. Agency relinquishments deemed dispositive of parental rights for all purposes in the state where rendered may not be so conclusive in another state; questions of parental support, inheritance rights, or guardianship may arise.

Parents' preferences between the two methods of termination provided by this subsection will vary, as will the needs and preferences of agencies to which parents come for assistance in relinquishing their children. Ordinarily agencies will be willing to accept a parent's relinquishment without court involvement. There will be some cases, however, in which agency personnel question the mental competency or stability of the relinquishing parent; in those cases, the agency should have the opportunity to take the proceeding before a court. The agency would then assist the parent in filing a petition to terminate parental rights, and accept the child after the court's ruling on the petition.

The second provision of subsection (a) brings to the attention of adoptive practitioners the fact that there are distinct federal requirements applicable to relinquishments by American Indian parents who are members of federally-recognized tribes. It should be noted that federal law presently requires a waiting period of ten days after the child's birth before a relinquishment can be taken, in contrast to the seventy-two hours imposed by the Model Act.

Subsection (b). Because of the fundamental rights at stake when the state involuntarily terminates the parent-child relationship, this action may be taken only in accordance with the stringent requirements of Sections 309 through 316 of the Model Act. The common method of terminating parental rights by judicially waiving the need for parental consent to the child's adoption is not possible under this Act. Every parent's rights must be terminated prior to adoption, either voluntarily, involuntarily, or by direct parental consent to an adoption (in stepparent and relative adoptions, *See* M.S.A.A., § 103(a) (commentary)), and according to legislative standards which are consistently applied in every context.

Several states permit the termination of parental rights as a possible disposition in an abuse or neglect action, and others permit these rights to be terminated at a subsequent review hearing if the circumstances which led to the adjudication of abuse or neglect have not been remedied. Under this provision neither of these actions would be permissible. Any action to involuntarily terminate parental rights must be initiated with a petition filed pursuant to Section 309 of the Model Act.

Section 302. Relinquishment of Parental Rights in General

(a) Subject to the provisions of Sections 304 and 307 of this Act, a voluntary relinquishment to an agency pursuant to Section 303 of this Act shall be effective to terminate the parental rights of the person executing it and shall transfer the right of the parent to consent to the adoption of the child to the agency to which the child is relinquished.

(b) No relinquishment shall be executed within seventy-two hours immediately after the birth of a child.

(c) A father may execute a relinquishment prior to the birth of a child. A father who has relinquished an unborn child shall be immediately notified of the child's birth by mail to his last known address by the agency to which the child was relinquished, unless the father has waived in writing his right to such notice after being fully informed of the meaning of such waiver.

(d) A parent who is a minor shall have the right to relinquish his child for adoption and such relinquishment shall not be voidable by reason of such minority.

(e) Relinquishment of a child by one parent does not diminish the parental rights of the other parent of the child, nor does it relieve the other parent of the duty to support the child.

(f) The agency to which a child has been relinquished for adoption by a parent having sole custody shall be entitled to the exclusive custody and control of the child at all times until a petition for adoption has been granted,

except that the other parent, if his rights have not been terminated, may petition the court for custody of the child. If such a petition is filed, the burden of proof falls upon the agency to demonstrate why the petitioner should not be granted custody of the child.

(g) The agency to which a child has been relinquished shall be responsible for the care of the child, and for monitoring all placements of the child. Subject to the fair hearing requirements of Section 604 of this Act, a placement for adoption made by the agency may be terminated at the discretion of the agency at any time prior to the issuance of a final decree of adoption.

* * * * *

Commentary to Section 302

Some general principles regarding the relinquishment of parental rights are addressed in this section.

Subsection (a). Except for the fourteen-day period in which any parent who has relinquished a child may revoke, the relinquishment has legally binding effect by virtue of its having been executed. Although filing with the state adoption administration is required, the effective date of the relinquishment is the *day of signing,* and the fourteen-day revocation period runs from that date.

Subsection (b). It is widely recognized that an expectant mother's, and possibly the father's, decision to relinquish a child may change after the child's birth. Because of this possibility, it would be questionable social policy to allow an irrevocable relinquishment of a child before the parent can fully appreciate the consequences of such a decision. The question which arises is how much time should be allocated before permitting birth parents to make a decision with profound implications for the future. Seventy-two hours is a time period which usually allows the mother adequate time to physically recuperate but keeps open the possibility that the newborn infant could be placed for adoption directly from the hospital; in addition, it should be an adequate period for both parents to adjust to their new status.

Subsection (c). This provision addresses the problem posed when an expectant mother has decided to relinquish and place her child for adoption, and the father is not expected to be accessible to the agency to execute a relinquishment after the child's birth. Although the father may retain a right, comparable to that of the mother, to revoke a relinquishment within a fourteen-day period subsequent to the child's birth, *see* M.S.A.A. § 304(b), the allowance of an earlier relinquishment by the father facilitates placement of the infant directly from the hospital.

The disparate treatment of mothers and fathers regarding pre-natal relinquishment creates a gender-based classification which can be justified under the Supreme Court's analysis in equal protection cases of this kind. Because of the relative ease of identifying and locating the mother, as opposed to the father, at the time a child is born, it is arguable that a mother and a father are not persons similarly situated with respect to the pre-natal relinquishment of their child, and that as such, they do not demand equal treatment.

Furthermore, even were they to be considered similarly situated, permitting pre-natal relinquishments by fathers and not mothers meets the equal protection standard in gender cases because the scheme is substantially related to an important state purpose. *See Craig* v. *Boren,* 429 U.S. 190, 197 (1977). The state interest in preventing delay in adoption proceedings has been recognized as an important one. *Caban* v. *Mohammed,* —— U.S. ——. 99 S. Ct. 1760, 1767 (1979). Permitting a father to relinquish parental rights prior to birth substantially furthers this state purpose by helping to ensure that the placement of a child in a stable familial relationship will not be delayed or frustrated by the inability to locate the father after the child is born.

Subsection (d). States vary in their recognition of the concept of "emancipation" for purposes of according adult rights to mature minors. Although public policy usually requires the erection of special safeguards to protect the rights of minors, where the right of a younger child or an infant to a permanent, stable home is at stake, the parent should be regarded as a person of full legal capacity in making decisions for the child's welfare.

Subsections (e) and (f). The agency to which a child is relinquished by a parent with sole custody assumes all the rights and responsibilities of the child's legal guardian until the child's adoption, unless the court having jurisdiction over the adoption petition should deem it necessary to appoint a guardian for the child. The relinquishment of rights by one parent does not serve to terminate the rights and duties of the other parent; his rights may limited or terminated only by a relinquishment or by the process of judicial termination of parental rights in accordance with Sections 305–316 of the Model Act. If his rights have not been terminated, the non-relinquishing parent may petition for custody of his child, and the Model Act requires that the birth parent will be favored over a third party to exercise custody over a child.

Accordingly, the non-relinquishing parent whose rights have not been terminated retains responsibility for the support of the child, unless the parent's support obligations have been limited by order of a court, such as in a divorce.

Section 303. Procedures for Relinquishment

(a) Agency relinquishment procedures shall assist the parent in making an informed and voluntary decision free from fraud and duress.

(b) Prior to taking a relinquishment, the agency shall counsel the parent regarding the alternatives to relinquishment and adoption; a parent considering relinquishment shall be given a clearly written statement describing the alternatives to relinquishment, and shall be assisted in understanding and exploring the alternatives stated therein.

(c) No agency shall permit an employee who counseled a parent pursuant to subsection (b) hereof to take a relinquishment from such a parent, nor shall an agency permit an employee to take a relinquishment unless that employee has been trained to conduct a relinquishment proceeding in accordance with this Act.

(d) The agency employee who takes a relinquishment shall: (1) conduct the proceeding in a matter tending to enhance the comprehension of the process by the parent, with due regard to any handicaps or language difficulties the parent may have;

(2) ascertain that the counseling required pursuant to subsection (b) hereof has been provided, and that the parent has voluntarily selected adoption as the plan for the child;

(3) explain to the parent that he has the option to voluntarily terminate parental rights before a court and that the parent may select this option at any time before or during the relinquishment proceeding;

(4) explain the meaning, consequences, and procedures of relinquishment, the right to revoke the relinquishment, and the procedures for revocation; the agency employee shall ask the parent to state his understanding of the relinquishment in his own words;

(5) inquire regarding the wishes of the parent for continuing contact with the child and prospective adoptive family; and

(6) explain to the parent his rights to notification and to seek judicial restoration of parental rights pursuant to Section 307 of this Act. A parent who seeks to waive his right to such

notification shall execute a written waiver.

(e) If the agency employee or a witness to the relinquishment doubts the comprehension by the parent of the meaning or consequences of relinquishment, or if the parent so requests, the agency shall not proceed to take a relinquishment, but shall assist the parent in petitioning the court for voluntary termination of parental rights.

(f) Every relinquishment shall be made on a form approved by the state adoption administration and designed to enhance comprehension by a parent of the relinquishment. The person executing the relinquishment shall, in writing, either acknowledge or disclaim his parental rights with respect to the child in question, and permanently waive all further rights or interests in the child except as provided under Sections 104(c), 304, and 307 of this Act. The relinquishment shall be signed by the parent before two subscribing witnesses, one chosen by the relinquishing parent and one by the agency, and shall be certified or notarized.

(g) A tape recording shall be made of the relinquishment proceeding. If such a recording cannot be made, a written record shall be kept and shall state the reasons why a tape recording could not be made. A duplicate of the tape recording or a transcription thereof shall be made available, upon request, to the parent who executed the relinquishment. An agency may charge the parent for the costs of duplication or transcription.

(h) A copy of the executed relinquishment shall be filed with the state adoption agency forthwith, but the failure to file such copy with the state adoption agency shall have no effect upon the validity of the original relinquishment.

(i) A copy of the executed relinquishment and of all documents signed by or discussed with the parent pursuant to this section shall be given to the relinquishing parent.

* * * * * *

Commentary to Section 303

Subsection (a). Section 303 sets forth in some detail the procedures which must be followed by an agency to which a parent relinquishes a child. The procedural detail included here, although unusual for a legislative enactment, ensures the protection of birth parents' interests and the interests of children in not being permanently separated from their parents except upon the informed choice of the parent.

Subsection (b). The provision protects against ill-considered relinquishments by parents whose lack of information regarding available community resources or difficulties in coping with temporary problems has led them to seek adoption as the only viable alternative to their own rearing of a child.

Subsection (c). The prohibition against the same employee's performing the dual functions of counseling the parent and taking the relinquishment prevents the appearance of a conflict of interest and the potential for confusion of undue pressure of the parent. The subsection also requires that any agency allowing workers to take relinquishments must provide training for those workers in the techniques of assuring voluntary and informed parental choice in the execution of a relinquishment.

Subsection (d). There are several specific procedures imposed in the taking of a relinquishment. Subsection (1) attempts to encourage sensitivity to the needs of the individual parent; the worker is prohibited from conducting the relinquishment in *pro forma* fashion. Several of the procedures, subsections (3), (4), and (6), outline the types of information which must be shared with the birth parent. Subsections (2), (4), (5), and (6) require the obtaining of specific feedback from the parent, assuring understanding and protecting the parent's right to future involvement if the child is not placed for adoption.

Subsection (e). Subsection (e) requires the agency to remove the relinquishment to a court if a parent so requests or if doubts arise regarding the parent's mental competency or comprehension. Although this removal is mandated when such doubts arise, it should be noted that an agency is never required to take relinquishments without judicial supervision; if an agency prefers to take all of its parents before the court for a voluntary termination of parental rights, the Model Act does not prevent such a policy.

Subsection (f). The state adoption administration is to establish standard forms on which relinquishments are recorded, and maintain a permanent file of parental relinquishments through the state. Such a file could serve as a means of monitoring agency adoptive placement activity. The requirement that one of the two witnesses be chosen by the parent protects against a situation in which the parent feels unduly pressured to relinquish. The requirements that the second witness be selected by the agency should not present a staffing problem even for small agencies, because the total number of staff persons necessary for the relinquishment problem is held to two. Any individual may be the agency's witness, either staff members or persons not members of the agency staff. In addition, the Model Act is not intended to prohibit the delegation of qualified personnel from other agencies to perform any of the relinquishment duties on behalf of the agency receiving the child. The parent may also select an agency staff member as his witness, but for the reasons suggested in subsection (c), above, the worker who counseled the parent should not be chosen as a witness, either by the parent or the agency.

Subsections (g), (h), and (i). These subsections impose recordkeeping requirements upon the agency and require the sharing of the various relinquishment documents with the parent.

Subsection (h) makes clear the fact that the filing of a copy of the relinquishment with the state adoption agency serves only a recording function and does not itself affect the validity of the relinquishment.

Section 304. Revocation of Relinquishment

(a) A parent who executed a relinquishment of parental rights to an agency after the birth of the child may revoke such relinquishment within fourteen consecutive days of its execution by appearing in person before the agency to which the child was relinquished.

(b) A father who executed a relinquishment of an unborn child may revoke such relinquishment at any time until fourteen consecutive days after the date upon which the agency mails the father notice of the birth of the child.

(c) A revocation shall be made in person before an official of the agency to which the child was relinquished, and shall be in writing, signed by the parent and two witnesses, and notarized or certified. A properly executed revocation is valid and effective upon execution. A copy of the revocation shall immediately be filed with the state adoption administration.

(d) Within fourteen consecutive days after the revocation of a relinquishment, the agency shall:

(1) if the parent who revoked the relinquishment had custody of the child prior to relinquishment, return the child to the custody of such parent; or—

(2) if the parent who revoked the relinquishment did not have the custody of the child prior to relinquishment and the parent who had custody does not seek to regain custody, give custody of the child to the parent who revoked the relinquishment.

The agency shall have a right to a prompt court hearing to demonstrate why a change of custody pursuant to subsection (1) and (2) hereof shall not occur.

* * * * *

Commentary to Section 304

Subsection (a). Consistent with the philosophy of affording parents alternatives to relinquishment of their children, and of protecting the rights of children to be reared by their birth parents, the Model Act allows a period in which revocation of relinquishment is possible. For fourteen consecutive days, the parent has an opportunity to reconsider the act of having relinquished a child. Because the revocation period will apply to situations involving infants as well as those involving older children who have been out of their parent's care, allowing more than fourteen days to revoke a relinquishment would run too high a risk of impending placement of the child or, particularly in cases of newborns placed directly from the hospital, of disrupting a placement in which adjustment had already begun.

Subsection (b). The provisions allows a father who relinquished prior to the child's birth, and who did not waive his right to notification of the birth, a fourteen-day period in which to change his mind, just as the mother has a period of time after delivery to consider her new parental status and its psychological consequences.

Subsection (c). Because of the formalities required in the execution of a relinquishment (see Section 303), revocation of such a document is deemed to require the same formalities. Hence a signed writing and two witnesses are required. As with relinquishment, the filing of a copy of the revocation with the state adoption administration serves only a recording function and does not itself affect the validity of revocation.

Subsection (d). The subsection provides for transfer of the child's custody after revocation of a parent's relinquishment. Unless the agency can demonstrate the parent's unfitness to exercise custody, a birth parent, even one who has not previously had custody of the child, is favored over a agency as custodian.

Section 305. Court Petition for Voluntary Termination of Parental Rights

(a) A petition for voluntary termination of parental rights may be filed only by the parent seeking to terminate his rights with respect to a child. Such petition shall be filed in the [ ] court for the county where the petitioner resides or where the child is located.

(b) The petition shall be entitled, "Petition for Voluntary Termination of the Parent-Child Relationship" and shall set forth with specificity:

(1) the basis for the jurisdiction of the court;

(2) the name, sex, date and place of birth, and present address of the child, or the expected date and place of birth of the child;

(3) the name, address, and date of birth of the petitioner, and the nature of the relationship between the petitioner and the child;

(4) the name, address, and date of birth of the other parent of the child, if known, if such other parent is living and his parental rights have not been terminated;

(5) the tribe and reservation of an American Indian child or parent;

(6) if the child is not presently in the custody of the petitioner:

(A) the name and address of the guardian of the person and the legal custodian of the child, if any;

(B) the agency, if any, which placed the child in his current placement;

(C) where the child has been placed by a parent with prospective adoptive parents, the names and address of the prospective adoptive parents, except that, with the consent of the petitioner, the names and address may be disguised or concealed; and

(7) the name of the person or agency with whom or by which the child has been placed or is to be placed for adoption upon disposition of the petition, except that the name of such person may be disguised or concealed with the consent of the petitioner.

(c) If the child as to whom parental rights are to be terminated is being placed directly for adoption by a parent, the following documents shall be filed with the petition:

(1) a copy of the Notice of Parental Placement filed with the court pursuant to Section 206 of this Act; and

(2) a copy of the order entered at the hearing on the Notice of Parental Placement; if such hearing has not occurred at the time the petition is filed, a copy of the order shall be filed immediately after the hearing and must be filed prior to the hearing on the termination of parental rights.

* * * * *

Commentary to Section 305

Subsection (a). Only the parent seeking to surrender a child may petition for voluntary termination of the parent-child relationship. An agency to which a parent wishes to relinquish a child may, rather than accept the relinquishment itself, assist the parent in filing a court petition to terminate parental rights; although the agency may be the moving force behind the filing of the court petition, the petitioner would be the parent as long as the child is being voluntarily relinquished.

Venue for a voluntary termination action is appropriate in the place where either the parent or the child is located. It is the parent-child relationship which will be adjudicated, and both parties have interests at stake in that relationship.

Subsection (b). (1)—A statement establishing the basis for the court's jurisdiction is necessary to initiate the action.

(2)—The child's name, address, and birth date will obviously be readily available except in those cases when a parent petitions prior to the child's birth. In these situations the hearing and entry of an order terminating parental rights will not be possible until at least seventy-two hours after the child's birth. The petition may be filed in advance, however, in order to expedite termination of parental rights once the child is born.

(3), (4), (5), (6)—These subsections require the listing of parties with a significant role in the child's life or an interest in his welfare. The list will assist the court in determining the adequacy of notice and service to all necessary parties, and will provide a list of possible caretakers for the child if a termination decree is entered.

(7)—It is expected that most parents petitioning for voluntary termination of parental rights will be doing so as a step in the direct placement of the child with an adoptive famile. Such placements are subject to court approval, *see* M.S.A.A. § 206, and will often be reviewed by the court simultaneously with the parent's petition for termination of rights. Because the parent's wish to terminate may be contingent upon court approval of the proposed placement, the identity of the proposed adoptive parents is a significant element of the petition. For parties who agree on anonymity between birth and adoptive parents, a pseudonym or initials might be substituted for the names of the adoptive parents. If a pseudonym is used, a notation should be made on the petition that the real names of the adoptive parents have been replaced with fictitious ones.

Subsection (c). The requirements of this subsection are important elements in the scheme to safeguard parents and children involved in prospective adoptive placements made by parents without agency mediation. Prior to the

termination of rights, the parent must have filed a Notice of Parental Placement; the hearing on the Notice must be held and an order entered by the court approving the placement prior to the hearing on the petition for voluntary termination. *See* M.S.A.A. § 306(c).

Section 306. Hearing on Petition for Voluntary Termination of Parental Rights; Decree and Disposition

(a) Upon receipt of a petition for voluntary termination of parental rights, the court shall set a date for a hearing, to be held before the court or a hearing officer designated by the court. The hearing shall be held within thirty days of the hearing on the Notice of Parental Placement held pursuant to Section 206 of this Act, but no sooner than seventy-two hours after the birth of the child who is the subject of the petition, except that if the petitioner or the child is a member of a federally-recognized American Indian tribe, the hearing shall be held no sooner than ten days after the birth of the child. The court may require the appearance at the hearing of the person or agency named in the petition pursuant to subsection (b)[7] of Section 305 of this Act, and shall require the appearance of the petitioner, unless the petitioner is placing his child for adoption pursuant to Section 206 of this Act.

(b) Notice of hearing shall be given to each person or agency named in the petition. The hearing shall be open only to persons entitled to receive notice, their counsels, and other persons whose presence the court finds necessary or appropriate for determining whether to grant the petition and order placement of the child in accordance therewith.

(c) If the petitioner appears at the hearing, the court shall:

(1) explain to the petitioner the meaning and consequences of termination of parental rights, the petitioner's right to obtain dismissal of the petition within fourteen days after entry of an interlocutory order terminating parental rights, and the procedure for obtaining such dismissal;

(2)(A) If the petitioner wishes to transfer custody of the child to an agency, ascertain that the petitioner has been counseled by such agency regarding the alternatives to relinquishment and adoption, and that the petitioner has voluntarily selected adoption as the plan for the child; or

(B) if the petitioner is making a parental placement for adoption, ascertain that an order finding compliance with all requirements of Section 206 has been entered pursuant to a hearing on the Notice of Parental Placement, and that such order is before this court; and

(3) explain to the petitioner his rights under Section 307 of this Act.

(4) Nothing in this subsection (c) shall be construed to require the appearance at the hearing of a petitioner who is placing his child for adoption pursuant to Section 206 of this Act. In such a case, if the petitioner does not appear, the court shall ascertain that an order finding compliance with all requirements of Section 206 has been entered pursuant to a hearing on the Notice of Parental Placement, and that such an order is before the court.

(d)(1) If the court finds that the requirements of subsection (c) hereof are met, and that the decision of the petitioner to seek termination of parental rights is voluntary and fully informed, it shall:

(A) enter an interlocutory order granting the petition and terminating parental rights, such order to become final fourteen days following its entry unless the petitioner seeks dismissal of the petition within such fourteen-day period;

(B) appoint a guardian of the child's person, unless custody of the child is with a parent whose rights are not terminated by the granting of the petition; such guardian shall report to the court as required by Section 318 of this Act; and

(C) approve the petitioner's plan for placement of the child, and appoint as legal custodian of the child the person or agency named by the petitioner pursuant to subsection (b)[7] of Section 305 of this Act, unless the court for good cause finds such person or agency unsuitable.

(2) If the court finds that the petitioner has not made an informed and voluntary decision to seek termination of parental rights, it shall deny the petition.

(3) If evidence is presented which raises a reasonable doubt that the petitioner is mentally competent to make an informed and voluntary decision, the court shall not rule upon the petition until the petitioner's mental competence has been adjudicated.

(A) The court shall schedule a hearing to adjudicate the mental competence of the petitioner, and appoint a guardian *ad litem* for the petitioner.

(B) The court shall order such psychiatric, medical, or psychological examination of the petitioner as may be necessary to assist the court in adjudicating the mental competence of the petitioner.

(C) If the court, after considering the evidence at the competency hearing, finds that:

(i) the petitioner is mentally competent to make an informed and voluntary decision to terminate parental rights, the court shall rule on the petition; or

(ii) the petitioner is not mentally competent to make an informed and voluntary decision to terminate parental rights, the court shall deny the petition.

(e) Where the court denies a petition for voluntary termination of parental rights, the court shall order an agency to assess the needs of the child, the care the child is receiving, and the plan of the unsuccessful petitioner for the child. The agency shall submit a report on its investigation to the court within thirty days of such order.

(f) A court order granting the petition for voluntary termination of parental rights shall indicate whether the parent whose rights are being terminated has waived his right to notification pursuant to Section 307 of this Act.

* * * * *

Commentary to Section 306

Subsections (a) and (b). The hearing on a petition for voluntary termination of parental rights, like an agency relinquishment proceeding, may not be held sooner than seventy-two hours after the child's birth, in order to give the parent of a newborn an opportunity to reflect upon his newly-acquired parental status. In the case of a direct parental placement pursuant to Section 206, the termination hearing must be held no later than thirty days after the hearing on the Notice of Parental Placement, so that the legal status of the child is settled without undue delay.

A parent who is placing his child for adoption pursuant to Section 206 of the Model Act is not required to appear at the hearing. A major purpose of the hearing is to assure that the parent has received necessary counseling and, as a result, is making a voluntary and informed decision to place his child for adoption. This determination will already have been made at the hearing on the Notice of Parental Placement, *see* M.S.A.A. § 206(e), thus the requirement that the order from the hearing on the Notice of Parental Placement be filed along with the petition for adoption, *see* M.S.A.A. § 305. Any parent seeking a voluntary judicial termination who wants his child placed by an agency must appear at the hearing or the court may not proceed.

The hearing need not be formal, and may be held before a duly designated hearing officer such as a referee. In deference to the privacy of the parent and child, the hearing is closed to the public.

Subsection (c). The court is required to inform the petitioner of the rights which will be adjudicated with entry of a decree terminating the parent-child relationship. As with agency relinquishments, the parent must previously have been counseled regarding possible alternative plans for care of the child, so that the court may be assured that the parent's decision to petition for termination of parental rights is truly voluntary.

Subsections (d) and (e). As with agency relinquishments, a parent whose rights with respect to a child are voluntarily terminated is given fourteen days in which to reverse the decision to give up the child. If the termination order leaves the child without any natural guardian, the court must appoint a guardian to oversee the child's welfare and consent to adoption. Custody of the child, rather than being vested with this guardian, is vested with the person whom the parent has requested fill that role. When the parent petitioner is placing the child, the court's appointment of the prospective adoptive parents as custodians implements the parent's wishes with respect to the child's placement, and the court should attempt to pay deference to the parent's selection of the prospective family for his child.

The court must find that the petitioner's decision to terminate parental rights has been informed and voluntary, or the petition will be denied. Therefore, if a question is raised regarding the competency of the petitioner to make such a decision, the court must adjudicate the mental competency of the petitioner before proceeding on the petition. If the court finds the petitioner incompetent to make a free and knowing decision, the petition to terminate must be denied. Whenever the court denies a petition, it also denies the parent's plan to place the child voluntarily. Thus, the court must order an agency to investigate the parent's and the child's circumstances to assure that the child is receiving adequate care.

Subsection (f). A parent who has relinquished a child to an agency or obtained a court decree voluntarily terminating parental rights has a right to regain parental rights when the child is not placed for adoption within a specified time. *See* M.S.A.A. § 307.

Section 307. Restoration of Parental Rights Relinquished or Voluntarily Terminated

(a) Unless the right to such notice has been waived in writing, a parent who relinquishes a child pursuant to Sections 302 and 303 of this Act or who voluntarily terminates parental rights pursuant to Sections 305 and 306 of this Act shall be promptly notified if the child as to whom parental rights were relinquished or terminated:

(1) is not placed for adoption within one year following the effective date of such relinquishment or voluntary termination of parental rights; or

(2)(A) is placed for adoption within one year following the effective date of such relinquishment or voluntary termination of parental rights, but the placement is terminated within that year by the prospective adoptive parents, the placing agency, or by a court order removing the child from placement or denying a petition to adopt the child; and

(B) is not thereafter again placed for adoption within six months, except that no notice shall be required under this subsection (2) within twelve months after the effective date of the relinquishment or voluntary termination of parental rights.

The notification required by this subsection (a) shall be provided by the agency to which the child was relinquished, if any, or by the guardian of the child's person. A parent who has waived the right to notification may rescind such waiver at any time.

(b) A person whose child has not been placed for adoption as set forth in subsection (a) of this Section 307, shall have a right to a court hearing within thirty days of receipt of notice. The court shall issue a decree cancelling the relinquishment or vacating the order voluntarily terminating parental rights and restoring parental rights, except that the guardian of the child's person and the legal custodian of the child shall have a right to receive notice and appear at the hearing to show cause why such cancellation or vacating and such restoration of rights should not occur. If the court finds upon clear and convincing evidence that restoration of parental rights would not be in the best interests of the child, it may refuse to order restoration.

(c) Any agency to which a child was relinquished or to which custody of a child was transferred upon a voluntary termination of parental rights shall, upon request of the birth parent of such a child, inform the parent whether or not a decree of adoption has been entered for the child.

* * * * *

Commentary to Section 307

The restoration of the parent-child relationship provided by this section is an unusual remedy intended to alleviate a problem which can arise when termination of parental rights is a proceeding legally separate and distinct from adoption.

While termination of parental rights is a crucial first step in facilitating adoptive placement of the many children who have languished for years in a "temporary" foster care situation, it may actually contribute to instability for some children. When adoptive placements break down or are never effectuated, children whose parents surrendered them for purposes of adoption may find themselves living with temporary caretakers who cannot provide them with stability or permanence. To protect children like these from indefinite foster care, and their parents from unintentionally placing their children into such a situation, the Model Act provides a safety measure which can be used by parents if they have given notice in advance of their wish to use it. When a child has not been placed for adoption within a year of relinquishment, the parent may resume the parental role, upon court approval. Because a child's birth parent is presumed under the Model Act to be the most desirable permanent parent, it is assumed that court approval would be forthcoming unless the parent's present behavior or situation is unsuitable enough to consititute grounds for involuntary termination of parental rights, had such rights not already been terminated. For a list of the legal grounds which justify the court's denial of the parent's petition for restoration of parental rights, *see* M.S.A.A. § 313.

The requirement of automatic notification of the birth parents is not intended to be applied retroactively to children freed for adoption years before the effective date of the Model Act. Many of these children, however, have never been adopted, and their birth parents are a potential resource for permanence which should be explored. Agencies should make efforts to recontact all of those parents; furthermore, this provision mandates that agencies at least respond to all inquiries by birth parents regarding the status of children they had released for adoption in the past.

The parent need not be notified if the agency or other guardian of the child has placed the child for adoption and the placement has later disrupted, since in such a case the agency or placing entity has, strictly speaking, followed the parent's implicit instruction to place the child for adoption. If it appears, however, that after the disrupted placement the child has become part of the permanent foster care population, the relinquishing parent must be

notified. Such a situation is presumed if the child subsequently spends six months without another adoptive placement, but in every instance the agency has at least twelve months after relinquishment of termination to make a successful adoptive placement.

Section 308. Putative Fathers

(a) Prior to the placement of a child for adoption, the rights of any putative father of the child shall be terminated, or the putative father shall disclaim paternity with respect to the child.

(1) The rights of a putative father may be relinquished, or terminated through voluntary or involuntary court action in accordance with Sections 303, 306, and 313 of this Act, respectively.

(2) A putative father may disclaim paternity with respect to a child by executing a Disclaimer of Paternity according to procedures and on forms developed by the state adoption administration. The face of the Disclaimer of Paternity shall contain, but not be limited to, language stating that the putative father:

(A) has been named the father of a child;

(B) thereby has rights and responsibilities with respect to that child; and

(C) by filing the Disclaimer of Paternity, shall be deemed not to be the father of the child in any adoption or proceeding held to terminate parental rights with respect to such child.

(b) An agency which has offered counseling to a putative father in accordance with Sections 205 or 206 of this Act shall file a Notice of Intent to Terminate Parental Rights with the [ ] court, if the agency or the mother of the child plans to place the child for adoption and the putative father of the child:

(1) has not made a decision with respect to his plan for the child within a reasonable time after having been counseled by the agency; or

(2) refuses to cooperate with the agency in developing a plan for the child.

(c) The Notice of Intent to Terminate may be filed before or after the birth of a child, and shall state with specificity:

(1) the name, sex, date and place of birth, and present address of the child, if known; or the expected date, place of birth, and name of hospital, if known;

(2) the name and address of the mother of the child;

(3) the name and address of the agency which has filed the Notice;

(4) that the person being notified is believed to be the father of the child;

(d) Notice of the Intent to Terminate Parental Rights shall be served upon any putative father according to the provisions of Section 310 of this Act. If notice is not thereby effected, the agency which filed the Notice shall make a diligent search for the putative father according to Section 311 of this Act.

(e) Where a putative father files an Intent to Take Custody of the child, the court shall hold a hearing to adjudicate paternity within fifteen days of such filing. Upon a finding of paternity, the court shall:

(1) order the father to take physical custody of the child within sixty days after the adjudication of paternity, and inform him that failure to do so will result in the termination of parental rights with respect to such child, pursuant to Section 313 of this Act; and

(2) order the agency which filed the Notice of Intent to Terminate Parental Rights to assist the father to develop a plan to take custody of the child, as required herein.

* * * * *

Commentary to Section 308

The treatment of the putative father has been the subject of much controversy in the law and policy relating to adoption. The need to effectuate swift and permanent placements for children has sometimes been seen as conflicting with the need to protect the parental rights of the fathers of these children. The Supreme Court has wrestled with this problem in a series of major decisions: *Stanley v. Illinois*, 405 U.S. 645 (1972); *Quilloin v. Walcott*, 434 U.S. 246 (1978); and *Caban v. Mohammed*, —— U.S. ——, 99 S. Ct. 1742 (1979). These decisions have gone far to strengthen the legal position of the putative father in the adoption of his child, but the precise requirements of the law in all circumstances are yet to be defined.

In part for that reason, the Model State Adoption Act affords full due process rights to all parents; the rights of every parent must be terminated before his or her child may be adopted. Although the term "parent," as defined in the Model Act, does not include the putative father (*see* M.S.A.A. § 102 (a)(22) (commentary), his rights must also be terminated before a child of whom he is alleged to be the father is legally free for adoption. This requirement applies to every man who might be the father of the child in question and is not dependent upon an adjudication or formal acknowledgment of paternity. The putative father is permitted, alternatively, to disclaim paternity and by so doing is deemed to have no legal interest in the child.

The treatment of the putative father under the Model Act is also premised upon the interests of the child in being reared by his birth parents whenever possible (*see* M.S.A.A. Preamble) and in knowing about his biological heritage. The Model Act, therefore, permits a putative father to claim custody of his child, provided that he establishes his paternity in court. In essence, a putative father becomes a "parent" by asserting his custodial interest in his child.

The scheme set forth in the Model Act comports with all constitutional requirements for the treatment of putative fathers. The constitutional rights of the putative father are based upon the due process requirements of the fifth and fourteenth amendments to the U.S. Constitution. As applied to the termination or assertion of parental rights, these constitutional protections require that the rights not be denied or abrogated except on a proper legal basis and pursuant to legally sufficient procedures. *Stanley, supra.*

The statutory provisions in this Section 308 and in Sections 310–311 of the Model Act clearly comply with procedural due process, which demands that notice and an opportunity to be heard be provided before parental rights are terminated. *Stanley, supra*, at 656. A putative father may choose not to exercise his right to a hearing, but the opportunity is provided in all cases.

As a matter of substantive due process, substantial cause must exist for the involuntary termination of parental rights in order for the state's interest in the welfare of the child to override the individual liberty interest in the parent-child relationship. *Quilloin, supra*, at 248; *Stanley, supra*, at 651. Generally, the grounds for termination of the rights of any father look to affirmative conduct on his part which evidences parental unfitness. *See* M.S.A.A. § 313(d).

The rights of a putative father may also be terminated pursuant to Section 313(d)(3) for inaction in response to the Notice of Intent to Terminate, without a finding of unfitness. The overall approach of the Supreme Court in the *Stanley* and *Quilloin* decisions supports the constitutionality of terminating parental rights on this basis. The analysis which emerges in reading the two cases together seems to apply a "sliding scale" of due process based upon the degree of custodial interest which the father has demonstrated. *See, Quilloin, supra*, at 255; *Stanley, supra* at 652–53; 13 Tulsa L.J. 363, 366 n. 27 (1978). The standard required by due process to terminate parental rights thus appears to turn on what the state and the court view as in the child's best interests, i.e., the ability to be raised in a permanent

family environment. It is important to note that this paramount concern for the welfare of the child is consonant with the purpose of the adoption process—to serve the best interests of the child. 21 N.Y.L.F. 646, 651 (1976); *See: In re Mathers,* 371 Mich. 516, 532, 124 N.W. 2d 878, 892 (1963) (Black, J. dissenting); *In re Adoption of Malpica-Orsini,* 36 N.Y. 2d 568, 578, 331 N.E. 2d 468, 477 (1975), *appeal dismissed sub nom. Orsini v. Blasi,* 423 U.S. 1042 (1976); Adoption of Harvey, 375 Pa. 1, 5, 99 A. 2d 276, 278 (1953). In order to provide permanent legal families for children through adoption it is necessary to be able to terminate the rights of this disinterested putative father. Section 313(d)(3), therefore, appears to comply with substantive due process.

Finally, this section and Section 313 of the Model Act meet the requirements of the Equal Protection Clause as well. An argument could be made that the treatment of the putative father violates his fourteenth amendment right to equal protection by making an impermissible gender-based classification. *See Caban, supra.* It should be noted that all grounds for involuntary termination are applied to both mothers and fathers except for those in subsections 313(d)(2) and (3). The relative ease of identifying the mother of a child, and the fact that only one person can be identified as such, supports this disparate treatment of mothers and putative fathers. In the case of a putative father whose identity and whereabouts are unknown or who, although located, expresses no interest in the child, the important state interest in the welfare of the child is well served by expediting the adoption process by permitting special grounds for terminating the rights of that alleged father. *See Caban, supra; Craig v. Boren,* 429 U.S. 190 (1976); *Frontiero v. Richardson,* 404 U.S. 71 (1971); (cases establishing the standard of "substantial relationship to an important governmental interest" for gender discrimination).

Section 309. Court Petition for Involuntary Termination of Parental Rights

(a) (1) A petition seeking involuntary termination of the parent-child relationship may be filed by:

(A) a public or voluntary child placement or child-caring agency having responsibility for the child;

(B) either parent with respect to the other parent;

(C) the guardian or legal custodian of the child, or any attorney for or guardian *ad litem* of the child appointed in a prior proceeding; or

(D) a *de facto* parent of a child, as defined in Section 102 of this Act.

(2) Such petition shall be filed in the [ ] court for the county where the parent who is the subject of the petition or the child with respect to whom rights are sought to be terminated is located.

(3) A child placement or child-caring agency having custody of any child it has reason to believe has been abandoned must promptly file a petition seeking involuntary termination of parental rights; such petition must in every case be filed within ten days after the agency establishes abandonment. Abandonment is conclusively presumed if the child is found under such circumstances that the identity or location of the parent is unknown and has not been ascertained by prompt and diligent searching and the parent does not claim the child within two months after the child is found.

(b) (1) A petition for involuntary termination of the parent-child relationship shall be entitled, "In the interest of ——, a person under the age of 18 years," and shall set forth with specificty:

(A) the name, sex, date and place of birth, and present address of the child, if known; or the expected date and place of birth of the child;

(B) the name and address of the petitioner, and the nature of the relationship between the petitioner and the child;

(C) the names, dates of birth, and addresses of the parents of the child, if known, and the tribe and reservation of an American Indian parent;

(D) if the parent of the child is a minor, the names and addresses of the parents or guardian of the person of such minor;

(E) the names and addresses of:

(i) the guardian of the child's person;

(ii) the legal custodian of the child;

(iii) any guardians *ad litem* appointed in a prior proceeding;

(iv) the tribe and reservation of an American Indian child; and

(v) the agency which placed the child in his or her current placement;

(F) the facts upon which termination is sought, the legal grounds authorizing termination, the effects of a termination decree as set forth in Section 104 of this Act, and the basis for the jurisdiction of the court; and

(G) the name of the person or authorized agency whom or which the petitioner requests be appointed as guardian of the child's person upon disposition.

(2) If the information required under paragraphs (b) and (f) of subsection (1) is not stated, the petition shall be dismissed; if any other facts required under paragraphs (A), (C), (D), (E) or (G) of subsection (1) are not known or cannot be ascertained by the petitioner, he shall so state in the petition.

* * * * *

Commentary to Section 309

Subsection (a). Included in the list of persons eligible to petition for involuntary termination of parental rights are all those deemed to have a legitimate interest in the child's welfare.

(1)(A)—There will be cases in which an agency with custody, guardianship, or other legal interest in a child will deem it in the child's best interest to seek involuntary termination of parental rights. Such an agency need not be an "agency" as defined in Section 102 of the Model Act; any child placement agency, whether or not authorized to place for adoption, may petition, as may a child-caring agency.

The distinction between these two types of authorized agencies is that a child placement agency is a licensed public or voluntary agency expressly empowered to place children for foster care or adoption, or both; a child-caring agency is one such as a group home or a residential treatment center which is authorized only to exercise custody and control of children, rather than to perform placement services.

(1)(B)—A parent may petition for involuntary termination of the parental rights of the child's other parent.

(1)(C)—The child's present legal custodian, guardian of the person, or guardian *ad litem,* or a previous guardian *ad litem* may petition to sever the parent-child relationship. A guardian *ad litem* appointed in previous proceedings regardng the child should also, if possible, be appointed to serve in that capacity in termination proceedings, to assure that the person representing the child's interests is someone familiar with his circumstances.

(1)(D)—In some instances, the child's *de facto* parent is in the best situation to know the child, the frequency and quality of contacts between the child and the birth parent, and the efforts of any involved agency in fostering a permanent, stable situation for the child. It should be noted that giving *de facto* parents standing to bring a termination petition has no effect upon the right of such persons to be awarded permanent guardianship, or even preferential status as potential adoptive parents. The court's termination and adoption orders must still accord with the specific requirements of Titles III and IV of the Model Act.

As with petitions for voluntary termination of parental rights, venue is

appropriate either where the parent resides or where the child is located.

Subsections (b). This subsection lists the information which must be included in a petition for involuntary termination.

(1)(A)—The information concerning the child should be known and available, unless the petition has been filed prior to the child's birth.

(1) (B), (C), (E), (G)—These subsections require the listing of parties with a significant role in the child's life or an interest in his welfare. The list will assist the court in determining the adequacy of notice and service to all necessary parties, and will provide a list of possible caretakers for the child if a termination decree is entered. Parties listed include all those persons who will be entitled to notice of the preliminary hearing except *de facto* parents. *See* M.S.A.A. § 310(b).

(1)(F)—The information required by this subsection is crucial to the termination petition, and a defect in the information will result in dismissal of the petition. It provides the parent whose rights are to be terminated notice of the factual and legal basis upon which termination is sought. The constitutional right to family integrity is at stake when the state intervenes to terminate the parent-child relationship; due process requires that the parent be precisely informed of the conduct constituting grounds for the petition, and the legal standard by which that conduct is to be measured. *See Alsager v. Dist. Ct. of Polk Co., Iowa,* 406 F. Supp. 10 (D. Iowa 1976), *aff'd* 545 F. 2d 1137 (8th Cir. 1976).

Section 310. Notice; Waiver of Appearance

(a) Within 10 days after the filing of a petition for involuntary termination of parental rights, the court shall set a place and time for a preliminary hearing, to be held no more than 45 days after filing of the petition, but in no case before the birth of the child.

(b) Twenty days prior to the hearing, the petitioner shall cause a copy of the petition, with date, time, and place of the scheduled hearing, to be personally served upon the child, both parents of the child, any de facto parent of the child, any guardians *ad litem* appointed for the child in a prior proceeding, the tribe of an American Indian child, and, if not otherwise entitled to notice, the guardian of the child's person and the legal custodian of the child. If the parent of the child is a minor, the court may give notice to the parent or guardian of the minor if the court finds that notice is in the best interest of the child of the minor. The notice shall state that a party is entitled to counsel in the proceeding and that if a party is indigent and does not waive counsel, the court will appoint counsel pursuant to the provisions of Section 317 of this Act.

(c) If personal service on a known parent, cannot be effected, either within or without this state, substitute service shall be given according to the rules of the [ ] court.

(d) If the petitioner has reason to know that a person entitled to notice pursuant to this section is unable to read or to comprehend the meaning or consequences of the notice, the petitioner shall so inform the court, which shall cause the notice to be explained orally to the person entitled to notice. If the person is unable to comprehend English, all notices shall be given to the person in a language he comprehends or through an interpreter.

(e) At any time before the preliminary hearing, notice and appearance may be waived by any person described in subsection (b) of this Section 310, except that notice may not be waived by a parent who is the subject of the petition for involuntary termination of parental rights. A waiver may be given before the court or in a writing attested by two or more witnesses who are eighteen or more years of age and subscribe their names thereto in the presence of the person executing the waiver. The face of the waiver shall contain language explaining the meaning and consequences of the waiver and the termination of the parent-child relationship. Except as provided in subsection (b)(2)(B) of Section 311 of this Act, a person who has executed a waiver is not required to appear. If the parent resides outside this state, the waiver shall be acknowledged before a notary public of the foreign jurisdiction and shall contain the current address of the parent. The court shall review all waivers to determine their validity. All waivers to be valid shall be found by the court to have been knowingly and voluntarily executed.

* * * * *

Commentary to Section 310

Subsection (a). Involuntary termination of parental rights has been designed as a two-step procedure involving a preliminary hearing followed by an adjudication of the petition and entry of an order thereon. Time limits for the holding of the preliminary hearing and the provision of notice to the parties have been designed to afford optimal preparation time to parties while also assuring expeditious proceedings.

Subsections (b) and (c). Where all parties receive timely notice, it is conceivable that the preliminary and adjudicatory hearings could be held on the same day, if all parties are represented and no psychosocial assessment is required. *See* M.S.A.A. §§ 311–313.

In no case, however, may the preliminary hearing be scheduled for a date preceding the birth of the child in question. If the petition is filed before the child's birth, the notice of hearing must state the designated date as tentative.

If notice cannot be effected in accordance with the provisions of subsections (b) and (c), the petitioner must conduct a diligent search for the parent whose rights are to be terminated; otherwise, at the preliminary hearing the court will order that further efforts be made, and the adjudicatory hearing will be delayed. *See* M.S.A.A. § 311.

These provisions, along with the provisions of Section 311(b) for court intervention in the notice procedures where necessary, assure optimum protection of the due process rights of known and putative parents.

Subsection (d). The requirement that notice be given to a person in "his native language or through an interpreter," is designed to ensure procedural due process. Additional efforts of this nature must often be made when parties are known to be non-English speaking or illiterate, to ensure that they truly understand the significance of the notice and may prepare for their day in court.

Subsection (e). This subsection allows a person described in subsection (b) of this section to waive notice and appearance at the preliminary and adjudicatory hearings. A waiver found by the court to be knowingly and voluntarily executed will excuse the person executing it from appearance. The parent whose rights are being terminated and a parent required to appear to provide information about the child's other parent, *see* M.S.A.A. § 311(b)(2), however, may not waive notice and appearance.

Section 311. Preliminary Hearing; Right to Counsel; Competency

(a) The purpose of the preliminary hearing on a petition for involuntary termination of parental rights shall be to provide for notice to parties if notice was not effective pursuant to the requirments of Section 310 of this Act, to assure that all parties are representated by counsel, and to determine the necessity for an examination of the parent or proposed guardian of the child pursuant to subsection (d) of this section.

(b) If notice to a parent required pursuant to subsections (b) and (c) of Section 310 of this Act was not affected, the court:

(1) If the location of a parent is not known, shall inquire into efforts made by the petitioner to locate the parent and, if the court finds such efforts insufficient, require the petitioner to conduct a diligent search; or

(2) If the identity of a parent of the child is unknown,

(A) Shall inquire into the efforts made by the petitioner to identify and locate the unknown parent and, if the court finds such efforts insufficient, require the petitioner to make a diligent effort to identify and locate the unknown parent; and

(B) May require the appearance of the other parent and make inquiry concerning the identity and residence of the unknown parent, or require the known parent to file an affidavit giving all known information concerning the identity and residence of the unknown parent, except the known parent may not be compelled to disclose any such information.

(c) At the preliminary hearing the court shall inform the parties of their right to be respresented by counsel. A person entitled to appointed counsel pursuant to Section 317 of this Act may not waive such right unless the court shall have first explained the nature and meaning of a petition seeking termination of the legal parent-child relationship.

(d)(1) If, at the preliminary hearing or at any time during the pendency of the suit, the court's examination of the parent who is the subject of the petition to involuntarily terminate parental rights, or of the guardian proposed pursuant to subsection (b)(1)(G) of Section 309 of this Act, raises a reasonable doubt regarding his competency or ability to care for the child, the court, on its own motion or on motion by any party, may order an examination of such parent or proposed guardian by a physician, psychiatrist, licensed clinical psychologist, or other expert appointed by the court. The expenses of any examination shall be paid by the court, the moving party, or, if ordered by the court on its own motion, by the party to whom costs are assigned by the court.

(2) The results of the examination shall be submitted to the court within thirty days and a copy provided to the subject of the examination. The court may consider such results in ruling on the merits of the petition.

* * * * *

Commentary to Section 311

Subsection (a). The preliminary hearing is comparable to the pre-trial hearing held in many civil actions. The court ascertains the present status of the case and determines whether further notice procedures or preparation of evidence, in the form of psychiatric examination of a party, are necessary. If all is in order, the adjudicatory hearing may commence immediately.

Subsection (b). Court scrutiny of an agency's efforts to provide notice to unknown and unlocated parents, the great majority of whom will be putative fathers, assures the protection of the rights of these parents to notice and hearing under the due process clause of the fourteenth amendment.

The court is given the discretion to require the appearance of the known parent in order to assure itself that all feasible avenues for identifying and locating a putative father have been considered. Of course, no parent may be compelled to answer the court's inquiry if he objects on the basis of his privilege against self-incrimination. If, however, the known parent does not wish to appear for other reasons, any inconvenience to him must be balanced against the competing fundamental rights of the absent parent whose relationship with his child is subject to termination, and against the child's right to be reared by a birth parent whenever such a parent is fit and willing to exercise the parental role. The privacy interests of the parent being questioned may be protected by conducting the inquiry in the judge's chambers. (For a provision allowing the court to compel inquiry of the mother in an effort to protect the putative father's rights to notice, see the Uniform Parentage Act § 25(b).)

In no case will the court be able to proceed to an adjudication of the petition until the court finds that diligent efforts have been made to locate the unknown or unlocated parent. *See* M.S.A.A. § 313(b).

Subsection (c). Any party has a right to retain counsel to represent him in a termination proceeding, and the child and any indigent parent are entitled to have counsel appointed by the court. *See* M.S.A.A. § 317. This right to counsel is not intended, however, to prevent a petitioner or a parent from representing himself before the court.

Subsection (d). One purpose of the preliminary hearing is to assure that the parties are mentally competent to participate in the proceedings. If there is some question upon this issue, or if a birth parent's ability to care for the child is called into question, the court is authorized under this subsection to order a psychiatric examination for use in ruling on the petition.

Section 312. Assessment of Child and Report

(a) If the court retains jurisdiction at the preliminary hearing and the action for involuntary termination of parental rights is contested, the court shall order assessment of the needs of the child who is the subject of the petition. Such assessment shall be conducted by:

(1) Social service personnel attached to the court;

(2) A mental health or other agency which is not the petitioner; or

(3) A professional deemed qualified by the court.

An agency which is the petitioner may make the assessment only upon court determination that none of the alternatives in subsections (1) through (3) of this subsection (a) is available.

(b) A report of the assessment shall be submitted within thirty days after the court directive, unless the court grants a request for an extension, and shall be used by the court in deciding whether the petition for involuntary termination of parental rights shall be granted.

(c) The assessment and report shall consider:

(1) The circumstances described in the petition;

(2) The present physical, mental and emotional conditions of the child and his parents, including the results of all medical, psychiatric, or psychological examinations of the child or of any parent whose relationship to the child is subject to termination;

(3) The nature of all past and existing relationships among the child, his siblings, and his parents;

(4) The proposed plan for the child;

(5) The preferences of the child according to his maturity of judgment;

(6) The nature, extent, and quality of services offered or provided to a child and his parents to facilitate reunion of the child with his parents;

(7) Any other facts pertinent to determining what will be in the child's best interest, including, but not limited to the child's culture, and services provided or offered by the [state department of social services] or by any other agencies or individuals.

(d) The court may order an assessment and report, in accordance with the provisions of subsections (a) through (c) of this Section 312, to assist it in ruling upon the merits of an uncontested petition for involuntary termination of parental rights.

* * * * *

Commentary to Section 312

When the parent whose parental rights are subject to involuntary termination appears and contests the petition, the judge is required to order an assessment of the child's needs and to delay adjudication of the petition until a report of the assessment has been submitted to the court. When the petition is not contested, the court may order an assessment if the court believes the assessment will assist it in ruling on the merits of the petition.

The alternatives provided by subsection (a) for selecting a provider of an assessment are listed in the order of their desirability. It could be expected that court personnel are most familiar with the requirements of the court-ordered assessment, and so would be especially qualified to conduct such a study. A mental health or other agency is appropriate only as a second choice, and only if it is not the child's caretaker. The third alternative—a private professional—should be used only when the court has neither of the other possibilities available. If the court uses a private professional, it should select a person with appropriate knowledge and experience in conducting assessments, but it is important that court appointment policies not foster the growth of cadre of persons whose primary occupation is the preparation of child assessments.

Section 313. Adjudicatory Hearing; Grounds for Involuntary Termination of Parental Rights

(a) The court shall hold an adjudicatory hearing, to commence immediately or within thirty days following the end of the prelminary hearing, to determine whether grounds for involuntary termination of the parent-child relationship exist.

(b) In any case where actual notice to a parent has not been effected due to failure to locate a known parent or to identify a parent of the child as to whom rights are being terminated, the court shall not proceed to an adjudication of the petition unless the court finds that the petitioner has made a diligent effort to locate or identify such parent.

(c) If information contained in a report, study, or examination ordered by the court pursuant to Sections 311 or 312 of this Act is received in evidence, the person making the report, study, or examination shall be subject to both direct and cross-examination.

(d) An order of the court for involuntary termination of the legal parent-child relationship shall be made only where the court finds, upon clear and convincing evidence, that the termination is in the best interests of the child, and that one or more of the following circumstances or sets of circumstances exist:

(1) The child has been abandoned as defined in subsection (a)(3) of Section 309 of this Act;

(2) Parental rights are being terminated with respect to a child as to whom no father has been identified or whose putative father has not been located within thirty days after diligent effort as required by Section 311(b) of this Act;

(3) The putative father, within thirty days of the notice effected pursuant to Section 308 of this Act, has failed to file or execute any one of the following:

(A) An Intent to Take Custody of a child,

(B) A Disclaimer of Paternity,

(C) A relinquishment,

(D) A petition for voluntary termination of parental rights;

(4) The child has been adjudicated to have been abused or [neglected or dependent—insert appropriate term from state statute] in a prior proceeding. In determining whether termination of parental rights would be in the best interests of the child in such a case, the court shall consider and make written findings regarding the factors contained in subsection (e) of this Section 313 and the following continuing or serious conditions or acts of the parents:

(A) Emotional illness, mental illness, mental deficiency, or use of alcohol or controlled substances rendering the parent unable to care for the immediate and ongoing physical or psychological needs of the child; or

(B) Any proven act or acts of abuse or neglect toward any child in the family subsequent to the adjudication of abuse or neglect; or

(C) Repeated or continuous failure by the parents, although physically and financially able, to provide the child with adequate food, clothing, shelter, or education as defined by law, or other care and control necessary for his physical, mental, or emotional health and development; but a parent who, legitimately practicing his religious belief, does not provide specified medical treatment or education for a child, is not for that reason alone a negligent parent;

(5) The child has been out of the physical custody of the parent for one year, or the father has failed to take physical custody of the child within sixty days after an adjudication of paternity pursuant to Section 308 of this Act; or the mother has failed to take physical custody of the child within sixty days of the birth of the child, and:

(A) The conditions which led to the separation still persist, or similar conditions of a potentially harmful nature continue to exist;

(B) There is little likelihood that those conditions will be remedied at an early date so that the child can be returned to the parent in the near future; and

(C) The continuation of the legal parent-child relationship greatly diminshes the child's prospects for early integration into a stable and permanent family.

In determining whether termination of parental rights would be in the best interests of the child under this subsection (5), the court shall consider and make written findings regarding the factors contained in subsection (e) of this Section 313.

(6) The child has been out of the physical custody of the parent for a period of three years and:

(A) The child has developed an emotionally stable relationship with his *de facto* parent;

(B) The *de facto* parent has petitioned to adopt the child; and

(C) The child is over the age of ten and wishes to be adopted by the *de facto* parent.

(e) In determining whether to terminate parental rights under subsections (d)(4) or (d)(5) of this section, the court shall consider and make written findings regarding:

(1) The timeliness, nature, and extent of services offered or provided to the parent and the child by the agency to facilitate reunion of the child with the parent;

(2) The terms of any social service contract agreed to by an authorized agency and the parent, and the extent to which all parties have fulfilled their obligations under such contract;

(3) The feelings and emotional ties of the child with respect to his parents; and

(4) The effort the parent has made to adjust his circumstances, conduct, or conditions to make it in the best interests of the child to return him to his home in the foreseeable future, including:

(A) The extent to which the parent has maintained regular visitation or other contact with the child as part of a plan to reunite the child with the parent;

(B) The payment of a reasonable portion of substitute physical care and maintenance if financially able to do so;

(C) The maintenance of regular contact or communication with the legal or other custodian of the child; and

(D) Whether additional services would be likely to bring about lasting parental adjustment enabling a return of the child to the parent within an ascertainable period of time.

(f) Where any of the circumstances in subsections (d)(1) through (d)(6) of this Section 313 exist, the court shall consider:

(1) The contents of the assessment and report, if any, submitted pursuant to Section 312 of this Act;

(2) The specific benefits to the child of continuing the legal parent-child relationship, including opportunities for contact between the child and persons of his own racial, ethnic, cultural and biological heritage; and

(3) The wishes of the child regarding termination of the legal parent-child relationship.

(g) The maintenance of a legal parent-child relationship for the purpose of rehabilitation of a parent shall not be sufficient grounds for continuation of such relationship.

(h) In ruling on a petition for involuntary termination of parental rights with respect to a child, the court shall not consider the availability or unavailability of an adoptive family for the child.

(i) Notwithstanding any other provisions of this Section 313, no legal parent-child relationship may be terminated solely because a parent has been deprived of the legal custody of a child by reason of a divorce or a legal separation, or of the physical custody of a child by the act or conduct of the other parent of the child.

* * * * *

Commentary to Section 313

The section sets forth the procedures that are to be followed at the adjudicatory stage of involuntary termination proceedings and the grounds for involuntary termination of parental rights.

Subsection (a). The adjudicatory hearing is separate and distinct from the preliminary hearing. It may be held immediately following the preliminary hearing, if no assessment of the child or other psychiatric examination is required and if all parties are adequately represented. Otherwise, the adjudicatory hearing may be postponed for up to thirty days after the preliminary hearing.

Subsection (b). Before hearing a petition for involuntary termination of the parental rights of a person upon whom notice has not been effectively served, the court must rule upon the adequacy of efforts made to identify or locate the absent party.

In considering the diligence with which the petitioner has attempted to serve notice upon the absent parent, the court should consider efforts at publication and mailing, inquiry of relatives and friends of the absent parent and of the known parent, checking of any parent registry in the forum state or in another state where a registration of parenthood may reasonably have been entered, and any other means which could have been employed by the petitioner in the particular circumstances.

Subsection (c). Although it does not specifically prohibit the use of hearsay at the adjudicatory hearing, subsection (c) does require that persons making psychiatric assessments and reports be available for confrontation and cross-examination. This requirement not only recognizes the value of a certain measure of procedural formality in intra-family adjudications, but also protects the parties against potential sources of unsubstantiated or unwarranted allegations.

Subsections (d), (e), and (f). Subsection (d) articulates the grounds for a court order terminating the legal parent-child relationship; subsections (e) and (f) add a number of factors the court must consider in various termination situations.

With regard to the nature of the grounds for termination, several questions are often debated: whether the state's termination of the parent-child relationship ought to be based upon parental unfitness or upon consideration of the child's "best interests," and, if both criteria are used, what relative weight should be accorded to each. *See e.g. Petition of New England Home for Little Wanderers,* 367 Mass. 631, 328 N.E. 2d 854 (1975). The questions are critical in the design of a statute governing termination of parental rights, since the specificity with which the grounds for termination are set forth will determine whether parents are provided adequate notice of sanctioned conduct, or whether the statute will instead be declared void for vagueness. *See e.g. Alsager v. Dist. Ct. of Polk Co., Iowa,* 406 F. Supp. 10 (D. Iowa 1976), *aff'd.* 545 F. 2d 1137 (8th Cir. 1976).

In the Model Act the court is directed to consider both the best interests of the child and parental conduct indicating unfitness or non-involvement. Both factors must weigh in favor of termination of the parent-child relationship before such an order may be entered. The decision as to what course of action would be in the child's best interest is to be made with specific reference to the type of parental conduct alleged in the petition.

Parental Conduct. Except for the prior adjudication of abuse or neglect (subsection (4)), the parental conduct criteria for termination of parental rights all constitute some degree of non-involvement in the child's past or present life. Parental abandonment (subsection (1)), the petitioner's inability to identify or locate a putative father (subsection (2)), and a putative father's failure either to disclaim paternity or to express positive interest in his parental status (subsection (3)): These are grounds which presume such inability or lack of interest in parenting the child that further consideration of parental conduct is unnecessary.

When the child has never been in the physical custody of his parent, or when the child has been out of the parent's care for a year or more (subsection (5)), the potential for the parent's renewed involvement with the child must be considered before the parental conduct criterion for termination is met.

Only in the type of situation delineated in subsection (6) may a parent who cannot be faulted for misconduct or lack of present parenting ability nevertheless be deemed to have forfeited the parent-child relationship. In these cases the parental conduct standard is met by virtue of the parent's replacement by another parent figure in the child's life. This parental conduct criterion is included in the Model Act in response to the need to remove obstacles to adoption of children who have long been in need of permanent homes. Some of these children have been in the long-term care of foster parents willing to adopt them but unable to do so because of the belated reappearance of a parent. The parent, perhaps out of touch with the child for many years through no fault of his own (perhaps having been lost to the agency, or neglected by an understaffed agency, or not understanding the legal means for regaining custody of the child), is capable of reassuming custody and parenting his child. In such a case, if the child wishes to remain in his present home and be adopted, the birth parent's interest in custody and control of the child has effectively been superseded by that of a new family unit whose right to continued integrity should not be violated.

Where the child has previously been adjudicated abused or neglected (subsection (4)), the "parental conduct" criterion for termination of parental rights is deemed to have been met, and the second standard, the child's best interest, is controlling in the determination to terminate parental rights.

Best Interests of the Child. The subcategories of subsections (4), (5), and (6) are intended to provide guidance to the court in determining whether, given certain parental conduct or circumstances, termination of parental

rights would be in the child's best interests.

In two sets of circumstances—prior abuse or neglect, and absence from the parent's care for a year or failure of the parent to take custody of his child—the child's best interests are deemed to be inextricably related to the parent's demonstrated potential to care for the child in the future. This potential is defined by specific acts or omissions of the parent with respect to the child or his siblings. Under subsections (4) and (5), the services offered to the family by the state must be considered in evaluating the parent's past efforts and future parenting potential. The directives to consider services offered and the terms of any social service contract are in line with current task-oriented, reality-based casework which has been proven to be helpful in improving the parenting capacity of parents who have minimal parenting abilities.

There are several types of services an agency could offer which might prove valuable in helping a parent make necessary adjustments in order to better care for a child. The New York courts have found the following services to be among those which constitute diligent agency efforts to assest the birth family:

1. Encourage visitation between parent and child by counseling the parent and the child and, equally important, counseling the foster parents in order to ensure meaningful visits between the child and his parents; where the parent cannot afford carfare to visit the child, supplying the parent with sufficient funds; and when necessary, bringing the child to the parent for a visit.

2. If the parent is either drug-dependent or has a drinking problem, encourage the parent to seek professional help.

3. Assist the parent to obtain adequate housing.

4. Assist the parent to obtain employment.

5. Assist the parent to obtain welfare.

6. Assist the parent to obtain medical or psychological assistance.

7. Assist the parent to formulate a plan for the return of the child.

8. Where indicated, involve the extended family in order to facilitate return of the child.

9. Where a parent is still a resource for the return of the child, counsel the foster parents to encourage the child to respect the parent and prepare the child for return to his natural parent.

10. Offer the child and his parent psychiatric and psychological assistance. J. Carrieri, *The Foster Child: From Abandonment to Adoption* 72–73 (1978).

Where prior abuse or neglect has been found (subsection (4)), it is critically important that agency intake and service practices reflect an understanding of the psychodynamic functioning of families which abuse or neglect their children. Treatment services should be offered by workers who are trained in differential diagnosis and who have the capacity to encourage positive growth.

Where the child has been out of the parent's physical custody for a year or the parent has not taken physical custody of his child (subsection (5)), and where there has been a prior adjudication of neglect or abuse (subsection (4)), the court must also consider whether the parent maintained regular visits, assumed reasonable support and maintenance obligations, and cooperated with the agency (subsection (e)(4)). These factors are important indices of whether additional services are likely to bring about a lasting parental adjustment which will permit the child's return to the parent. Where parental contact has been sporadic, such as sending an annual birthday card, and does not indicate any pattern of ability to sustain ongoing communication, the court should probably regard such contact as insignficant evidence of parental interest in the child.

In conjunction with the grounds enumerated in subsections (1) through (6), the court must always consider the assessment of the child, the opportunities the child will have to remain in touch with his heritage, and the child's wishes regarding termination.

Standard of Proof. The petitioner must prove by clear and convincing evidence that grounds exist to terminate parental rights involuntarily. The Model Act requires this rigorous standard of proof as a protection of the fundamental rights at take in a termination proceeding. A parent has a constitutionally protected liberty interest in the family relationship. *Wisc. v. Yoder,* 406 U.S. 205, 232 (1972); *Stanley v. Ill.,* 405 U.S. 645, 651 (1972). Thus the severance of that relationship calls for a standard of proof beyond the mere preponderance of evidence standard required in most civil actions. Requiring the allegations in the petition to be proven beyond a reasonable doubt, on the other hand, would operate as an unreasonable barrier to freeing children for adoption and is, therefore, viewed not to be in the best interests of children. Complex matters of intra-family relations often do not lend themselves to such a high standard of proof, and the requirement of proof beyond a reasonable doubt might compound the existing reluctance, on the part of many judges, to terminate parental rights. *See* Children's Defense Fund, *Children Without Homes* 27 (1978).

Subsection (g). Subsection (g) provides that, although the parent's need for a relationship with the child may be considered, such a need may not control the court's decision regarding termination of that relationship.

Subsection (h). This provision addresses a long-standing problem in the provision of adoption services to many of the children who have been in the foster care system for an extended time. Although the parents may have essentially removed themselves from any participation in the child's life, courts are often reluctant to terminate the parent-child relationsship when an adoptive placement is not immediately available. This refusal to terminate parental rights then leads to further delay in placing the child for adoption. Subsection (h) requires the court to consider only the criteria outlined in subsection (d) in determining where the child's best interests lie. Neither the availability of an adoptive family nor the characteristics of an available family, such as their socioeconomic status, are included among the criteria the court may use to determine the child's best interests.

Subsection (i). Divorce, separation, or unlawful deprivation of the custody of a child do not constitute parental conduct criteria upon which a termination action can be based. This subsection eliminates any ambiguities with respect to these issues which may be created by the grounds for termination in subsection (d).

Section 314. Disposition of Petition for Involuntary Termination of Parental Rights

(a) If, after considering all the evidence at the adjudicatory hearing, the court finds that sufficient grounds exist for involuntary termination of the legal parent-child relationship, it shall:

(1) Enter an order terminating the legal parent-child relationship; and

(2) If such order has the effect of terminating the parent-child relationship with respect to both parents, appoint an individual as guardian of the child's person. The individual appointed as guardian of the child's person shall report to the court within ninety days on a permanent placement plan for the child. At least every six months thereafter, a report shall be made to the court on the implementation of such plan. The court shall review the plan for the child no less than once a year.

(b)(1) If the court finds that sufficient grounds for involuntary termination of the legal parent-child relationship do not exist, it shall dismiss the petition and may enter an order:

(A) Returning the child to the custody of his parent; or

(B) Placing the child under protective supervision or under guardianship of the person.

(2) If the court finds that the services or social service contract as described in Section 313 (e)(1) and (e)(2) of this Act were insufficient or inadequate, the court shall order an agency to develop a plan of service for the child and his parents.

(3) Any order the court made under subsection (b)(1) of this Section 313 shall specify what residual rights and responsibilities remain with the birth parent, and shall designate the period of time the order shall remain in effect, with mandatory review by the court no later than six months thereafter and at subsequent intervals of not more than one year.

(c) In conducting reviews pursuant to subsections (a)(2) and (b)(3) of this Section 313, the court or a hearing officer designated by the court shall hold a hearing and require the presence of the guardian of the child's person, or any other person the court or the hearing officer deems necessary to conduct the review.

* * * * *

Commentary To Section 314

Subsection (a). If the court finds that the dual criteria of parental conduct and best interests of the child have been met, it must enter an order terminating parental rights. Since the rights of one parent may be terminated without affecting the rights of the other, it is possible that the entry of a termination order would not necessitate the appointment of a legal guardian for the child. If the child will be left without a guardian, however, the court must appoint one.

Any person appointed as guardian pursuant to this subsection must report back to the court on the completed placement plan for the child. This mandate attempts to ensure that, following a termination decree, a child in fact is adopted or settled into a permanent placement. By retaining jurisdiction, a judge has the power to hold a hearing and to make further orders should that be deemed necessary.

Subsection (b). Where the court finds that grounds do not exist to grant the petition for termination of parental rights, the petition must be dismissed. Even if the court dismisses the petition for termination, it retains the power to enter further orders to protect the welfare of the child.

Subsection (c). The importance of periodic case review in assuring that a child receives appropriate adoptive and other services is widely acknowledged. *See* M.S.A.A. § 601(b) (commentary). Many states require regular court review of the cases of children who are under the jurisdiction of the court. To prevent these reviews from becoming a *pro forma* submission of a social services report which receives scant judicial attention, this subsection requires a court hearing at which serious consideration of the child's situation is much more likely to occur. The hearing does not demand rigid procedural formality and may be held by a court official other than a judge. Personal testimony by individuals familiar with the child's case should, however, be required.

Section 315. Court Order Granting Termination of Parental Rights

(a) Every order the court makes pursuant to Section 306 or 314 of this Act shall be in writing and shall recite the findings upon which the order is based, including findings pertaining to the jurisdiction of the court. Every order must fix responsibility for the support of the child.

(b) Except as otherwise provided for an interlocutory order pursuant to Section 306 of this Act, all orders are final, effective, and binding on all persons after the date of entry unless stayed pending an appeal.

* * * * *

Commentary to Section 315

The requirement that every order be in writing and recite the findings upon which it was based will facilitate meaningful appellate review. The order must also fix responsibility for the child's support with the birth parent whose rights have not been terminated or the guardian of the child's person, as appropriate.

The fact that all orders are deemed to be final from the date of entry ensures that an aggrieved party may take an immediate appeal. An order for voluntary termination of parental rights will, of course, be automatically stayed pending the fourteen-day revocation period. *See* M.S.A.A. 306(d).

Section 316. Effect of Termination Decree or Relinquishment; Attack

(a)(1) Upon the termination of parental rights, either through a voluntary relinquishment or court decree, the parent who relinquished or who was the subject of the petition thereupon ceases to be the legal parent of the child as to whom rights have been terminated, as set forth in Section 104 of this Act.

(2) Any parent whose relationship with his or her child has been terminated has no right to notice of proceedings for the adoption of the child by another, nor has the parent any right to object to the adoption or otherwise to participate in the proceedings.

(3) The legal parent-child relationship may be terminated with respect to one parent without affecting the legal relationship between the child and the other parent.

(b)(1) If the validity of a relinquishment or court order terminating parental rights with respect to a child is challenged in a court of this state, the court in which such challenge is filed shall cause notice to be issued to any agency to which the child was relinquished which is presently responsible for the child, which placed the child for adoption, or which provided post-placement services. Upon receipt of notice, the agency shall cause notice to be issued to the child; if the child has been adopted, to the adoptive parents and any person or agency which was legally responsible for the child prior to the adoption; and if the child has not been adopted, to the prospective adoptive parents, if any, and the person or agency legally responsible for the child. Such notice shall inform the parties of the pendency of the challenge and of their right to be heard regarding such challenge. The agency issuing such notice shall certify to the court in which the attack was filed that the requirements of this subsection have been met.

(2) If the validity of a relinquishment or court order terminating parental rights is challenged in a court of any other jurisdiction, any agency of this state which learns of such challenge by any means shall notify the adoptive parents or proposed adoptive parents, if any, of the pendency of a proceeding which may affect their status with respect to the child.

* * * * *

Commentary to Section 316

Subsection (a). The provision follows the traditional approach of divesting both parent and child of all rights, duties and obligations towards one another, except that the child's right to inherit from his birth parent is terminated only upon a final order of adoption. *See* M.S.A.A. § 104. This approach is consistent with a public policy commitment to the best interests of the child.

Subsection (2) underscores the finality of the decree and the fact that following termination a parent will have no standing to object to an adoption or other planning on behalf of the child. Although the birth parent has no "right" to notice of adoption proceedings, however, the court may allow a parent to receive notice and be given an opportunity to be heard in matters involving the child, where other parties do not object to such involvement. *See* M.S.A.A. §§ 104(c) (commentary), 403(c). Moreover, a parent who requests such notification from an agency shall have the right to be informed of the child's adoption, or of the failue of the agency to place a relinquished child for adoption within a specified time. *See* M.S.A.A. § 307.

A termination decree also affects the child's relationship only with the parent who was the subject of the petition.

Subsection (b). Whenever a relinquishment or termination decree is collaterally attacked, the child and any adoptive or prospective adoptive parents clearly have a vital stake in the outcome of the action. They and the other persons or agencies which have an interest in the child should be provided with notice and made parties to a collateral attack. This provision assures a complete examination of the issues, and apprises all interested parties of the potential modification in the legal status of the child.

More important, however, providing notice to adoptive or proposed adoptive parents prevent their belated discovery of a matter of critical importance to them. For prospective adoptive parents, the possible reversal of the termination of parental rights may affect their decision to commence adoption proceedings. For adoptive parents this early notification and, perhaps, intervention in the collateral attack proceedings may prevent an extended legal battle with potential harmful consequences for the child.

The agency serves as a conduit for the provision of notice in these cases. This protects the anonymity of the birth and adoptive parents, and prevents birth parents from discovering the whereabouts of a child as to whom they have no rights at that point.

Agencies of one state which learn of a collateral attack filed in another jurisdiction are required to notify the adoptive or prospective adoptive parents of the challenge. An agency in the second jurisdiction will probably inform any agency of the first state which is or has been legally responsible for the child, but the duty to notify applies regardless of the means by which the local agency discovers the fact that a challenge has been filed.

For additional discussion of these issues, see M.S.A.A. § 406(c) (commentary).

Section 317. Appointment of Counsel in Judicial Proceedings To Terminate Parental Rights

(a)(1) In any judicial proceeding to terminate parental rights, the court shall appoint counsel to represent the separate interests of the child, and for any indigent parent who is without counsel, if the petition is for involuntary termination of parental rights.

(2) In any other judicial proceeding to terminate parental rights, the court may appoint counsel to represent the separate interest of the child or of any other party where the court finds that the interests of the child or of such party may not be adequately represented. The court may assign the costs of such representation as it deems appropriate.

(3) Any parent entitled to counsel may waive his right to counsel pursuant to Section 3119(c) of this Act.

(b) Counsel appointed by the court for the child or for an indigent parent may initiate an appeal of any decree or disposition that he determines to be adverse to the best interest of the child.

(c) Counsel appointed pursuant to this section shall be compensated for reasonable fees, as approved by the court.

* * * * *

Commentary to Section 317

Subsection (a). Several courts and legislatures have articulated a right to counsel for parents whose rights with respect to a child are subject to involuntary termination. The child's right to counsel in the same action, although less widely recognized, is granted in the Model Act on the principle that the fundamental right of family integrity is as much the child's as the parent's, and so should receive the same protection. Since the child's interests are not synonymous with those of the parent or the petitioner, only separate counsel for the child can adequately protect the child's rights.

The role of counsel for the child in termination proceedings, as in child neglect proceedings, often poses a dilemma to the persons appointed to act in this capacity. During all stages of judicial proceedings to terminate parental rights, the child's counsel may examine, cross-examine, subpoena witnesses, and offer testimony. The child's counsel shall be an advocate for the child to ensure that the best possible permanent placement plan is made for the child. To ascertain the child's wishes, feelings, attachments, and attitudes, the child's counsel must conduct interviews with persons having contact with and knowledge of the child, as well as consult with the child himself.

Subsection (a)(2) allows the court the discretion to appoint counsel for a child or another party in any judicial proceeding to terminate parental rights. The court may, for example, choose to appoint counsel for a parent who is placing his child directly because of the potential for exploitation of the parent by unscrupulous third parties. The costs for legal representation in situations such as this should not necessarily be borne by the court, if there are parties against whom such costs could be appropriately assessed.

The provision for appointment of counsel is not intended to limit a party's right to waive legal representation, or to appear before the court *pro se.*

Subsection (b). This subsection authorizes counsel appointed for the child or for an indigent parent to file an appeal of any court action which counsel finds to be contrary to the child's best interest.

Subsection (c). This provision assures payment of appointed counsel for work performed on behalf of a client. Counsel both for the child and for an indigent parent will be compensated for representing their clients in the taking of an appeal.

Section 318. Authority and Duties of Guardian of Child's Person

(a) The guardian of the child's person has the authority without limitation:

(1) To consent to marriage, enlistment in the military service of the United States, and any medical, psychiatric, or surgical treatment; and to ensure that the child has legal representation in legal actions;

(2) To serve as custodian, unless another person or authorized agency has been appointed custodian by court order; and

(3) To consent to adoption of the child unless the child has a living parent whose rights have not been terminated.

(b) The guardian of the child's person has the responsibility to ensure that the child receives adequate support, care, and nurture.

(c) The guardian of the child's person or his designee has the duty of reasonable visitations when he does not have physical custody of the child, except to the extent that the right to visitation is limited by court order.

(d) An individual appointed as guardian of the child's person pursuant to Section 306 or 314 of this Act shall report to the court within ninety days on a permanent plan for the child. At least

every six months thereafter, a report shall be made to the court on the implementation of such plan.
* * * * *

Commentary to Section 318

This definition of the authority and duties of the child's guardian draws upon the pertinent provision of the HEW Model Family Court Act. *See also* M. Goldberg, *Legislative Guides for the Termination of Parental Rights and Responsibilities and the Adoption of Children* [U.S. Dept. of HEW Pub. No. 394, 1961].

The Model Act requires that the court appoint a named individual, not an agency, as guardian of the child's person. The individual so appointed may, of course, be an employee of an agency acting in an official capacity. Vesting the duties and responsibilities of the child's guardian in a specific individual, rather than the more diffuse notion of an "agency," may heighten the guardian's sense of responsibility for the care of the child; it should also contribute to the court's ability to hold the guardian accountable for the discharge of those duties and responsibilities.

Section 319. Restoration of Legal Parent-Child Relationship at Majority

(a) Whenever a child as to whom parental rights have been terminated reaches the age of majority without having been adopted, the child or the parent whose rights were terminated with respect to the child may petition the [ ] court for an order restoring a previous legal parent-child relationship.

(b)(1) Notice of the petition shall be personally served upon the person with respect to whom the petitioner seeks restoration of the legal parent-child relationship.

(2) The court may not adjudicate such a petition unless the notice required by subsection (b)(1) hereof is effected.

(c)(1) The court shall grant an uncontested petition to restore the legal parent-child relationship as a matter of right.

(2) Where a parent contests a child's petition for restoration of the legal parent-child relationship, the court, in considering whether to grant the petition, shall determine whether granting the petition would result in the restoration of any significant right which the child has lost through termination of the legal parent-child relationship, and shall be guided by such determination.

(3) Where a child contests a parent's petition to restore the legal parent-child relationship, the court shall dismiss the petition.

(d) The [ ] court in which the legal parent-child relationship was terminated may, on its own motion, order the restoration of the legal parent-child relationship, provided that all requirements of subsections (a) through (c) hereof are met.

(e) For the purpose of this Section 318 only, "child" means the person whose parent's rights were terminated.
* * * * *

Commentary to Section 319

This section, like the restoration of rights provided for by section 307 of the Model Act, provides a means by which a party to the parent-child relationship may seek nullification of the prior legal action terminating that relationship.

TITLE IV. ADOPTION PROCEEDINGS

Section 401. Adoption Petition

(a)(1) Any adult for whom a family assessment has been completed and approved pursuant to Section 205 or 206 of this Act may petition the court for the adoption of a child.

(2) If the petitioner has a spouse living, both spouses shall join in the petition, except that:

(A) a married person may petition without the joinder of his spouse on a showing of good cause therefor; and

(B) if either spouse is a parent of the child to be adopted, that spouse need not join in the petition, but shall consent to the adoption in accordance with Section 404(b) of this Act.

(b)(1) A petition for adoption shall be filed by the prospective adoptive parent in the [ ] court where the petitioner resides or where the agency which placed the child has its principal place of business.

(2) A petition for adoption shall be filed within twelve months of the time the child was placed for adoption with te petitioner, except that in an adoption of a child placed pursuant to subsections (a)(2) through (a)(4) of Section 204 of this Act, a petition for adoption must be filed within thirty days of such placement.

(3) Except where the petitioner is a stepparent of the child to the third degree or closer, no petition for adoption may be filed until all parental rights over the child have been relinquished or terminated in accordance with the laws of this state or of another jurisdiction.

(c) The petition for adoption shall be verified and shall state:

(1) the name of the child to be adopted, the date and place of the child's birth, and the date of the child's placement for adoption in the home of the adoptive petitioner;

(2) the name of the agency or person or persons having authority to consent to the adoption of the child, and the source of that authority;

(3) the name, residency, and date of birth of the petitioner;

(4) that the petitioner is an adult for whom a family assessment has been completed and approved pursuant to Section 205 or Section 206 of this Act;

(5) the marital status of the petitioner including if the petitioner is married the date and place of the marriage and if both spouses are not joined in the petition, the reason therefor and the full name of the spouse of the petitioner;

(6) that the child is legally free for adoption, or that the spouse of the petitioner is the parent of the child or the petitioner is a relative to the third degree or closer, and that the parents have consented or intend to consent to the adoption of the child;

(7) that a subsidy has or has not been approved for the child to be adopted;

(8) a description and estimate of value of any property of the child to be adopted;

(9) the name to be used for the child after adoption; and

(10) that all documents required by law to be filed with the petition are filed.

(d) The following documents shall be filed with the petition:

(1) A certified copy of the birth certificate of the child to be adopted or, if unavailable, a statement explaining such unavailability.

(2) With respect to each of the parents of the child to be adopted:

(A) a certified copy of the court decree terminating parental rights; or

(B) the original relinquishment executed by the parent; or

(C) if the adoptive petitioner is a stepparent of the child or a relative of the child to the third degree or closer, a written notarized or certified consent of the parent to the child's adoption by the petitioner, if consent has been previously given.

(3) If the person or agency claiming authority to consent to the adoption is not the parent of the child or the agency to which the child was relinquished pursuant to Section 303 of this Act:

(A) a certified copy of the court order appointing that person or an agency representative as the guardian of the child; or

(B) other proof of authority to consent to the adoption.

(4) Affidavits, executed by the petitioner and by the person or agency with authority to consent to the adoption, of all costs associated with the adoption.

(5) A record, complied by the agency which placed the child in the home of the adoptive petitioner or which has provided services with respect to an adoptive placement made by a parent, which represents a preplacement history of the child, the prospective adoptive parents, and the birth parents. This record shall include all reports formerly prepared pursuant to sections 205, 206, 303, 312, and, if the child had earlier been unsuccessfully placed in an adoptive home, 207 of this Act. If the required reports are not available, the record shall state the reasons for such unavailability and the efforts made to obtain the information such reports would have contained.

* * * * *

Commentary to Section 401

Subsection (a). This subsection establishes that any adult may adopt a child so long as he is approved after a family assessment has been completed. There is no requirement that adoptive parents be married. If the prospective adoptive parent is married, both spouses generally must join the petition to adopt a child. However, the good cause exception will permit an individual who is legally separated or whose divorce is not final, for example, to adopt a child individually. The joinder of spouses is also not required in stepparent adoptions.

Subsection (b). Because each state already has a court or courts designated to handle adoption matters, this provision is written to allow the legislature to simply insert the name of the proper state court. It is highly desirable that the adoption court be one which has expertise in children's matters, and which has the stature of a trial court of general jurisdiction. *See* M.S.A.A. § 105 (Commentary). Furthermore, under most existing state laws, venue for an adoption proceeding may lie in the court of either the petitioner's residence or the agency's principal place of business, and the Model Act follows this tradition.

The court is explicitly required, in receiving the adoption petition, to assure that an adoption proceeding is appropriate in light of the requirement that parental rights be previously terminated. *See* M.S.A.A. § 202 (Commentary). Particularly in cases of intercountry adoptions, this requirement will raise questions of comity which the court should resolve consistently with the best interests of the child. Federal law requires that any child granted admission to the country for adoption must be classified as an "eligible orphan" under the Immigration and Nationality Act, 8 U.S.C. § 1101 (1970), and the regulations pursuant thereto. A state court may choose to recognize the validity of a relinquishment, abandonment, or termination of parental rights simply on the basis that the child was allowed to entered the country as an eligible orphan under the federal Immigration and Nationality Act.

Similar questions are raised in interstate adoption cases as well, although between states principles of full faith and credit apply. *See generally* M.S.A.A. § 106(a).

Subsection (c). The required contents of the adoption petition are self-explanatory. It should be noted that the source of authority to consent referred to in subsection 401(c)(2) would include court-ordered legal guardianship, the execution of a relinquishment, or any process by which a foreign jurisdiction might assign the authority to consent to the child's adoption.

If unchallenged or proven as fact at the adoption hearing, the required statements of the petition establish the legal prerequisites to the granting of the adoption.

Subsection (d). The documents required to be submitted with the adoption are also largely self-explanatory. The provision regarding "other proof of authority to consent" refers to the documentation of the source of authority to consent, such as a copy of a court order or an executed relinquishment, or a document issued by a foreign jurisidction which assigns the right to consent, *see* M.S.A.A. (Commentary).

Together with the agency report on the adoptive placement, which will be submitted prior to or at the hearing, these documents constitute the body of proof which the court will reply upon in ruling upon the petition. Only in stepparent and relative adoptions is the parent's direct consent to adoption allowed to substitute for proof of prior termination of parental rights; in these adoptions a separate proceeding to terminate parental rights is not required.

Section 402. Report on Child's Placement for Adoption; Agency Responsibilities

(a) The adoption hearing shall not be held until a report has been submitted to the court by an agency verifying the statements in the petition and assessing the adjustment of the petitioner and prospective adoptee to the adoptive parent-child relationship. The report shall be based upon a study of the entire period of the placement for adoption, shall incorporate the reports of the placement agency regarding placement supervision, and shall address any matters which the agency or individual making the effort deems relevent to the court's determination whether the adoption is suited to the needs and interests of the prospective adoptee. The report and a recommendation to the court as to whether the adoption petition should be granted shall be filed at any time within forty-five days after the filing of the adoption petition, and shall become a permanent part of the court record of the adoption.

(b) Where the adoptive petitioner is a stepparent of the child or a relative to the third degree or closer, the report required by subsection (a) hereof shall also include evidence that the parent who consented to the adoption pursuant to Section 401(d)(2)(C) of this Act has been interviewed by an agency regarding the wishes of such parent with respect to the adoption of the child. The report shall also contain a statement by the agency which interviewed the parent that the consent to the adoption was informed and voluntary.

* * * * *

Commentary to Section 402

Subsection (a). Adoption laws typically require an evaluation of the adoptive placement for the court. The report required by this section is to be distinguished from the record which must be submitted with the adoption petition pursuant to Section 401(d)(5) of the Model Act. The latter is a record of the child's social and medical background and preplacement history, including pertinent information and history on the birth parents. The report required here focuses upon the adoptive placement and the adjustment of the child and adoptive petitioners to one another.

The section is designed to allow the court some flexibility in obtaining the required report. The court may order an uninvolved agency to prepare an investigative report after the adoption petition is filed. Some courts, however, may deem it appropriate to accept such a report from the agency which placed the child or which monitored a placement by a parent. In these cases, the report might be submitted at the same time as the adoption petition in order to expedite the court hearing.

Subsection (b). Because the great majority of adoptions by stepparents or relatives will follow a "placement" which has received no court or agency scrutiny, and because parental rights will be cut off at adoption, the Model Act here provides for protection of the right of the parent to be fully informed before consenting to the child's adoption by another.

Section 403. Request for Hearing; Appointment of Guardian Ad Litem; Notice

(a) The petition for adoption shall be accompanied by a request for a hearing and the court shall fix a date therefor not more than ninety days from the time of filing of the petition. The court, for good cause, may postpone the hearing to a date certain, subject to the requirement in Section 405(c) of this Act that final disposition be made within twelve months of the filing of the petition.

(b) If, on the basis of the petition for adoption and the accompanying documents, the court determines that there is no person or agency with clear authority to consent to the adoption of the child, it shall appoint a guardian *ad litem* who shall have the authority to consent to the adoption.

(c)(1) Written notice of the hearing shall be served upon the prospective adoptee, the prospective adoptee's guardian and any guardian *ad litem*, the agency submitting the investigative report required by Section 402 of this Act, the agency which made the adoptive placement, any agency which referred the child for placement for adoption, and any agency which reported on an adoptive placement made by a parent. Notice shall be effected at least five days prior to the adoption hearing.

(2) Notice of the hearing shall also be given to the birth parent of the prospective adoptee provided:

(A) there exists a prior written agreement between the birth parent and the adoptive petitioner that such notice be given; or

(B) the notice is to a birth parent who has consented or intends to consent to the adoption of his child by the stepparent of the child or by a relative to the third degree or closer.

(3) Due notice to the guardian or guardian *ad litem* shall be deemed notice to the prospective adoptee if the prospective adoptee is less than fourteen years of age.

(4) Any person entitled to notice of the hearing may waive same in writing at any time.

(d) The hearing shall be open only to persons entitled to receive notice, their counsels, and other persons the court finds necessary or appropriate to assist in determining whether to grant the petition, except that the court shall open the hearing to other persons upon the request and consent of the adoptive petitioner and a prospective adoptee age ten or older.

* * * * *

Commentary to Section 403

Subsection (a). State adoption statutes have commonly required that the prospective adoptee reside in the adoptive petitioner's home for a minimum period of time before the adoption petition is filed, or before the court hearing on the petition is held or the final adoption decree is entered. The usual minimum placement period is six months. Many of these states provide for the court to waive the minimum waiting period, however, and a few states leave the matter completely within the discretion of the court.

The Model Act adopts the approach of this last category of states. The amount of time required before the court can be assured that the parties have established a stable relationship—one which can be assessed for its adequacy in meeting the adoptee's interests—should be left to the discretion of the court. There may be many cases—for example, adoptions by familiar stepparents or relatives or by foster parents who have already cared for a child for a lengthy period—in which an arbitrarily imposed preadoptive placement period would needlessly delay a child's adoption. Allowing the court to evaluate, with the assistance of the reporting agency, the best length of time for the placement in each particular case serves to increase the options available to the court and parties involved, a desirable goal in an area such as family relationships where individual situations vary greatly.

Subsection (b). This provision has the limited purpose of facilitating, where appropriate, the adoption or domestic re-adoption of a foreign child whose parental status and guardianship is unclear. A child freed for adoption in a foreign country may enter the United States under an "eligible orphan" visa without a guardian as defined by the law of the receiving state or the child's home country. *See* 8 U.S.C. § 1101. The court has the discretion to appoint a guardian *ad litem* with the right to consent to the adoption of the child if the adoption appears to be in the child's interests.

The need for a guardian *ad litem* under this subsection should not arise in domestic adoption situations, for example, in interstate adoptions. If there seems to be no one with clear authority to consent to the child's adoption, the court should take whatever steps are necessary to clarify the child's status under the law of the appropriate state, or to terminate parental rights and appoint a guardian of the child pursuant to Section 314.

Subsection (c). Notice of the adoption hearing must be given to those persons or agencies likely to have an interest in the proceeding. Ordinarily, birth parents will not be among this group, since parental rights with respect to the child will have been terminated. However, in adoptions by stepparents or relatives—the only cases in which the parent consents directly to the adoption rather than relinquishing or obtaining voluntary termination of parental rights—the parent has a right to notice of the hearing. In these cases, it is presumed that the parent may continue to be at least indirectly involved with the child by virtue of the ties between the child's adoptive and birth parents. Birth parents will also receive notice in those cases where there is a written agreement so directing between the adoptive and birth parents.

Subsection (d). Because of the personal nature of the proceedings, adoption hearings, like other juvenile and domestic relations proceedings, have traditionally been closed to the general public in order to make the proceedings more intimate and family-centered. However, some families may prefer a public hearing as a symbol of their open acceptance of the adoptee and the adoption process. This provision allows the persons directly concerned with the adoption proceeding to choose the type of hearing they prefer.

Section 404. Who May Consent to Adoption

(a)(1) A final decree of adoption shall not be issued unless the consent or consents required by this Section 404 have been obtained and the rights of the parents of the prospective adoptee and of any other persons or agencies which would otherwise be required to consent have been abrogated or barred pursuant to Sections 303, 306, 314, and 404(c) of this Act.

(2) Except for the consent of a child pursuant to subsection (b)(2) of this section, it shall be sufficient evidence of consent for the person or agency consenting to the adoption to file with the court a written notarized or certified statement of consent. The consent of a child shall be given only before the court, and such consent shall be in writing, unless the court for good cause permits verbal or other expression of consent.

(b) Consent to the adoption of the child by the adoptive petitioner shall be obtained from:

(1) (A) a parent of the prospective adoptee if the adoptive petitioner is a stepparent of the prospective adoptee or a relative to the third degree or closer, and the rights of such parent with

respect to the child have not been terminated; or

(B) the agency to which the prospective adoptee was relinquished by a parent pursuant to Section 303 of this Act; or

(C) the guardian of the child's person; or

(D) the guardian *ad litem* of the child, appointed by the court pursuant to subsection (b) of Section 403 of this Act; and

(2) the prospective adoptee, if the prospective adoptee is at least ten years of age. A child under the age of ten years and more than seven years of age shall be consulted by the court as to his wishes and the court shall consider them together with all the circumstances in the case, but shall not be bound thereby.

(c) A person or agency whose consent is required pursuant to subsections (b)(1)(B), (b)(1)(C), (b)(1)(D) of this Section 404 shall consent to the adoption unless that person or agency presents to the court evidence which raises a reasonable doubt whether the adoption would be in the interest of the prospective adoptee. If the court finds that the evidence presented is insufficient to warrant denial of the petition for adoption, it may determine the withholding of consent by the person or agency in question to be arbitrary or capricious and may issue a final decree of adoption without reference to the withholding of consent by such person.

* * * * *

Commentary to Section 404

Subsection (a). For an adoption petition to be granted, it is necessary that all consents are obtained or waived by the court. Subsection (a)(2) allows a choice in the formality with which most of the consents must be executed, depending upon present state practice with respect to legal documents. Several states in recent years have substituted "certification" of documents for the traditional notarization.

However, because this Act requires the consent of a prospective adoptee as young as ten years of age, the child's consent demands greater protection. It must be issued before the court to ensure that the child's expression of consent is voluntary.

Subsection (b). There are three categories of persons whose consent to the adoption must be obtained if the adoption petition is to be granted: 1) the child's birth parent; 2) the legal guardian, *see* M.S.A.A. § 318, or a person functioning in the capacity of a legal guardian for consent purposes (*e.g.*, a guardian *ad litem, see* M.S.A.A. § 403(b)), or an agency which accepted the relinquishment of the child, *see* M.S.A.A. § 302(f); and 3) the child, if age ten or over.

The consent of the parent or parents of the child to be adopted (the first category named above), however, will be required only in the cases of stepparent and relative adoptions. In all other cases, parental rights will have been terminated and birth parents will have no legal role in the adoption proceeding; it will be the persons or agencies in the second category named above which will be required to consent to the adoption.

Although a child under ten years of age does not have the power to prevent his adoption by withholding consent—since such a child is not deemed capable of definitively evaluating his long-term emotional and physical needs—the court is required to consult prospective adoptees over the age of seven. Although not required to do so by the law, a knowledgeable and compassionate court will consult a child of any age, according to the child's ability to express an opinion, to discern the child's wishes, and to evaluate the proposed adoption in light of those wishes.

Subsection (c). The prospective adoptee, if over ten years of age, and, in stepparent and relative adoptions, the parent whose rights have not been voluntarily or involuntarily terminated, possess an absolute right to refuse to consent to the adoption; if consent is withheld, the adoption may not take place. Such is not the case with the child's legal guardian *ad litem,* or with the agency to which the child has been relinquished for the purpose of adoption. The authority of such an agency or individual to function as the child's protector and thus to consent to the child's adoption stems from the *parens patriae* role of the state. The proper exercise of this role may be interpreted differently by the court and the guardian in an adoption proceeding. In such cases, the court's discretion should prevail, and thus the court may override the withholding of consent by such person or agency. *See* M.S.A.A. § 103(a) (Commentary).

Section 405. Disposition of Petition

(a) At the hearing, if the court finds that:

(1) the petitioner is an adult; and

(2) all consents to the adoption required by Section 404 of this Act have been obtained, and that all parental rights with respect to the child or other right to consent to the adoption have otherwise been terminated or barred; and

(3) the adoption would be in the interest of the prospective adoptee; it shall grant the petition and issue a final decree of adoption.

(b) Upon issuing a final decree of adoption, the court shall send or cause to be sent to the state adoption administration a certified copy of the petition filed in that proceeding, such a copy to be retained by the State adoption administration in accordance with Section 601(n) of this Act.

(c) If the court finds that one or more of the conditions specified in subsection (a) of this Section 405 have not been satisfied, and that by continuing the proceeding for an additional period the deficiency may reasonably be expected to be remedied, it may retain jurisdiction of the petition and postpone or continue the hearing to a time certain, except that the court shall make a final disposition of the petition within twelve months of the date the petition was filed.

(d) If the court finds the necessary conditions specified in subsection (a) of this Section 405 cannot be met, it shall deny the petition.

* * * * *

Commentary to Section 405

Subsection (a). The adoption hearing culminates the process by which a child becomes part of a new, permanent family. The court is required to consider all consents, other evidence introduced to support the petition, and the documents which embody the child's preadoption history. All of these elements are necessary prerequisites to the granting of the adoption. The variety of eligibility criteria which agencies may use to screen adoptive parent applicants or to match adoptive families with specific children are not statutory criteria which must be met in order for an adoption to take place. Such individual agency requirements may be relevant, however, to determine whether the adoption is in the interests of the adoptee.

It should be noted that the standard by which the court is to be guided in evaluating the proposed adoption is that of the child's "interests," and not the child's "best interests." The court need only determine that it would be better for the child if the petition were granted than if it were not. Imposing an obligation to prove that this proposed adoption is the best possible plan for the child would be unduly burdensome.

Subsection (b). When a court issues a final decree of adoption, a copy of the petition filed in that case must be sent to the state adoption administration, which will maintain a register of all such petitions as an aid to adoptees and

others in search of information. *See* M.S.A.A. § 601(n) (and commentary).

Subsections (c) and (d). Subsection (c) provides the adoptive petitioner a time period in which to correct deficiencies in the presentation of his case, according to the requirements of subsection (a). The court may grant a continuance or postponement for this purpose to a specified future date. The court should grant such an extension, however, only if it anticipates that a successful adoption will ultimately result, and if the uncertainty involved in the delay would not be contrary to the interests of the prospective adoptee. In all cases a final deposition must be made within twelve months of the time the petition was filed.

Section 406. Adoption Decree; Review; Attack

(a) A decree of adoption shall have the effect of establishing the legal relationship of parent and child between the adoptive parents and the adoptee, as set forth in Section 104 of this Act.

(b) An order granting or denying a petition for adoption pursuant to subsections (a) or (d) of Section 405 of this Act constitutes a final order for purposes of appeal.

(c)(1) If a court order entered pursuant to Section 405 of this Act is challenged in a court of this state, the court in which such challenge is filed shall cause notice of the challenge to be issued to the agency which placed the child for adoption or which provided postplacement services. Upon receipt of notice, the agency shall cause notice to be issued to the adoptee, the adoptive parents, and the person or agency which exercised legal guardianship prior to the adoption of the child. Such notice shall inform the parties receiving notice of the pendency of the challenge and of their right, as interested parties, to be heard regarding such challenge. The agency issuing such notice shall certify to the court in which the challenge was filed that the notice requirements of this subsection have been met.

(2) If a court order entered pursuant to Section 405 of this Act is challenged in a court of any other jurisdiction, any agency of this state which learns of such challenge by any means shall immediately notify any person whose parental status with respect to the child is at issue in said challenge.

* * * * *

Commentary to Section 406

Subsections (a) and (b). Many state adoption statutes provide for an interlocutory decree of adoption which may or must remain in effect for a specified time before a final adoption decree is entered. The purpose of the extended period of placement, prior to completion of the adoption, is often to provide greater opportunity to assure that the adoption will be in the interests of all concerned. The Model Act requires no such minimum adoptive placement period, *see* M.S.A.A. § 403 (commentary), and provides for entry of a final decree at the time the adoption petition is heard.

Subsection (c). This section requires that persons who would be affected by a successful collateral attack on an adoption decree rendered pursuant to the Model Act be notified of such a legal challenge and given an opportunity to be heard as parties if the attack is brought in the state in which the decree was rendered. The provision thus ensures a full hearing on the issues from the perspective of all affected parties and, like Section 316(b) of the Model Act, prevents belated discovery by the adoptive family that a question of vital importance to them is *res judicata.* Requiring notice to be issued via the court and an agency rather than directly from the complaining party serves to protect the anonymity of the parties involved. *See* M.S.A.A. § 316(b) (commentary).

In the event that a collateral attack on an adoption is brought in another jurisdiction, this section places an affirmative duty upon the agencies of this state which learn of the pendency of such a challenge to notify the adoptive parents accordingly. It is anticipated that an agency in the jurisdiction in which the challenge has been filed will contact any agency in this state which was involved in the adoption in question; however, local agencies have a duty to notify regardless of the means by which the pendency of a collateral attack is discovered.

Section 407. Plan for the Child

(a) If a petition for adoption is denied, the court shall retain jurisdiction over the child, and venue for all future proceedings regarding placement or adoption of the child or termination of parental rights with respect to the child shall be solely in said court. However, if jurisdiction over the child rested with another court prior to or at the time of the filing of the adoption petition, the court denying the petition for adoption may terminate its jurisdiction over the child, provided that it notifies the court previously exercising jurisdiction of such termination of jurisdiction.

(b) If the court retains jurisdiction over the child, it shall order the child removed from the home and care of the petitioner, unless the petitioner's spouse is the child's birth parent or unless the court approves an agency plan for continued placement for foster care with the unsuccessful petitioner. The agency which made the placement for adoption, or another agency shall, with the approval of the court, make a plan for the child. The plan shall include arrangements for custody and care and a program of measures to be taken to secure a satisfactory and stable placement for the child. If possible, the plan shall include arrangements for another placement of the child for adoption. If such a course is not practicable, the plan shall include a full statement of the reasons.

(c) The plan shall be filed with the court, and the agency or person responsible shall file with the court a report thereon at least every six months until a placement of the child for adoption is made or the child reaches the age of eighteen years. No less frequently than once a year, the court or a hearing officer designated by the court shall hold a hearing and require the person or agency responsible for the child to personally appear and report on the progress toward implementation of the plan.

* * * * *

Commentary to Section 407

Subsection (a). The provision is designed to assure that future proceedings involving a child who is the subject of an unsuccessful petition for adoption shall be conducted before a court familiar with the child and his circumstances. The court which denied the petition for adoption may, however, terminate its jurisdiction if there is good cause. Circumstances establishing good cause include the fact that another court of this or another state presently has or previously had jurisdiction over the child, or that a second adoption petition is filed by a family whose residence is elsewhere.

Subsections (b) and (c). The requirement that a long-term plan for the child be submitted to the court and regularly reported upon protects the child from becoming an inappropriate permanent resident of foster care institutions through the simple inadvertence of agency personnel, and encourages efforts to again place the child for adoption if possible. Adoption remains the plan of preference and, therefore, an explanation is required if the plan submitted does not find adoption to be practicable for the child.

TITLE V. RECORDS

Section 501. Retention of records

(a) Records compiled pursuant to Sections 205(a), 205(c)(1), 205(c)(3),

206(d)(1), 303(g), 311(d), 312, 314(a), 318(c), 402(a), 407(b), 407(c), 601(n), 703(a), 703(b), and 704(a) of this Act, or compiled in relation to proceedings under this Act shall be retained in safe keeping, by any court and any agency compiling such records, for at least ninety-nine years after the attainment of majority of the child who is the subject of the records, for the purpose of assuring their availability to parties who have a right to information contained in such records.

(b) If an agency which has compiled records pursuant to this Act terminates its operations within this state, it shall transfer all such records to the state adoption administration, which shall retain said records for at least ninety-nine years from the attainment of majority of the youngest child who was the subject of the records or proceedings.

(c) The state adoption administration shall establish and maintain a repository for all records transferred to it pursuant to subsection (b) hereof, for all relinquishments and revocations filed pursuant to Sections 303 and 304 of this Act, and for all adoption petitions filed pursuant to Section 601(n) of this Act.

* * * * *

Commentary to Section 501

It has often been a problem for adoptees and others involved in the adoption process to obtain necessary information about their medical and social history because records containing such information were destroyed. This section assures that each court and agency—even one which has had only temporary involvement with a child or parent—will retain its adoption and related records. It should be noted that this section requires the retention of the records not only of adoptees, but of all children whose parental rights are terminated, even if a child is never adopted. These requirements may, therefore, affect foster care agencies as well as agencies placing children for adoption.

Records of all court and agency proceedings under this Act, as well as those compiled pursuant to the sections enumerated in 501(a) are to be retained. The enumerated sections designate those provisions which expressly require an agency investigation or report, or both. It is presumed that related records which might be collected in connection with other provisions of this Act will likewise be retained.

The ninety-nine year period is to be taken literally. Many persons adopted as infants may have no need or desire for their adoption records until their declining years, when they or future generations or some third party may need to obtain legal, medical, genetic, or other information. The attainment of majority by the child marks the time from which the ninety-nine year period runs. This date provides uniformity regarding the required time of retention of all records concerning a particular individual.

The state adoption agency has a dual recordkeeping responsibility. Not only must it maintain files of all adoption petitions according to Section 601(n) of the Model Act and of all parental relinquishments and revocations thereof to agencies under Sections 303 and 304 of the Model Act, it must accept and retain case records of all agencies ceasing operation.

Any agency may substitute microfilm or some other total storage system for original records, where circumstances require.

Section 502. Birth Certificates

(a) Upon issuance of a final decree of adoption, the court shall order the preparation of an amended birth certificate for the adoptee, except where the adoptive parents request that the adoptee's original birth certificates not be amended or where the court for good cause directs otherwise.

(b)(1) The amended birth certificate prepared by the Office of Vital Statistics shall contain the following information:

(A) the full name of the adoptee;

(B) the sex of the adoptee;

(C) the date and time of birth of the adoptee;

(D) the hospital in which the adoptee was born and the name of the physician attending at the birth;

(E) the county and the city or town in which the adoptee was born and, if applicable, the country of birth;

(F) the full names of the adoptive father and the adoptive mother;

(G) the dates and places of birth of the adoptive father and adoptive mother; and

(H) the signature of the person issuing the amended birth certificate.

(2) In no case shall the amended birth certificate state that the adoptee was born to or is the biological child of adoptive parents.

(3) Where information required pursuant to subsection (1) hereof is not known, the amended birth certificate shall contain the notation "unknown."

(4) An amended birth certificate prepared and filed pursuant to this section shall be the official birth certificate for the individual named therein and shall be used for all purposes for which a legal birth certificate is necessary.

(c) The original birth certificate on file in the Office of Vital Statistics shall be sealed immediately upon the filing of the amended certificate prepared pursuant to this section, and shall thereafter be retained by said office. Except as provided in subsections (d) and (e) of this section, the original birth certificate shall not be open to inspection by any person.

(d) An original birth certificate, sealed pursuant to this section, shall at any time be opened as a matter of right to the birth parent whose rights were terminated or to the adult adoptee upon application to the Office of Vital Statistics. The applicant shall be provided a true copy of the original certificate, without official certification and bearing a notation indicating that the original certificate has been amended. Any filing or reference system notation on the original birth certificate which might lead to the discovery of an amended birth certificate shall not be revealed to the applicant.

(e) Where the name of the birth father does not appear on the original birth certificate, nothing in this section shall prevent the addition of the name of such a father to a certificate which has been sealed pursuant to this section. The [ ] court shall order that the name of the birth father be entered on the original birth certificate, provided that the following requirements are met:

(1) the putative father must petition the court for the entry of his name on the original birth certificate;

(2) actual notice of the filing of such petition must be served upon the mother named on the original birth certificate, if she is living; and

(3) the court must make a finding of paternity based upon a hearing at which the birth mother of the child may testify regarding the claim of paternity. This provision shall not be construed to require the appearance of the birth mother for paternity to be determined.

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Commentary to Section 502

Subsections (a), (b), and (c). It is common procedure for an amended certificate of birth to be prepared at the time a decree of adoption is entered. Amending of the birth certificate is based upon the principle that the child is no longer recognized, under the law, as the child of the birth parents. The amended birth certificate embodies the child's status as a legal child of the new parents and establishes the child and his parents as a social unit. It is also common procedure for the original birth certificate to be sealed when an

amended version is prepared. Sealing of the original birth certificate is based upon two principles: preventing public inspection of the adoptee's birth certificate; and preventing adoptees, while in their minority, from direct inspection of their own birth certificates.

The Model Act's emphasis on opportunities for the adoption of older children necessarily leads to a reconsideration of the traditional practices regarding the sealing of birth records. The change of name and shift in identification which is entailed for the child may be better accomplished at a different time or in a different way (perhaps no change of name would be appropriate at all). *See* A. Kadushin, *Adopting Older Children* 174 (1970). Hence in subsection (a) the requirement that the birth record be amended is qualified by a "good cause" exception allowing the court, in its discretion, to order that the record not be sealed and replaced. "Good cause" for not amending the record might also be found in other cases, where the adoptee is not necessarily an older child—for example, where adoptive and birth parents all agree that the record not be sealed (perhaps as part of a broader agreement for contact between the adoptee and birth parent) and the court determines that this openness would not contravene the minor adoptee's interests. Such openness is specifically permitted by Section 104(c) of the Model Act.

The Model Act generally stresses the equal legal and social status of adopted children and children being reared in their families. Consonance with this principle requires that the adoptee be provided with an amended birth certificate which is comparable to the birth certificate of a person not adopted, so that an adoptee will not be identified as "different" on the basis of his amended birth certificate. Thus, the amended birth certificate information mandated by subsection (b) includes nearly all the items which would be set out on the standard birth certificate recommended for use by the National Center for Health Statistics of the United States Public Health Service. (This standard certificate has been accepted, in large measure, by a majority of the states.) The amended certificate should look substantially like the original certificate.

Another approach could be taken to the problem of standardizing the forms that are supplied to adoptees and persons not adopted when copies of their birth certificates are needed. The extensiveness of the information on the actual birth certificate and its questionable utility for most of the purposes for which a copy of the birth certificate is needed (school admission, passport application, general proof of age) have led many persons in the field of adoption to recommend that states design and accept, for identification purposes, a shorter birth verification form. This "short form," documenting simply the fact of birth, the subject's age, and the legal parents, is preferable to the official falsification inherent in an amended birth certificate containing extensive information about the parents at the time of the birth of a child who may not have been adopted until several years after birth. Rather than specifying the creation of a new form, the Model Act has taken the approach in subsection (b) that the amended birth certificate prepared after the child's adoption present information in a manner which will not perpetuate the myth that the adopted child was born to his adoptive parents.

Subsection (d). This subsection provides that the original birth certificate will be opened to the adoptee who has attained majority upon the adoptee's simple request; no court order or intervention is required. Hence the adult adoptee may by right obtain information identifying his birth parents. This rule runs counter to the laws of a large majority of the states, but is most consistent, philosophically and practically, with the principles which underlie the Model Act.

Adoption, as a positive process designed to provide children with loving and stable homes, does not inherently require secrecy. Indeed, with older children, secrecy regarding their origins is largely impossible to impose, and isolation from the birth parents is apparently not of great concern to persons who have adopted older children. A. Kadushin, *Adopting Older Children* 202 (1970). Foreign countries and states which allow adult adoptees access to their original birth certificates have not found that this access leads to widespread efforts at reunion with birth parents, or to disrupted adoptive families. A. Sorosky, A. Baran, and R. Pannor, "The Effects of the Sealed Record in Adoption," 133 *Am. J. Psychiatry* 900, 902 (August 1976).

It should be noted that it was not until the second quarter of this century that most states passed laws requiring the sealing of adoption records. Vestiges of earlier attitudes toward adoption can be seen in the current laws of descent and distribution in some states, which still allow an adoptee to inherit from his birth parents. *See,* e.g., La. Const. art. IV § 16 (1955); Tex. Prob. Code Ann. § 40 (1974); Vt. Stat. Ann. tit. XV § 448 (1974).

Historically, a number of reasons were offered to justify denying adoptees access to their original birth records and the records of adoption which contain identifying information concerning the adoptee's origins: protection of the privacy of birth parents, who may not have wanted the fact of their parentage of the adoptee to be divulged; protection of the adoptee from the stigma of illegitimacy; protection of the adoptive parents from being deserted by the children they have reared, in favor of the newly-found birth parent. *See, e.g., People* v. *Doe,* 138 N.Y.S. 2d 307, 309 (Erie Cty. Ct. 1955). The attitudes underlying these arguments have been changing, however, and the reasons for sealed adoption records have been undergoing examination.

Adoptees have brought court challenges to sealed records statutes and their underlying rationale on a variety of constitutional grounds: denial of due process and of equal protection of the laws, infringement of the right to privacy, the right to acquire useful knowledge, and the right of access to information. These challenges, however, have generally been unsuccessful. *See, e.g., Alma Society* v. *Mellon,* 459 F. Supp. 912 (S.D.N.Y. 1978); *Yesterday's Children* v. *Kennedy,* 569 F. 2d 431 (7th Cir. 1978); *Mills* v. *Atlantic City Dept. of Vital Statistics,* 148 N.J. Super. 302, 372, A. 2d 646 (1977); *Matter of Linda,* 409 N.Y.S. 2d 638 (1978).

Whether or not a constitutional right to their birth records is eventually established for adoptees, the Model Act bases adoptee access to the birth certificate and the court records of adoption on a three-pronged rationale. First of all, as the Supreme Court has observed, it is a basic concept of our legal system "that legal burdens should bear some relationship to individual responsibility." *Frontiero* v. *Richardson,* 411 U.S. 677, 686 (1973). Of all the persons involved in the adoption process, the child being adopted has the least control over the decisions made and procedures agreed upon. Hence it is unjust that in the inevitable balancing of rights and interests which must occur in every record-access dispute, the adoptee is deprived of a right, while the rights of the more "responsible" parties are protected.

Moreover, the policy that adoption is a service to adoptees, and the preamble's guiding principle that when irreconcilable conflicts arise, the adoptee's rights should prevail, lead to the approach taken in this provision. Underlying the provision is a presumption that the adult adoptee is

most capable of defining what is in his own welfare, including whether or not inspection of his original birth certificate would serve his interests. Unless the Model Act accorded all parties' interests equal stature and required courts to balance those interests on a case-by-case basis, the adoptee's right to information regarding his origins must prevail over the birth parent's presumed interest in anonymity. *In re Adoption of Female Infant,* 107 Wash. L. Rep. 337 (D.C. Super. Ct., Jan. 31, 1979), 5 Fam. L. Rep. 2311 (BNA) (Feb. 20, 1979).

Finally, the interests of adoptive parents, birth parents, and the state in keeping records sealed from the adoptee are of less stature than the adoptee's interest in the personal growth and identity which can result from his encounter with the physical source of his being, a reunion which will be facilitated by the adoptee's inspection of his original birth certificate. There is ample evidence to show that the adoptive parent-child relationship will not be supplanted if the adoptee, raised for years by one set of "psychological parents" (*See* J. Goldstein, A. Freud, and A. Solnit, *Beyond the Best Interests of the Child,* 17–20 (1973)), establishes an acquaintance in adulthood with the birth parent. *See generally* A. Sorosky, A. Baran and R. Pannor, *The Adoption Triangle: The Effects of the Sealed Record on Adoptees, Birth Parents, and Adoptive Parents* (1978); J. Triseliotis, *In Search of Origins: The Experiences of Adopted People* 95–96 (1973).

It has been suggested that the birth parent's interest in privacy could be adequately protected by tort law. Although the adult adoptee has, under this Act, a right of access and control over that information, he has no right to use it to invade another person's privacy. Thus an adoptee's willful and unwelcome intrusion into a birth parent's life could constitute grounds for damages in torts.

The state's interest in protecting the adoptive family unit from intrusion by the birth parent and in protecting the integrity of the adoption process is a strong, even compelling, interest during the adoptee's minority. The need for family autonomy ceases, however, when the adoptee attains majority. Although the argument is made that the potential for future disclosure of identity discourages or will discourage parents from placing children for adoption when relinquishment would be in the child's interest, there is no significant evidence supporting this argument.

In summary, a number of considerations support the right of adult adoptees to view the original records of their birth: the increasing emphasis given to an individual's right to know and maintain his heritage, and principles of social work practice including that of self-determination—the right of a person to determine his destiny according to his potential for growth and change. Alternative approaches to the problem of access to adoption records, such as the creation of a registry in which consents to information or contact could be filed by birth parents and adoptees, or the requirement that good cause be shown before access is granted, are favored by many, but are less in keeping with the philosophy and purposes of the Model Act.

Subsection (e). In the past, many states have excluded the name of a father not married to his child's mother—even if he acknowledged paternity—from an original birth certificate. The Model Act provides a legal means whereby the unmarried father of a child may have his name entered on the original certificate after it has been sealed because his child was adopted. The rationale underlying the Model Act's inclusion of this provision is twofold: first, to permit such a father to make the original record of his child's birth complete and accurate; and second, to increase the possibility that the adult adoptee who chooses to view the original certificate will find information about his father on the certificate.

To ensure that the mother, if she is living, has an opportunity to be heard regarding the petition to enter the putative father's name on the certificate, the Model Act provides that she receive actual notice of the hearing. The mother does not, however, have an absolute right to prevent entry of the father's name; the court must adjudicate paternity on the evidence before it, whether or not the mother is living or appears to testify regarding the claim of paternity.

Section 503. Court Records

(a) Notwithstanding any other law concerning public hearings and records, all court files containing records of judicial proceedings conducted under this Act, and social and medical records submitted to the [ ] court in such proceedings, shall be kept in separate locked files withheld from public inspection. Upon application to the clerk of the court, such records shall be open to inspection by any party to the particular proceeding who is an adult at the time application is made for inspection, by the attorney of any such party, or by any agency which has exercised guardianship of the person or legal custody of a child who was a party to the particular proceeding.

(b) For purposes of this section, "party to the particular proceeding" means:

(1) in a hearing on a Notice of Parental Placement, the child who was placed for adoption, the parent who placed the child, the other birth parent of the child, provided that his rights had not been terminated at the time of such hearing, and the person or persons with whom the child was placed; if the names of the persons with whom the child was placed had been omitted from the Notice of Parental Placement pursuant to Section 206(b)(2), when access to court records is granted to a birth parent under this subsection, information identifying the persons with whom the child was placed shall be deleted;

(2) in a proceeding to terminate parental rights, the parent whose rights were terminated and the child with respect to whom parental rights were terminated;

(3) in an adoption proceeding, the adoptive parents and the adoptee. However, when access to adoption records is provided to the adoptive parents, identifying information on the parent whose rights were terminated shall be deleted.

* * * * *

Commentary to Section 503

This section prohibits public access to court records regarding parental placements, termination of parental rights, and adoptions, and restricts the inspection of such records to the adult parties involved. Subsection (b) explains precisely which persons are considered parties to a particular proceeding and thereby have access to the court records of that proceeding; it is important to note that under this Act birth parents are not parties to an adoption, unless the petitioner is the stepparent. *See generally* M.S.A.A. § 401 *et seq.*

The restrictions herein are based upon recognition of the importance of confidentiality in maintaining the integrity of the adoption process, and therefore the disclosure of information regarding the adoption is left to the discretion of the parties. Thus, for example, the parent whose rights are involuntarily terminated is spared, as is the child, any stigma of illegitimacy or irresponsibility which might result from public disclosure of the circumstances underlying the termination. The adoptive parents also become, for purposes of the public record, the only family the adoptee has had; it is within the discretion of the adoptive parents (and, in the case of older adoptees, the child himself) to share the facts of the

adoption with friends and acquaintances.

There are also instances, however, where persons other than the parties involved in the termination or adoption have strong reasons for gaining access to the closed court files. In such a case, a person seeking access may petition the court to grant access, and, upon a showing of good cause, the court may grant the petitioner access to the requested information. This route is available to a third party even though not explicit in the Act.

Whatever the reason asserted for inspection of records, a finding of good cause requires a balancing of the interests of all parties concerned. Above all, an order granting access to court records should be issued only if such disclosure promotes the welfare of the adoptee. *In Re Adoption of Female Infant,* 5 Fam. L. Rep. 2311 (BNA) (Feb. 20, 1979).

Section 504. Records of Agencies

(a) Any reports, correspondence, memoranda, case histories, or other materials compiled or received by agencies in making placements for adoption and while participating in adoption proceedings shall be confidential and not released or otherwise made available, except to persons or agencies specifically entitled by law to use or obtain them. "Arrangements for placements for adoption" shall include voluntary relinquishments and other terminations of parental rights, provision of services to parents whose rights were terminated or adoptive parents or a potential adoptee, and foster care placements immediately preceding adoptive placements.

(b) Access to agency records shall be granted by the agency upon application of a person who presents proof of his identity and legal entitlement to such access as set forth in this section.

(c) A person is entitled to access to agency records upon a showing that:

(1) the applicant is an adult, and

(2) the requested record or records:

(A) were compiled or received in preparation for a court proceeding to which the applicant was a party, or pursuant to a court order in such a proceeding;

(B) were compiled or received in a study or investigation of the applicant pursuant to Sections 205, 206(d)(1), 207, 303(g), 311(d), 312, 314(a), 318(c), 402(a), 407(b), 703(a), or 704(a) of this Act; or

(C) contain information concerning the applicant and refer to the applicant by name or specific description; but the applicant shall be entitled to access only to such specific information, and not to the entire record in which such information is contained, if the applicant is not otherwise entitled to such record.

(d) Records or information to which access would otherwise be granted under subsection (c) of this Section 504 shall not include:

(1) information which identifies the parent whose parental rights with respect to the adoptee were terminated, if the applicant is the adoptive parent; and

(2) information which identifies an adoptive parent or the name and address of an adoptee, if the applicant is the parent whose parental rights with respect to the adoptee were terminated.

(e) Access to the records of an agency shall be granted to public authorities as specified herein:

(1) The state adoption administration or other public agency purchasing services for children from a voluntary agency shall have access to the active files of children for whom services are purchased.

(2) The state licensing agency shall have access to all active files of any agency, as necessary for the discharge of licensing responsibilities pursuant to Section 602 of this Act.

(3) A public authority may have access to closed files of a voluntary agency only by order of a court, upon a finding of good cause therefor. Closed files may include those of children with respect to whom parental rights were terminated but who have not been adopted, and of children who have been adopted.

(f)(1) In any case where access to the entire record is not to be granted, it shall be the duty and responsibility of the agency to examine the record in question prior to its being made available, and to delete from the material made available anything to which the applicant is not entitled pursuant to this Section 504.

(2) In providing records of information to persons or agencies pursuant to this section, an agency may delete material which, if disclosed, would constitute a violation of the privacy of another person. It shall not be a violation of the privacy of a parent whose rights were terminated for a record to reveal the identity of such parent to his adult son or daughter.

(g) Any applicant denied access to agency records or information pursuant to this section shall be informed that he has a right to appeal the decision of the agency to the [ ] court. Upon a *prima facie* showing of legal entitlement, the agency shall have the burden of proving why the applicant is not entitled to the requested records or why information would violate the privacy of another person.

(h) All applications contemplated herein shall be valid and effective only if in writing, and if notarized or certified.

* * * * *

Commentary to Section 504

This section regulates the inspection of agency records in a manner corresponding to the provisions regarding court records in Section 503. This section allows inspection of agency records so that a second avenue of access to information is available to the parties concerned with the termination of parental rights and adoption proceedings.

The opening of agency records to adult adoptees raises questions regarding agency practice with respect to birth parents' desires for confidentiality. Agencies need not be concerned about any legal liability for breaches of confidentiality because the law requires the release of information regarding an adult adoptee's birth parents. Therefore, the parent cannot expect that the information would always remain strictly confidential. It would be advisable for agencies to inform parents of this potential for disclosure.

The Act recognizes the sensitive nature of the information which could be contained in the files and reports accumulated by an agency, however, and for that reason this section strives to protect the privacy of the parties to the maximum degree possible. Thus, material may be deleted from a file if its disclosure would violate the privacy of another, or if the person who seeks access is not entitled to certain material. In addition, any applicant for inspection of the files must present verifiable evidence of his identity and his legal entitlement to such access.

As in Section 503 of the Model Act, access to agency records may be granted to persons not entitled to inspection as a matter of right, by a court order entered for good cause shown.

Subsection (a). An agency should make all reasonable attempts to ensure that the applicant is indeed an individual entitled to access, prior to granting the applicant permission to inspect a record. The applicant is thus required to present proof of both his identity and his legal entitlement to access. Proof of identity may include a driver's license, passport, or birth certificate, whereas proof of legal entitlement might include a certified copy of a court order terminating parental rights, of an adoption decree, or

of a court order permitting inspection for good cause.

Subsection (b). Finally, there are situations which necessitate the inspection of the records of adoption agencies by various public authorities; this subsection permits such access in the circumstances specified.

The designation of files as "active" or "closed" is largely a matter of agency practice and will therefore vary among agencies. In most cases, a file is closed when a child is adopted; if postadoption services are provided the file may be re-activated or a new file opened. If a child is never placed for adoption, his file generally remains active until the agency's responsibility for him is discharged (e.g., at majority).

Subsection (c). The applications referred to in this subsection would include, *inter alia,* a declaration of the identity of the applicant and of his legal entitlement to inspect agency records and the basis therefor. The attestation to these statements before a notary further ensures that disclosure to a particular applicant is proper.

Section 505. Supplementation of Records; Transmission of Information

(a)(1) If an agency or court exercising a duty to retain records under Section 501 of this Act receives correspondence or other information or material pertaining to the persons or proceedings about which such records were compiled, the corresponsence, information, or material shall be included as a permanent part of the record being retained by such agency or court.

(2) A person granted access to records pursuant to Sections 503 or 504 of this Act who objects to or wishes to clarify information contained therein may submit a written statement of that objection or clarification to the court or agency having possession of such records; such statement shall be included, but shall not supercede any existing material in the record.

(b) If the information received by an agency or court under subsection (a) of this section discloses a medical or genetic condition which has or may have implications for the physical or mental health of a person, the agency or court shall make a diligent effort to contact such person and transmit the information received.

(c) When an agency is contacted by a birth parent seeking information about or contact with a person who, as a child:

(1) was relinquished to that agency;

(2) was placed for adoption by that agency;

(3) was the subject of a court proceeding for which said agency compiled a report; or

(4) was the responsibility of said agency;

the agency shall make a reasonable effort to search for said person and inform him or her of the parent's request, unless at the time of the request the person who is the subject of the requested information or contact is not yet an adult.

* * * * *

Commentary to Section 505

Subsection (a). This subsection permits the supplementation of agency or court records. The fact that written statements of objection or clarification are not to supplant existing material should not be construed to be bar the correction of erroneous information contained in the record.

Subsection (b). Courts and agencies have an affirmative duty to transmit medically significant information reveived under subsection (a). Thus, a birth parent who learned of a genetic disease in his family could indirectly convey that information to a child whom he had relinquished for adoption earlier in his life.

Providing an avenue for the transmission of such information is a crucial role for courts and agencies involved in the adoption process. Dr. V. A. McKusik lists 1,545 genetic diseases, 692 of which are established hereditary diseases and the remainder of which are probably hereditary. *See* H. Cominos, "Minimizing the Risks of Adoption through Knowledge," 16 *Social Work* 74 (1971). It is essential that a family history of such diseases be made known to adoptees and adoptive parents in order to facilitate prevention or diagnosis and cure if symptoms should surface in the adoptee.

Subsection (c). This Subsection provides limited assistance to a birth parent in search of his adult offspring. The agency is required only to make a reasonable effort to contact an adult adoptee for example, to inform him of his birth parents' search; the agency is not required to make efforts to reunite the parent and child, nor to reveal information regarding the adoptee's identity or whereabouts.

Section 506. Treatment of Records; Penalty

(a) Anyone granted access to records under this Title shall be entitled to examine such records and any information therein, but shall not willfully remove, alter, multilate, destroy, or otherwise tamper with the files, documents, or other materials contained therein.

(b) A person who knowingly obtains or discloses information or aids and abets another in obtaining or disclosing information or who willfully destroys or fails to record or preserve information in violation of the provisions of this Title, shall be punished by a fine of up to $10,000 or up to six months imprisonment, or both.

(c) Nothing in this subsection shall be construed to prevent an agency or court from providing copies of records or portions thereof to persons to whom access has been granted.

* * * * *

Commentary To Section 506

This provision prohibits, for example, the state Office of Vital Statistics from destroying the original birth certificate of an adoptee. In all cases, such destruction must be willful to be punishable; mere negligence in the handling of records is not actionable under this section.

This provision is not be construed to prevent the storage of information by recording on microfilm.

Section 507. Retroactivity

The rights of access to records established by this Title shall have retroactive effect, and shall not be limited by reason of prior law or assurances of confidentiality not required by this Act.

* * * * *

Commentary to Section 507

This section essentially opens records for all adult adoptees by compelling retroactive application of the rights of access established in Title V of the Model Act.

In the 1930's and 1940's, when statutes were first enacted requiring the sealing of original birth certificates and adoption records, the general view was that secrecy best protected all parties concerned. The "clean break" philosophy prevailed; the adoptive family was to be a complete subsitute and the birth parents were to be legally eradicated by the entry of a decree of adoption. Under this view, the sealing of adoption records was considered to be so critical to the process that the closed record statutes were generally given retroactive application.

A new philosophy of adoption is emerging today, however. Adoption is no longer seen as a shameful situation, carrying stigma of bastardy and infertility. Instead, adoption has come to be viewed as a true service: to parents who feel they must relinquish an infant, to couples who desire to raise a child

without contributing to the growth of the population, to older children with special needs who have been awaiting permanent placement.

Modern attitudes and realities of adoption no longer support the cloak of secrecy upon which sealed records laws were based. Particularly in the case of the adoption of an older child, sealed records afford little, if any, confidentiality for the parties involved, and the concept of sealing records is senseless in those cases where the child is fully aware of who he is and who his parents have been. Because the old rationale no longer holds true, adoptees should not be denied access to information about their biological identity because records were arbitrarily sealed in the past. The philosophy underlying the Title V of the Model Act extends to all adoptees, and thus the provisons allowing adult adoptees access must be applied retroactively.

Both legal and ethical questions must be addressed in justifying the retroactive application of the records access provisions of the Model Act.

Retroactive application is generally disfavored by the courts, but it alone is not sufficient to render a statute invalid. The presumption against retroactivity is simply a canon of statutory construction and, as such, should be applied only when the intent of the legislature is unclear. Where, as here, the statute indicates by express language the legislative intent to apply the provisions retroactively, the statute must be so applied unless constitutional violations would thereby occur.

Legal challenges to retroactivity, whether based upon federal or state constitutional considerations, are without merit in the context of adoption, when adoption is viewed as a service to adoptees. The two significant legal questions which arise are whether states, in applying records provisions retroactively, thereby violate either the prohibition against impairment of the obligation of contracts, or the due process provisions of federal and state constitutions. (Federal prohibitions against *ex post facto* laws and bills of attainder apply only to criminal penalties and are thus inapplicable in this context.)

No "contract" rights are impaired by the opening of records to adult adoptees, since neither birth parents nor adoptive parents could ever have had a legally enforceable contract with an agency to the effect that records would be kept sealed. Such a purported contract would be unenforceable in states providing for the opening of records upon a showing of good cause before a court. Furthermore, the agency, obligated by law to keep records sealed, would not have given valid consideration to such a contract. In any event, a contract between parents and an agency to keep records sealed from the adoptee would be against public policy to the extent that it would be contrary to the interests of the particular adoptee in question, since it is for the benefit of the adoptee that the institution of adoption was created and continues to exist. Even if the parties were acting in what they truthfully believed to be the adoptee's best interests, the state cannot sanction an agreement which, in light of subsequent experience, proves not be actually best for the adoptee.

Similarly, due process challenges to this section can be met upon a number of grounds. It is the philosophy of the Model Act that secrecy is not and has never been an essential or substantive aspect of adoption. Some parties to past adoptions may wish to have the laws regarding one procedural aspect of those adoptions—in the treatment of pertinent records—remain unchanged, but none can be said to have developed a vested interest, deserving of constitutional protection in the *status quo* with respect to their adoption records.

The interest most often asserted to deny the opening of records of past adoptions is the birth parent's right of privacy. The circumstances which underlie this assertion are often compelling and cannot be disregarded. However, the position taken by the Model Act is that there can be no legally protected interest in keeping one's identity secret from one's biological offspring; parent and child are considered co-owners of the information regarding the event of birth.

Other constitutional interests asserted are likewise unsupportable. The birth parent's interest in reputation, which could be significantly altered by the unexpected appearance of a child from the past, is not alone deserving of constitutional protection. *Cf. Paul* v. *Davis*, 424 U.S. 693 (1976). The adoptive family's arguable liberty interest in maintaining the integrity of the family unit is without merit once the adoptee reaches adulthood. Even the state's interest in not undermining the institution of adoption—offered as a justification for closed records in the past—is no longer applicable, since future parties to the adoption process will all be subject to the greater openness of the Model Act.

Even if a "vested" right asserted by birth or adoptive parents is regarded as valid, this section may be justified by a weighing of that interest against the interests of the adoptee; this retroactive statute should be regarded as curative to the extent that it restores to adoptees a right of which they were deprived when sealed records laws were enacted. Under most state laws, adoptees were to be allowed access to their records upon a showing of good cause (or a similar standard). This statute redefines that standard.

In addition to the legal issues, a number of ethical questions may confront agencies as they open records of persons earlier guaranteed anonymity. Clearly, agencies are relieved of their duty to maintain total confidentiality; indeed, the Model Act imposes an affirmative duty to disclose. The dilemma raised by the contradiction between the requirements of law and assurances made to clients in the past, however, is somewhat relieved by the fact that the rights of access afforded by Title V are strictly limited. Agency files will not be thrown open to inspection of the public at large, but rather will be disclosed only to those who establish their legal entitlement, namely, the parties to the adoption. In addition, Section 506(b) of the Model Act, as well as individual conscience, should ensure that disclosure will not extend beyond those persons in whom this Act has created a "right to know."

TITLE VI. AGENCY ADOPTION SERVICES

Section 601. Duties of the State Adoption Administration

It is the duty of the state to ensure that all children in the state who need adoption services receive them in an appropriate and timely fashion and to ensure through licensing that those who deliver these services meet accepted standards of practice. In discharging this responsibility, the state adoption administration shall, at a minimum, do the following:

(a) [Administer] [Supervise] all public adoption services within the state.

(b) Provide a mechanism for linking adoption services with public and voluntary foster care services, to ensure that adoption is evaluated as one option for every child in foster care. To carry out this responsibility, and to ensure the availability of adoption or foster care services for each child according to the child's need, the state adoption administration shall establish or implement, or both, a system of both long- and short-range individual case planning and at least semi-annual case reviews. Such a system shall include internal administrative reviews and reviews by a body external to the agency providing the service, and shall apply to all children who are the

responsibility of the state, whether they are being cared for by a public or a voluntary agency.

(c) Develop a system to identify and designate the individual children and the types of children in the state who are most in need of adoption services. This system shall be used to plan for the needs of the individual children so identified, and to plan for the state-wide provision and allocation of adoption services.

(d) To meet the needs of the types of children designated under subsection (c) as most in need of adoption services:

(1) provide specialized programs, staffed by persons whose skills are specifically suited to meeting the needs of such children; and

(2) regularly recruit or ensure the recruitment of adoptive parents to meet the needs of such children.

(e) Provide or ensure the provision of a family assessment to any adult who applies to adopt a waiting child or a type of child designated under subsection (c) as most in need of adoption services.

(f) Provide or cause to be provided adoption services:

(1) for all children who are the responsibility of the state for whom adoption is the plan;

(2) for the birth parents, prospective adoptive parents, and adoptive parents of such children; and

(3) for adoptees who were the responsibility of the state immediately prior to their placement for adoption. Such services shall include preplacement, placement, postplacement, and postadoption services.

(g) Publish and disseminate information to the public regarding adoption programs and services within the state. Such information shall include, at a minimum:

(1) the numbers and characteristics of the children available for adoption, including the types of children most in need of adoption services;

(2) the requirements for persons who seek to adopt a child; and

(3) the steps in the adoption process, and the services and financial assistance available to families who adopt a child.

(h) Conduct a program of public education on current issues in adoption.

(i) Establish and maintain, or cause to be established and maintained, a statewide adoption resource exchange or listing service.

(j) Provide or ensure the provision of appropriate training for persons performing services required by this Act.

(k) In accordance with the system developed pursuant to subsections (b) and (c) of this Section 601, keep statistics relating to adoption which will be designed to present, as nearly as may be, a true and accurate account of adoption services provided to all children within this state and to children outside this state whose legal custodian or guardian is a resident of this state. The court and each agency shall provide such statistical information to the state adoption administration as may be required by it in order to facilitate the development and keeping of such statistics.

(l) Develop such forms as may be necessary to implement the provisions of this Act, and designate which of those forms shall be used uniformly by all agencies in this state.

(m) Establish standards for the compiling and maintenance of agency records.

(n) Establish and maintain a register of all petitions for adoption filed in the [ ] court of this state. Access to information in the register shall be granted in accordance with Sections 503 and 504 of this Act.

* * * * *

Commentary to Section 601

The opening sentence of the section is a statement of policy, emphasizing the affirmative duty of the state to provide permanent homes through adoption for the state's children. A major feature of Title VI is the use of licensing as a sanction to ensure the delivery of quality adoption services by the state as well as by private agencies.

The administrative scheme envisioned in Title VI consists of four main elements: an umbrella public adoption authority (the "state adoption administration") with state-wide administrative or supervisory authority over individual public adoption agencies; the individual public adoption agencies, which are usually county-based; individual voluntary agencies throughout the state; and a state licensing agency, responsible for monitoring the performance of all public or voluntary adoption agencies in the state, and which may or may not be a unit within the umbrella state agency. For a more complete discussion of the role and administrative position of the adoption licensing authority, *see* M.S.A.A. § 602 (commentary).

Subsection (a). The state adoption administration created or designated by the legislature may be an already existing unit within the department of public welfare. The individual public agencies which provide adoption services will usually provide foster care services as well, so the umbrella state adoption administration will be intimately involved with the operation of public foster care programs. The precise administrative role of this umbrella authority will be determined by whether the state's social service system is state-administered or county-administered and state-supervised.

Subsection (b). The linking of adoption resources with the foster-care system is a vital first step in serving the large numbers of children who are spending their childhood in "temporary" foster care. A recent nation-wide study of children in such temporary care showed that fifty-two percent had already spent more than two years in foster care. Children's Defense Fund, *Children Without Homes* 187 (1978). *See also* H. Maas, "Children in Long-Term Foster Care," 48 *Child Welfare* 321 (1969).

One problem in serving these children has been the inability of states to identify them, presumably due to poor record-keeping and review mechanisms. *See* Children's Defense Fund, *supra,* at 186. Some states have already met this problem by instituting mandatory administrative foster-care case reviews similar to this subsection. *See* Conn. Gen. Stat. Ann. §§ 16–1610, 1611, 1623 (1979); Miss. Code Ann. § 43–15–13 (1978 Suppl). However, internal administrative review, while essential, is not sufficient, and approximately twenty states have statutory provisions for the periodic review of the status of children in care by a body external to the agency, most frequently a court or court-appointed body. Such review, apart from the provision of services, is essential to ensuring permanency for children who otherwise too frequently drift indefinitely in foster care systems. For suggested characteristics of a strong foster-care review system, see Children's Defense Fund, supra, at 80–83.

Because of the close organizational link between public adoption and public foster-care agencies, the duty of the state adoption administration under this subsection should be fairly simple within the public sector. The more complicated task will be linking voluntary foster care services with public adoption services, and public foster care with voluntary adoption resources.

Subsections (c) and (d). A primary value of a statewide adoption authority is its ability to equitably distribute state adoption funds and resources to serve the children who need them most. Through use of the statistical data compiled pursuant to subsections (c) and (k), the statewide agency can identify broad segments of the foster-

care population which need special recruitment or other programs. The importance of active recruitment of appropriate families is illustrated by the great disparity that often exists between the types of children needing adoption and the types of children that unrecruited applicants are willing to adopt. One New York study revealed that ninety-four percent of the children registered on the adoption exchange were over five years of age, and ninety-four percent of adoptive applicants would accept only a child under four. H. Grossman, D. Epstein and A. Nelson, *An Evaluation of the New York State Adoption Exchange* (1976). For reports on the success of special recruitment programs in increasing adoption opportunities for specific groups of children, see J. Neilson, "Tayari: Black Homes for Black Children," 55 *Child Welfare* 41 (1976); U.S. Dept. of Health, Education, and Welfare, *Families for Black Children, The Search for Adoptive Parents* (1975) (describes several different programs); Michigan Dept. of Soc. Services, *Adoption Project '72: Final Report* (1973).

Subsection (e). Closely related to the state's duty to oversee active recruitment of adoptive parents suitable to the population of waiting children is the duty to provide family assessments to applicants who respond to these special recruitment efforts. The problem of allocation of agency resources between providing family assessments and performing other adoption services is a long-standing one. *See* M.S.A.A. § 205 (commentary). However, the value of providing these assessments to all persons who express an interest in adopting a "hard to place" child cannot be overemphasized. "The agency achieves its supreme importance in making available a responsible, formally organized channel for bringing together the adoptive home and the child needing such a home . . . [P]roviding this change is environment for the child [is] social work's greatest contribution." A. Kadushin, *Adopting Older Children* 228 (1970).

Subsection (f). In addition to providing state-wide planning and coordinating of adoption efforts for the entire foster-care population, the state agency is responsible for [administering or supervising] the direct provision of the entire range of adoption services to all adults and children involved in the adoption process.

Subsections (g) and (h). Public information and education is an essential part of the recruitment process. Awareness of the types of children needing homes, and of the state assistance which may be provided to adoptive children and families (for example, adoption subsidy), is often a first step in a potential adoptive parent's application. Public education also fosters greater understanding of issues and attitudes which affect the lives of adoptees and their families.

Subsection (i). As of July 1978, thirty-six states had established or authorized the creation of a state adoption exchange. For a list of these exchanges, see Children's Defense Fund, *supra*, at 211–215. This service assures that all potential adoptive homes in the state may be considered in the search for a family for any particular child. It should be emphasized that this resource is of optimal value only when it is actively used as a recruitment tool and not merely passively referenced in the course of searching for a type of adoptive home. *See* generally H. Grossman, D. Epstein and A. Nelson, *supra;* Welfare Research Inc., *Regional Adoption Program* (1977). The state adoption exchange should be linked with all state adoption agencies and with any available regional or national exchanges.

Subsection (j). While the state adoption administration can be expected to offer special expertise and training resources, the training programs pursuant to this subsection should be jointly planned by the state agency and the local agency involved, as the latter can draw upon the unique perspective and particular problems of its own workers. As those most directly involved in adoption services, adoptees, adoptive parents, and birth parents should not be overlooked as training resources in the preparation of these programs. Trainees should include not only adoption personnel, but also foster care workers, independent providers of pyschological assessments under Title III of this Act, lawyers, judges, court officials, and other citizens having an interest in or connected with adoption.

Subsection (k). The maintenance of statistical data by the state agency is necessary to facilitate planning of adoption programs, to account for the intertstate movement of children, and to monitor the provision of services of public and voluntary agencies.

The statistics kept pursuant to this subsection should include, but need not be limited to: (1) the number and characteristics (such as age, sex, race, ethnicity, handicap, length of time in care) of children in foster care for whom adoption is the appropriate plan, and a division of the numbers of children in foster care according to those whose parent's rights have and have not been terminated, and the number and characteristics of those who have no living legal parent but who have not been placed in adoption, as well as those placed for adoption by agencies and parents within the state; (2) the number and characteristics of children placed into subsidized adoptions; (3) the number and characteristics of birth parents to whom adoption services have been provided, with such data to be collected in three categories: those whose parental rights were terminated through relinquishment, through voluntary court action, and through involuntary court action; (4) the numbers of inquiries from potential adoptive applicants, applications to agencies for family assessment and adoption, applicants who have received family assessments and have been approved as adoptive families, and approved applicants who have had children placed in their home for adoption; and (5) the numbers of adoptions by stepparents and relatives.

Subsection (l). Development of standard forms for use by all agencies in the state is one method to ensure that provisions of the law are closely followed in such important actions as relinquishment and revocation of relinquishment. Thus, this provision requires the state adoption administration to develop forms necessary to implement the Model Act and to designate which forms must be used by all agencies. In addition to standard relinquishment and revocation forms, the state agency may want to consider standard forms for such things as waivers, disclaimers of paternity, and registry of a child or family with an adoption exhange.

Subsection (m). The importance of good recordkeeping in adoption practice is increasingly recognized. Information in individual case records serves as a base for the compiling of agency and state data concerning placement and adoption. Agency records of parental relinquishments are vital in documenting due process safeguards. Furthermore, agency records often are the primary source of personal information for an adoptee concerning his medical and social history prior to his birth and before his adoption.

Subsection (n). In many cases an adoptee does not know which agency to consult for information regarding his history, and may be unaware of the court in which his adoption occurred. To assist adult adoptees and others entitled to inspect court and agency records, the state adoption administration must maintain a register of all adoption petitions filed in the state. This register should be organized alphabetically by

the surname of the adoptive parents, and cross-indexed by the surname of the birth parents. This register will enable adoptees and others to identify the court and agency through which they can obtain further information.

Subsection (o). The certification of children as eligible for a subsidy is a duty of the state agency under Section 703 of this Act.

Section 602. Licensing of Adoption Agencies

(a) The [state licensing agency] shall have the exclusive authority to license agencies in this state to perform adoption services.

(b) No agency may arrange for adoptions, perform any functions or acts in connection therewith, or place children preliminary to or in comtemplation of adoption unless it holds a current and effective license issued pursuant to this Title.

(c) A license to provide adoption services shall be issued to any applicant which:

(1) Is either: (A) a voluntary, not-for-profit agency which can be held accountable for its acts and omissions by the administrative agencies and courts of this state, or

(B) [a] [the] public adoption agency;

(2) gives satisfactory evidence of financial responsibility;

(3) has sufficient personnel properly qualified to provide adoption services and to provide for the needs of children who may reasonably be expected to be in its charge as an incident to placement for adoption or to the making of such alternative arrangements as may become necessary in connection with attempts to arrange and consummate adoptions;

(4) has suitable and adequate facilities and administrative capabilities for the conduct of its programs; and

(5) complies with the standards contained in regulations in force pursuant to subsection (f) hereof.

(d) Application for an adoption agency license or renewal shall be made on forms approved by the [state licensing agency]. A completed application shall be acted upon within ninety days of its submission. The granting or denial of an application for a license pursuant to this section shall constitute final action of the [state licensing agency] subject to review in accordance with the [State Administrative Procedure Act]. Failure of the [state licensing agency] to grant or deny an application within ninety days of its submission shall constitute a denial of the application for purposes of such review.

(e) An adoption agency license shall be issued for a term of three years and shall be renewable for like terms by the holder, provided that the holder continues to meet all requirements for licensure. An adoption agency which is to be newly established and is applying for an initial license shall receive a provisional license which shall entitle the holder to all rights and privileges conferred by an adoption agency license, but which shall have a term of one year. An applicant for a provisional license shall be required to satisfy the [state licensing agency] that it is prepared to meet all requirements for licensure upon the issuance of a license.

(f) The [state licensing agency] shall have the power to issue regulations containing specific requirements, consistent with an in furtherance of the purposes of this Act for the facilities, programs, and operation of adoption agencies and otherwise for the implementation of this Title. Such regulations shall apply uniformly throughout the state.

(g) Regulations established pursuant to subsection (f) hereof shall include, but not be limited to, requirements that each adoption agency:

(1) structure its programs to maximize coordination of its own services with those of foster care agencies and other providers of services to children;

(2) for any child to whom such agency provides foster care services, study the alternatives to adoption before a permanent plan is made for such child;

(3) have an established program of recruitment of potential adoptive parents or a program to purchase such recruitment services;

(4) provide intake procedures and a family assessment for any adult interested in adopting a waiting child under the care of the agency;

(5) maintain a fair hearing and appeals procedure for persons aggrieved by agency action;

(6) provide or cause to be provided preplacement, placement, postplacement, and postadoption services;

(7) periodically conduct reviews of its services;

(8) provide opportunity to its staff members to receive training suited to staff and agency functions, and to participate in the planning and execution of the agency's staff training programs;

(9) hire qualified personnel to provide its services;

(10) participate in the state adoption exchange;

(11) assure the provision of health care to the children under its care;

(12) maintain case records which meet the minimum standards established by the state agency;

(13) maintain a case review and reporting system as required by Section 601 of the Act; and

(14) compile and report statistics to the state adoption administration as required by Section 601 of this Act.

(h)(1) The [state licensing agency] shall monitor the performance and satisfy itself concerning the adequacy of the resources of licensed agencies on a continuing basis. Whenever the [state licensing agency] finds that any agency is not proving the services required by this Act or is otherwise in violation of this Act or other applicable laws, its shall notify the agency of the lack of compliance and provide the agency with a reasonable opportunity to achieve compliance. If the agency fails to correct the deficiency, the [state licensing agency] may suspend or revoke the agency license. Revocation shall be only after a hearing pursuant to rules of the [state licensing agency] and shall be subject to review in accordance with the [State Administration Procedures Act]

(2) An agency license may be suspended after notification of lack of compliance and prior to hearing, if the public interest so requires, but only for good cause and for a period not to exceed sixty days.

(3) Whenever an agency license is suspended, the [state licensing agency] may issue a temporary license to the licensee for a period not to exceed ninety days, so that agency operations may continue pending final action by the [state licensing agency]. Such temporary license may be extended once for forty-five days, after which the originial license shall be either reinstated or revoked.

(i) All reports of investigation conducted and actions taken by the [state licensing agency] pursuant to this section shall be open to the public and available for inspection during regular business hours.

(j) Any person, association, or corporation which provide adoption services without a valid license issued pursuant to this Act is subject to a civil penalty of not less than $50 nor more than $1,000 for each day of violation. Civil penalities shall be cumulative and in addition to criminal penalties and other remedies provided by law.

(k) Any person, association, or corporation which provides adoption services without a valid license issued pursuant to this Act is guilty of a criminal offense and shall be fined not less than $100 nor more than $1,000.

* * * * *

Commentary to Section 602

Section 602 provides for state licensing of agency which perform adoption services. This provision is an essential element in a scheme to provide adoption services of high quality on a statewide basis. The positive and negative sanctions inherent in the licensing process, although not the only tools for maintaining or upgrading agency performance, are among the most effective. Licensing serves not only to eliminate poor service providers; licensees are encouraged, by the very existence of licensing standards, to keep their performance from falling to unacceptable levels.

It is this theory which underlies the inclusion of all adoption agencies, public as well as voluntary, within the population to be licensed. The state licensing agency designated by the legislature will very likely be a division of the public welfare department already having some responsibility for licensing child care facilities. *See* N. Class, *Licensing of Child Care Facilities by State Welfare Departments* 60 (1968) (U.S. Dept. of H.E.W. Pub. No. 462-1968). This means that one state agency will be licensing—or attepting to revoke the license of—another closely-related public agency. Aside from the questions of divided authority which arise, it is questionable whether under the laws of most states a public agency which failed to meet licensing standards could be closed down in the event its license were revoked; such an agency is generally created and terminated only by legislative mandate. However, the negative sanctions of adverse publicity and public opinion are substantial, and may be more effective than the threat of closing the agency doors in enforcing compliance of public agencies.

Authorization by a legislature to license the public agencies could be likened to the legislature's creation of an ombudsman to press the interests of the public before agencies which presumably serve the same interests. Hence, organizational independence of the licensing agency from the public agencies it licenses is obviously crucial.

Subsection (a). The agency delegated in this provision may be a newly-created unit of state government or a new section of an established division or department already charged with licensing responsibilities. Only where the established licensing authority has expertise in the field of children's services, however, would it be appropriate to place the adoption services licensing agency within an already existing licensing department.

The need for independence of the licensing unit from the statewide adoption agency and the public agencies it administers must be reiterated. The licensing power is not to be delegated to local or county officials; statewide administration of licensing standards is the only means of assuring uniformity and fairness in their application. Moreover, decentralization of the licensing task could be expected to greatly increase overhead costs.

Subsection (b). Agencies which must be licensed under the Act are those performing adoption services. It should be noted that most agencies which provide adoption services—services which could be characterized in general as child-placing services—may also be child-caring facilities in that they maintain foster care facilities for children who have not yet been placed or freed for adoption. Section 602 is not intended to cover the child-caring aspects of these agencies' services. The legislature may decide to have one licensing authority for licensing both foster care and adoption agencies, and to issue a single license authorizing both foster care and adoption activities. *See* N. Class, *supra*, at 11.

Subsection(c). The subsection lists basic organizational and administrative criteria which must be met by licensed agencies.

Subsection (d). The process of obtaining a license or renewal must be initiated by the prospective licensee. The ninety-day period for agency licensing action is deemed adequate time for evaluation of the applicant. For purposes of review of the administrative action, failure of the licensing authority to act upon an application within ninety days constitutes denial of the license.

Subsection (e). The standards for renewal of a license are identical to those for initial licensure. The three-year term for a regular license allows for adequate administrative oversight, but avoids undue expenditure of licensee resources in the licensing process rather than in service functions.

Subsection (f). The specific requirements for licensing an agency could not possibly be set out with the necessary detail in a statute, nor should they be, since each change in a requirement would entail action by the legislature. Authority is, therefore, granted to the licensing agency to develop and promulgate the regulations necessary to implement the law.

Subsection (g). Several subjects are to be addressed in detail by the regulations issued pursuant to subsection (f). Many of these regulatory requirements for individual agencies parallel the duties of the state to its foster care/adoptee population. *See* M.S.A.A. § 601. The licensing agency is not limited by these provisions, and should address whatever additional criteria for licensing are necessary. Of the standards listed, perhaps the most important to the provision of quality adoption services is the quality of personnel in the individual agencies. It would be convenient for the licensing authority to rely upon traditional educational and training credentials in evaluating the qualifications of agency personnel. However, while such credentials are important, they should not be relied upon to the exclusion of other valuable considerations, such as personal experience in adoption services.

Subsection (h). It is not intended that the licensing agency serve in a consultant capacity to the agencies it oversees. The fullest possible information should be provided to an agency found to be in noncompliance with licensing standards in order to provide the agency a reasonable chance to correct the fault. However, the licensing authority personnel and resources should not be burdened with providing supervision or official assistance.

Subsection (i). It is increasingly recognized that the public has a right to know the results of an investigation by a public licensing authority and the basis for the decision regarding the issuance of a license. L. Costin, *Child Welfare Policies and Practice* 136 (1979). To the extent that entries in an investigative file would constitute invasion of a client's privacy were the file made available for public inspection, deletion of such entries is necessary.

Subsection (j) and (k). The Model Act contains two kinds of penalty provisions. One is suspension or revocation of license, *see* M.S.A.A. § 602(h); the other is the imposition of fines for violations. Since public and private providers of adoption services are equally subject to the statute, these penalties are meant to apply in a similar manner to both. Nevertheless, the deterrent or punitive effects of the penalties must be separately considered so far as their impacts on public and voluntary providers are concerned.

For the voluntary agency, suspension or revocation of a license is a significant penalty. The Act would make provision of adoption services unlawful, unless done pursuant to a license. Thus, removal of the license would take away the provider's right to engage in placement, supervisory, or related child care activities.

The public agency would theoretically be affected in the same way. However,

whether in actuality the effect would be similar is a different question to answer. The state and local public child welfare agencies are the resources of last resort which must provide services and protection for children who are not served by other means. To declare that they cannot function if they fail to continue to meet conditions of licensure does not solve the problem of how the children whom they must serve are to be furnished with needed services. Moreover, it must be remembered that persons (including children) are legally entitled to welfare services in the jurisdiction where they are found. This entitlement is not a right against voluntary providers, but it is a right against the state or its local subdivisions, or both.

Judgments of criminal violations and imposition of fines, such as set forth in subsections (j) and (k), are customary penalties to be imposed against persons who violate laws. The principal question to be asked about such criminal penalties is whether they are commensurate with the particular offenses involved and whether the administrative and judicial mechanisms for enforcement are adequate. In the case of a public agency, conviction for crime is not a meaningful penalty. Collection of a fine from the funds available to a public agency, even if made statutorily possible, would merely diminish the resources available to provide services to children and probably would have no deterrent or punitive effect on the administrators or upon the legislature. On the other hand, suits against administrative officials in their private capacities are sometimes possible. They could be effective in the current context if the violations involved were due to the negligent or willful conduct of the administrative personnel of the public child welfare agency, but if wholly or in significant part attributable to a failure of the state or local government to provide adequate resources, imposition of criminal penalties against individual officials or employees might not be feasible.

Despite the difficulty in applying the customary penalties to public agencies and their personnel, it would be advantageous to establish firmly that public agencies must observe the same requirements and are under the same obligations as are voluntary agencies and their personnel. One way of doing this is to make the same penalties applicable to both. Characterizing violation of public agencies similarly with those of voluntary providers will exert favorable pressure on them.

Section 603. Licensing of Family Assessment Practitioners for Intercountry Adoptions

(a) No person shall perform a family assessment of a prospective adoptive family pursuant to Section 205(a) of this Act unless he is employed by or under contract to an agency or he is the holder of a license in full force and effect pursuant to this section.

(b) The holder of a license pursuant to this section may perform a family assessment only for a family seeking to adopt:

(1) A child in another country pursuant to the United States Immigration and Nationality Act, Title 8, Section 1101(b)(1)(F);

(2) A child brought into the United States for the purpose of adoption pursuant to 8 USC § 1101(b)(1)(F).

(c) The [state licensing agency] shall issue a license to perform family assessments for intercountry adoptions to an individual who:

(1) Has received a master's degree from an accredited school of social work; and

(2) Has at least three years experience in providing adoption or adoption-related services following receipt of the master's degree.

(d) An application for a license under this section shall be made on forms approved by the [state licensing agency], and the license shall be issued or denied within sixty days of the making of a completed application therefor. Failure to issue a license or denial thereof within sixty days of receipt of the completed application shall constitute final action sufficient for review pursuant to the [State Administrative Procedure Act].

(e) A license pursuant to this section shall be issued for a term of three years, renewable for a like term if the holder continues to meet licensure requirements.

* * * * *

Commentary to Section 603

For purposes of intercountry adoptions only, licensed independent social work practitioners are permitted to conduct family assessments. In many areas agencies are not willing or lack the staff capacity to perform assessments for intercountry adoptions. This provision will, therefore, enable more families wishing to adopt foreign-born children to receive the assessment required by this Act and by the U.S. Immigration and Nationality Act. *See* M.S.A.A. §§ 204–205; 8 U.S.C. § 1101(b)(1)(F) (1976).

The individual practitioners are to be licensed and monitored by the [state licensing agency]. Such regulation should ensure the provision of competent services by workers not subject to agency supervision.

Fees paid for the services of a family assessment practitioner are subject to the limitations contained in Section 107.

Section 604. Agency Appeals

(a) Any person who:

(1) Is entitled to a family assessment under Section (204)(a), and

(A) Has been refused a family assessment to which he is entitled, or

(B) Has not had a family assessment begun within sixty days or completed within six months after his first contact with the agency; or

(2) Has been notified by an agency that his application to adopt a child has been denied; or

(3) Has been notified that he has been approved for the adoption of a child but has had no child placed with him within a reasonable time according to the kinds of children awaiting adoption; or

(4) Has applied for, but been refused, subsidy for the adoption of his foster child; or

(5) Has received notice that a child is to be removed from an adoptive placement in his home; or

(6) Is otherwise aggrieved by agency action; shall have the right of appeal to a reviewing body within the agency in accordance with the [State Administrative Procedure Act,] and a subsequent right to judicial review of the agency decision by the [ ] court.

(b) An appeal pursuant to this section shall be filed within sixty days of the action which constitutes the basis for the appeal.

(c) An agency shall approve or deny an appeal within sixty days of the date the appeal is filed. Failure of the agency to approve or deny an appeal within sixty days shall constitute a final agency action for purposes of judicial review by the [ ] court.

(d) Notwithstanding any other provisions of this Section 604, a person who relinquishes a child to an agency has an exclusive administrative remedy of revocation of said relinquishment pursuant to Section 304 of this Act. After the expiration of the revocation period, any challenge to the relinquishment shall be raised directly before the [ ] court.

* * * * *

Commentary to Section 604

This section provides an administrative appeal process for aggrieved parties and specifies time limitations for bringing such appeals. The purpose of the provision are to achieve certainty for the legal status of

the children involved, to facilitate their adoptive placement, and to protect agencies from untimely challenges to their relinquishment and placement procedures.

Subsection (a). Subsection (a) enumerates a variety of grounds upon which parties adversely affected by agency action may bring an appeal within the adoption agency, and confers a right to judicial review of the agency decision on that appeal.

Subsections (b) and (c). Such administrative appeal must be filed with the agency within the sixty day limitation period. The agency is then required to act upon the appeal within sixty days after it is filed. Failure of the agency to render an opinion within that time period will be considered to be a final adverse decision, at which time the petitioner may seek judicial review of the agency action. Such review will be conducted in accordance with the state's Administrative Procedure Act or other applicable law.

Subsection (d). Because parents who have relinquished children to an agency have the opportunity to revoke that relinquishment within the fourteen-day time period afforded by Section 304, they do not have the further avenue for agency action created by this appeal provision. After the expiration of the revocation period, any challenges to the relinquishment must be made in court.

Section 605. State Advisory Committee on Adoption

(a) The [Commissioner] of the state adoption administration shall appoint an Advisory Committee on Adoption to be composed of no fewer than eleven and no more than seventeen members who shall, as a group, have sufficient knowledge, experience, and expertise to fairly represent the interests of the general public, the specific problems and interests of those who use or benefit from adoption services, and the concerns of professional planners and providers of such services. The members of the Committee shall serve for overlapping four-year terms, one-half of the membership to be appointed every two years. Any member may be reappointed to a successive term or terms.

(b) The [Commissioner] shall appoint one of the members of the Committee to be Chairman thereof and shall provide the Committee with such staff as may be necessary to assist in the conduct of its business.

(c) The [state licensing agency] shall consult with the Committee on policies and problems in adoption and adoption services. No regulation made pursuant to Sections 602 or 603 of this Act shall become effective and no amendment or revision thereof shall take effect until it has been presented to the Committee with opportunity for the Committee to give its advice thereon.

* * * * *

Commentary to Section 605

The advisory committee is a common device to assure citizen participation in the formulation of standards for public agency performance. Because of its purpose, it is extremely important that the advisory committee be truly representative of all persons who have an interest in adoption issues and policy. One authority has suggested that representatives should include those who use the services in question, those who operate the facilities, cooperating official bodies, representatives of knowledgeable disciplines, and concerned citizens. *See* N. Class, *Licensing of Child Care Facilities by State Welfare Departments* 15 (U.S. Dept. of H.E.W. Pub. No. 462–1968). The adoption services advisory committee should specifically include representatives of adoptive parents, birth parents, adoptees, the social work and child welfare professions, members of the legal and medical professions expert in children's rights, adoption agencies, and the general public. For a discussion of the theoretical basis for such advisory committee participation in formulation of licensing standards, see H. Jambor, "Theory and Practice in Agency Participation in the Formulation of Child Care Licensing Standards," 43 *Child Welfare* 521 (1964).

TITLE VII. SUBSIDIZED ADOPTION

Section 701. Purpose

The purpose of this Title is to make possible, through public financial subsidy, the adoption of every child who might not be adopted without a financial subsidy.

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Commentary to Section 701

The substance of Title VII of the Model State Adoption Act is taken from the Model State Subsidized Adoption Act promulgated by the Department of Health, Education, and Welfare in 1975.

The concept of adoption subsidy is not new, although until the 1970's the idea was slow to gain acceptance in the face of the traditional idea that an adoptive family should assume full responsibility for the needs of the adoptee. Since the first adoption subsidy act was passed by the New York State Legislature in 1968, more than forty states have enacted subsidy legislation. The purpose of these laws is to provide financial assistance to assure the adoption of children whose handicap, age, minority background, or sibling group membership might otherwise prevent their placement and adoption.

It has been shown that the subsidy concept can facilitate the adoption of a group of children greatly in need of a stable family environment, and at the same time save communities a sizable portion of the expenditures which would be necessary to keep the same children in foster and institutional care. *See* Child Care Association of Illinois, *Subsidized Adoption: A Study of Use and Need in Four Agencies* (1969).

As stated in the comments accompanying the Model State Subsidized Adoption Act published by HEW, an adoption subsidy program is meant to be a part of the usual, ongoing child welfare services of a state. It is not intended to discourage vigorous recruitment of the most desirable adoptive families for children waiting in the foster care system to be adopted. However, when no adoptive family can be found for a child, it is appropriate to consider providing that child with an adoption subsidy.

For a more comprehensive discussion of the Model State Subsidized Adoption Act and for model regulations to accompany the Act, *see* U.S. Dept. of Health, Education, and Welfare, *Subsidized Adoption in America* (1976).

Section 702. Administration

The state adoption administration shall establish an ongoing program of subsidized adoption.

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Commentary to Section 702

Adoption subsidy may be viewed as a new program, and funded as such, or as an extension of the state's foster care program. If a separate appropriation for adoption subsidy is not possible or desirable, and if no money from voluntary or other public sources is available, subsidies and services under this Title may be funded from foster care appropriations.

Section 703. Eligibility for Subsidy

(a) Any child is potentially eligible for subsidy who is the responsibility of an agency, legally free for adoption, and in special circumstances because:

(1) The child is not likely to be adopted by reason of one or more conditions, such as:

(A) Physical or mental disability,

(B) Emotional disturbance,

(C) Recognized high risk of physical or mental disease,

(D) Age,

(E) Sibling relationship, or

(F) Racial or ethnic factors; or

(2) The child has been in foster care with persons with whom the child has developed significant ties and who seek to adopt him, but the adoption is contingent on the child's receipt of a subsidy.

(b) A child who is potentially eligible for an adoption subsidy pursuant to subsection (a) hereof must be certified as eligible by the state adoption administration.

(1) In the case of a child who meets one or more of the requirements of subsection (a)(1) of this section, the child shall be certified as unconditionally eligible after reasonable efforts have been made and no appropriate adoptive family without the use of subsidy has been found for the child.

(2) A child who meets the requirements of subsection (a)(2) of this section shall be certified as eligible for a subsidy conditioned upon his adoption by the foster parents and subject to applicable adoption procedures established by the state.

(c) Any person who has physical custody of a child shall be notified in writing when the child is certified as eligible for subsidy.

* * * * *

Commentary to Section 703

To be potentially eligible for subsidy pursuant to this section, the child must be the responsibility of a licensed public or voluntary agency and be legally free for adoption. In addition, the child must be in "special circumstances" for the reasons enumerated in subsection (a)(1) or because of the existence of strong emotional ties to foster parents who seek to adopt him (subsection (a)(2)). A child who meets the above criteria must be certified as eligible for subsidy by the state adoption administration.

Regarding the enumerated reasons for which a child might be certified as unconditionally eligible for a subsidy under subsection (a)(1), the following deserve commend: "Emotional disturbance." The cause for such a disturbance is irrelevant. "Recognized high risk of physical or mental diseases." An example would be the occurrence of an injury at birth which could manifest itself in mental or physical disability later in life. This category is not intended to include social, environmental, status factors (such as the stigma attached to being a child born out of wedlock). "Age." The exact age criterion may vary; any age is relevant so long as it is a factor inhibiting the child's adoption. "Sibling relationship." This factor refers to sibling groups who should be placed as a unit whenever possible. "Racial or ethnic factors." These critieria are general because they will vary according to geographic area and social climate.

The "reasonable efforts" that must be made to find an adoptive family for a child prior to certifying him as unconditionally eligible for subsidy should include affirmative recruitment of adoptive parents, use of adoption resource exchanges, and referral to appropriate specialized agencies.

It should be emphasized that the basis for the subsidy is the need of the child. Hence the financial ability of the family to meet the child's needs is not a condition for the child's certification for subsidy. It will be noted that, regardless of a family's financial resources, in no case would an adoption subsidy increase the family's wealth, since the amount provided with cover only the costs of specific care for the child.

Section 704. Subsidy Agreement

(a) When prospective parents are found and approved for adoption of a child certified as eligible for subsidy, and before the final decree of adoption is issued, there must be a written agreement between the family entering into the subsidized adoption and the state through its designated agency.

(1) Adoption subsidies in individual cases may commence with the adoptive placement or at the appropriate time after the adoption decree, and will vary with the needs of the child as well as the availability of other resources to meet the child's needs.

(2) The subsidy may be for special services only, or for money payments, and either for a limited period, or for a long term, or for any combination of the foregoing. The amount of the time-limited or long-term subsidy may in no case exceed that which would be allowable from time to time for such child under foster family care, or, in the case of a special service, the reasonable fee for the service rendered.

(b) When subsidies are for more than one year, the adoptive parents shall present an annual certification that:

(1) The adopted child remains under their care, and

(2) The conditions which caused the child to be certified continue to exist.

(c) For purposes of the annual certification, the condition(s) which caused the child to be certified shall be deemed to continue to exist if the child was certified as eligible pursuant to:

(1) Subsections (a)(1)(A) or (a)(1)(B) of Section 703 of this Act, and the physical or mental disability or emotional disturbance has not been corrected; or

(2) Subsection (a)(1)(C) of Section 703 of this Act, and the recognized high risk of physical or mental disease continues to exist; or

(3) Subsections (a)(1)(D), (a)(1)(E), or (a)(1)(F) of Section 703 of this Act; or

(4) Subsection (a)(2) of Section 703 of this Act.

(d) The subsidy agreement shall be continued in accordance with its terms but only as long as the adopted child is the legal dependent of the adoptive parents and the child's condition continues, except that in the absence of other appropriate resources provided by law and in accordance with regulations issued pursuant to this Act, it may be continued after the adopted child reaches majority. Termination or modification of the subsidy agreement may be requested by the adoptive parents at any time.

(e) A child who is a resident of this state when eligibility for subsidy is certified shall remain eligible and receive subsidy, if necessary for adoption, regardless of the domicile or residence of the adopting parents at the time of application for adoption, placement, legal decree of adoption, or thereafter.

* * * * *

Commentary to Section 704

Subsection (a). The written contract for subsidy is to be negotiated prior to the actual adoptive placement and becomes effective either at the time of placement or after the adoption decree has been issued. A subsidy that commences with the placement may be for special services, such as legal and court costs of adoption, other costs incidental to adoptive placement, or costs for medical treatment or other special therapy needed immediately.

Time-limited subsidies are designed to help with the expenses of integrating the child into the family or to provide funds for a specific service which is time-limited. Long-term subsidies are designed for children who cannot be adopted unless their long-term financial needs are met by subsidy; these are children with long-term medical or emotional problems, or children who are of a minority race. The ceiling on the subsidy to accord with foster family allowances is based on current practice in a majority of the states. One objective of the adoption subsidy program is to provide permanent adoptive homes for children in foster care at no more cost to the state than foster care.

Subsections (b), (c), and (d). Under the text, the adoptive parents have the responsibility for certifying to the state that the subsidized child remains in their care. The adoptive parents are the

initiating parties in certification, and they are not asked to disclose their financial situation.

A condition "continues to exist" unless there has been a change in the child's need for the services or support which the subsidy provides. If the condition is a medical handicap which eventually warrants no further therapy, the subsidy to provide such therapy would terminate. But if the condition is a characteristic of the child (*e.g.*, age, race, or mental retardation) which makes general support payments necessary in order to find the child a permanent home, the condition—and hence the subsidy—will be deemed to continue until the child no longer needs to be supported.

No fixed age has been set for terminating the subsidy, although in the great majority of cases the age of majority should be determinative. Flexibility is necessary to allow children to complete schooling, for example, before the subsidy is terminated. Also, some children under the program will need special care, treatment, and services for an indeterminate period, and the termination of the subsidy at the age of majority would work a hardship for them.

It is important that prospective adoptive parents be informed, in the course of negotiating the subsidy agreement, that continuation of subsidy payments will always be subject to the availability of state funds.

Subsection (e). Since the subsidy is designed to provide a child in special circumstances with a permanent adoptive home, adoption of the child in another state or movement of the adoptive family out of state should not affect the continuation of the subsidy.

Section 705. Confidentiality

All records regarding subsidized adoption shall be confidential and may be disclosed only in accordance with the provisions of Title V of this Act.

* * * * *

Commentary to Section 705

Records in the subsidized adoption program should be maintained with the same confidentiality as other adoption records. The privacy of parents and children under the program should be afforded the same respect as in other adoptions. *See generally* Title V, *supra.*

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Friday
February 15, 1980

Part VI

Department of Justice

Office of Justice Assistance, Research, and Statistics

Law Enforcement Assistance Administration

Bureau of Justice Statistics

National Priority Program and Discretionary Program Announcements

DEPARTMENT OF JUSTICE

Office of Justice Assistance, Research, and Statistics
Law Enforcement Assistance Administration,
Bureau of Justice Statistics

National Priority Program and Discretionary Program Announcements

AGENCIES: Office of Justice Assistance, Research, and Statistics (OJARS); Law Enforcement Assistance Administration (LEAA) and the Office of Juvenile Justice and Delinquency Prevention (OJJDP); Bureau of Justice Statistics (BJS); U.S. Department of Justice.

ACTION: Notice of Grant Programs.

SUMMARY: The Office of Justice Assistance, Research, and Statistics (OJARS); the Law Enforcement Assistance Administration (LEAA) and the Office of Juvenile Justice and Delinquency Prevention (OJJDP); and the Bureau of Justice Statistics (BJS); of the U.S. Department of Justice are publishing this final announcement of 14 National Priority Programs and 32 Discretionary Programs. These programs are supported in FY 1980 by Federal funds authorized by the Justice System Improvement Act of 1979.

Descriptions of National Priority Programs and Discretionary Programs were published in the Federal Register on December 12, 1979 (44 FR 72048 ff.) in draft form for public comment. Comments have been submitted by public agencies, interest groups, and individuals. Most of the comments were received by January 11, 1980, within the 30-day period requested in the December 12, 1979 draft announcement. Some comments were received as late as February 4, 1980, but these comments have been considered, in accordance with the terms contained in the draft announcement.

A. Comments Received

Six general criticisms were made by several parties:

1. More than 30 of the 46 FR 1980 programs announced are for continuing existing grants. Only those agencies and organizations now receiving grant funds from LEAA or BJS will be able to participate in such programs in FY 1980.

2. There are no apparent or stated reasons for wide variances in "matching" requirements—the percent of total project costs which must be supported (or "matched") by grant applicants.

3. Submission deadlines for some concept papers or grant applications have already passed or provide insufficient time for preparing good concept papers or grant applications.

4. Many of the 15 National Priority Programs are inappropriately designated, because they are not in consonance with the requirements of the Justice System Improvement Act of 1979, especially Section 503(a), which requires they must, through research, demonstration, or evaluation have been shown to be effective or innovative and to have a likely beneficial impact on criminal justice.

5. Local governments are eligible for too few FY 1980 programs contained in the draft announcement.

6. There is insufficient information in the draft descriptions of FY 1980 programs supported by the Office of Juvenile Justice and Delinquency Prevention.

B. Discussion of Comments

The large numbers of continuation programs are a consequence of LEAA's reduced appropriations from $646 million in FY 1979 to $486 million in FY 1980. In FY 1979, more than $130 million was available for Incentive (now National Priority) and Discretionary Programs; in FY 1980, less than $60 million is available for National Priority and Discretionary Programs. This substantial cut in funds argues forcefully against initiating new programs. Continuing the best existing LEAA and BJS programs also accounts for variations in matching requirements, since match requirements from FY 1979 were different for different programs.

Expired submission deadlines for some programs are a consequence of the date of enactment of the JSIA of 1979—December 27, 1979, or nearly one full quarter into FY 1980. Unitl late December, when the President signed the JSIA of 1979, LEAA and BJS were not authorized to publish announcements of National Priority Programs and Discretionary Programs—programs to be supported by Parts E and F of the new legislation.

In order to allow more agencies and organizations to participate in all programs, previously published and expired or short deadlines for concept papers have been extended to February 29, 1980. National Priority Programs affected are Career Criminal Prosecution; Treatment Alternatives to Street Crime (TASC); and Fundamental Court Improvement, Court Sub-program. Discretionary Programs affected are Community Service Restitution; Fundamental Court Improvement, Defense Sub-program; and the Indian Criminal Justice Program. These new deadlines are shown in their respective program descriptions.

Some of the designated National Priority Programs do not strictly accommodate every statutory requirement, especially Part E of the JSIA of 1979. However, the Congress has allowed for flexibility in fiscal year 1980, which has been foreseen as a transition year. (See Section 1301 of the Act.) Grantees whose programs meet most Part E requirements have been designated National Priority Programs will not be abruptly burdened with substantial increases in (50%) matching fund requirements. At the same time, the OJARS, LEAA, and BJS can fulfill the legislative requirement that 10 percent of funds appropriated for Parts D, E, F "shall be reserved and set aside" for National Priority Programs (Section 502 of the Act). In fiscal year 1981, LEAA and BJS programs will uniformily comply with legislative language and intent.

In response to comments about restricted local government participation in announced programs, LEAA has broadened the eligibility for Improving Criminal Justice Planning and Coordination and for the Juror Utilization and Management and PROMIS programs. These are now open to local government jurisdictions, and appropriate changes are indicated in these program descriptions.

Juvenile Justice and Delinquency Prevention programs are being developed. Further information about Serious Juvenile Offender, Alternative Education, Removing Children From Adult Jails and Lockups, and JJDP Research and Development programs will be published in the coming months in the Federal Register. Copies of these announcements may be obtained from program managers whose names are included in the program descriptions in this announcement.

C. Civil Rights

LEAA and BJS grantees are required to comply with the following nondiscrimination laws:

(1) Section 815(c) of the Justice System Improvements Act of 1979 and its implementing regulations, found at 28 CFR 42.201, et seq. and 28 CFR 301, et seq.;

(2) Title VI of the Civil Rights Act of 1964, and its implementing regulation. found at 28 CFR 42.101 et seq.;

(3) Section 504 of the Rehabilitation Act of 1975, as amended, and its implementing regulations; and

(4) The Age Discrimination Act of 1975, as amended, and its implementing regulations.

Every applicant for a grant of $500,000 or more is required to submit a copy of its Equal Employment Opportunity Plan (EEOP), formulated in accordance with 28 CFR 43.301 et seq., to LEAA or BJS at the same time an application is submitted. Applicants for grants of less than $500,000 should inquire at the earliest stages of the grant process about other civil rights rules and regulations which may affect timely processing of such grants.

D. Introduction

This program announcement provides information about National Priority Programs and Discretionary Programs to be supported by LEAA and BJS in FY 1980.

E. National Priority Programs

Authorized by Part E of the Justice System Improvements Act of 1979, National Priority Programs are those "which through research, demonstration, or evaluation have been shown to be effective or innovative and to have a likely beneficial impact on criminal justice."

LEAA and BJS may support up to 50% of the cost of National Priority Programs and projects. The remaining 50% of project costs must be "matched" by the applicant. Formula Grant (Part D) funds or general revenues of recipient governments may be used to provide matching funds.

Match requirements may be less than 50% for some National Priority Programs in fiscal year 1980, in accordance with transition provisions, contained in Section 1301 of the Act. In fiscal year 1981, the 50% match requirement for National Priority Programs will be mandatory.

LEAA and BJS provide technical advice and training in support of National Priority Programs. Information about these and other kinds of assistance are available from program managers whose names appear at the end of each program description in this announcement.

F. National Priority Programs Available

1. Career Criminal Prosecution. Projects funded by this program screen felony cases and identify offenders with a serious criminal record who continue frequently to commit robbery, aggravated assault, forcible sexual offenses, burglary and recidivistic homicide; and expedite the thorough preparation and presentments of those career criminal defendants' cases to court with due regard for constitutional rights. The major assumption of this operational approach is that a single, experienced, trial prosecutor handles the case from acceptance to disposition; plea negotiations are eliminated; and appearances at all adjudicatorial proceeedings in these cases are the norm. There also must be coordination at both police and prosecution policy making and operational levels demonstrating a priority commitment to those cases that meet the jurisdiction's established career criminal selection criteria.

Allocations: In FY 1980, $4,000,000 has been allocated for this program.

Number and Dollar Range of Grants: See below.

Match Requirements

- Continuation grants (non-Competitive):

Up to ten grants for single jurisdictions, for a minimum of $250,000 each; one Statewide grant for up to $500,000; match requirements to be in accordance with current grants.

- New Project Starts (Competitive):

One new single jurisdictional grant up to ($250,000) on an 80/20 match basis, and up to two new multi-jurisdictional (Statewide) grants ($500,000 maximum federal share) will be awarded on a 50/50 match basis for an initial 18 month grant period. One continuation grant on a 50/50 match basis can be expected upon successful completion of the first grant period.

Eligibility: Single jurisdictional applicants must be public prosecutors who have a staff of at least six (6) full-time assistant prosecutors and have the responsibility for felony prosecution. Applicants for a multi-jurisdiction program should be an agency (i.e., SPA, State Prosecutors Association) whose authority or representation is Statewide and could implement and administer the grant for the several, qualifying and selected local prosecutor's offices within the State jurisdiction.

Submission Deadlines

Continuation grants must be received 90 days prior to the termination date of current grants.

New applicants must submit a concept paper March 14, 1980. After The Career Criminal program staff's review and comment, applications must be received by April 14, 1980. Interested applicants may also inquire about alternative assistance.

Contact: For further information concerning application and match requirements, potential applicants must contact: Mr. Charles Hollis, Career Criminal Program Manager, Adjudication Division, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, Washington, D.C. 20531. Telephone: (202) 724-7681.

Anti-Fencing Program. The Anti-Fencing Program is a response to the rising incidence of property crime rate experienced throughout the country and the significant role of the receiver of stolen goods (the fence) in the acquisition of stolen property, including determining what type of property is to be stolen, how much of it and how the property is to be stolen. As a law enforcement strategy, this program is structured to provide support for joint operations by participating federal, State and local law enforcement agencies. The resulting objective is to remove the fence and his organized criminal associates by utilizing a thief, burglar, and property recovery strategy to identify him and his illegal activities.

Allocations: In fiscal year 1980, $4,000,000 has been allocated for this program.

Numbers and Dollar Range of Grants

Seventeen continuation grants only will be awarded with a dollar range of $200,000 to $400,000.

Match Requirements: None

Eligibility: Not applicable.

Submission Deadlines: Continuation grant applications must be received 90 days prior to the termination of current grants.

Contact: For further information contact: Steve Cooley, Program Manager, Criminal Conspiracies Division, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, 633 Indiana Avenue, N.W., Washington, D.C. 20531. Telephone: (202) 724-7573.

3. Free Venture Prison Industries. This program will provide for delivery of technical assistance and support the development of prison industries that will duplicate the conditions of private industry as closely as possible. "Prison Industry Enhancement" is further discussed in the Justice System Improvements Act of 1979, Section 827.

Technical assistance will be provided to participating Free Venture States, and to a limited degree to non-participating States, in areas which include marketing, sales, accounting, and industries engineering.

Seven States are currently participating in the development of Free

Venture Prison Industries. Colorado, Connecticut, Illinois, Iowa, Minnesota, South Carolina and Washington will be funded to continue the implementation of the program during fiscal year 1980.

Allocations: In fiscal year 1980, $1 million is allocated for this program, including $500,000 in Part E funds.

Number and Dollar Range of Grants:

One continuation grant ($300,000) to the American Institute of Criminal Justice, and seven continuation grants will be awarded for an average amount of $100,000 each.

Match Requirements: 10%

Eligibility: Not applicable.

Submission Deadline:

Continuation applications must be submitted 90 days prior to expiration of current grants.

Contact: For further information concerning this program contact: Paul Wahlberg, Program Manager, Free Venture Prison Industries Program, Corrections Division, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, Washington, D.C. 20531. Telephone: (202) 724-5944.

4. Treatment Alternatives to Street Crime (TASC). LEAA is also awarding Discretionary Program grants for this program in fiscal year 1980. This program addresses the major problem of the substance abusing offender within the criminal justice system by implementing a system which provides the following services: (1) screening arrestees to identify potential clients; (2) providing diagnostic/referral services to ascertain client needs and matching them with the most appropriate treatment facility; and, (3) continuously monitoring the progress of clients while in TASC.

LEAA has expended over $30 million for the development, testing, demonstration, and evaluation of the National TASC program in approximately two-thirds of all the States. Within that time period the program model was proven effective and sufficient knowledge was gained to qualify TASC as a National Priority Program.

The program strategy focuses on State-wide emplementation through a State or private agency with the capability of State-wide impact. A State coordinating office must be established to manage and coordinate all local sites. Criteria for selection includes documentation of need, sound implementation plan, scope of the program, financial and cost effectiveness, evaluation, cost assumption, and 50 percent matching funds.

Allocations: In fiscal year 1980, $2,000,000 has been allocated for this program.

Number and Dollar Range of Grants:

Approximately 2-4 grants will be awarded for up to $1,000,000 each.

Match Requirement: 50%.

Eligibility: States and private agencies with State-wide acceptance.

Submission Deadlines:

Applicants are encouraged to submit a concept paper to be received by LEAA by March 14, 1980. After the Treatment Alternatives to Street Crime (TASC) program staff review and comment, applications must be received by April 14, 1980. Awards are expected to be made by July 1, 1980.

Contact: For further information concerning application and match requirements, potential applicants must contact: Karen McFadden, Program Manager, Treatment Alternatives to Street Crime (TASC) Program, Corrections Division, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, Washington, D.C. 20531. Telephone: (202) 724-5944.

5. Correctional Standards and Accreditation Program. This program is designed to support the development and revisions of correctional standards, and to support the accreditation process through support of the activities of the Commission on Accreditation for Corrections in a demonstration program.

Established by LEAA in FY 1979, the Commission has begun a process of accrediting correctional agencies and systems. The American Correctional Association, which developed the standards, will continue to examine and revise standards as necessary. LEAA funds support the above process and related activities.

Eleven States were constituted for initial development as demonstrations of the accreditation process. Through State standards management teams they have been implementing all no-cost standards during the first phase of the program. Funds will be provided to them to implement additional standards. There are no plans to add new States in FY 1980.

Allocations: $3,600,000 is allocated for this program in FY 1980, including $2 million in Part E funds.

Number and Dollar Range of Grants

$500,000 to Commission on Accreditation for Corrections.

$300,000 to American Correctional Association.

$750,000 to the 11 State standards management teams.

$1,690,000 to the 11 States for additional standards implementation in awards ranging from $75,000 to $200,000.

Match Requirements: Match will be in accordance with applicable conditions at time of original grant.

Eligibility: Not applicable.

Submission Deadline: Continuation applications must be received 90 days prior to the expiration of current grants.

Contact: For further information contact: H. Tom Tubbs, Corrections Division, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, Washington, D.C. 20531. Telephone: (202) 724-5944.

6. Court Delay Reduction Program. The objectives of this program are: (1) to demonstrate methods of reducing criminal and civil court case backlog and processing time while maintaining standards of fairness and due process; and (2) to demonstrate mediation alternatives to court processing for minor disputes.

The program is part of a long range LEAA effort to reduce court delay and congestion at the pre-trial, trial, and appellate stages of case processing.

This program employs a two phased approach in making awards to individual court systems. Phase I is the planning and analysis program component through which local jurisdictions may request LEAA assistance in selecting appropriate methods to address their court delay and backlog problems.

Phase II is the implementation or action part of the program providing significant grant fund assistance to a small number of selected sites. LEAA assistance is available for Phase II efforts to improve staff, establish control procedures, and provide technical assistance and training.

Other program components involve national scope project demonstration site and technical assistance to jurisdictions around the country, and grant assistance for the establishment of community based dispute resolution mechanisms based on the Neighborhood Justice Center concept. In addition, a national conference on court delay will be held in FY 1980.

Allocations: In FY 1980, $1,350,000 has been allocated for this program.

Number and Dollar Range of Grants:

Three—four Phase I planning sites; awards will range up to $20,000. Four Phase II State or metropolitan delay reduction implementation projects; awards will range from $75,000 to $300,000. Three metropolitan mediation centers; $100,000 to $150,000 per project.

Two national scope technical assistance projects; estimated total of $450,000 for both.

Match Requirements: 10%.

Eligibility: State court systems, local courts serving populations exceeding 200,000, local agencies engaged in planning or in support of court operations, and non-profit organizations.

Submission Deadlines

Phase I (planning)—April 14, 1980.

Phase II (implementation)—June 14, 1980.

Mediation Centers—Same as Phase II.

Contact:

For further information about application and match requirements potential applicants must contact:

Nicholas Demos, Program Manager, Adjudication Division, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, Washington, D.C. 20531.

Telephone: (202) 724–7681.

7. Fundamental Court Improvement Program. LEAA is also awarding Discretionary Program grants under this program in FY 1980. This program supports State-level efforts to analyze and develop significant alternatives to the present organization, management, and structure of State court systems or State indigent defense delivery systems. Some assistance may be available for organizational studies, strategy development, public education, and implementation associated with statewide defense or court reform. Generally, this program presupposes that major legislation, court rules, or judicial articles have recently been promulgated or passed or are about to be seriously considered. The general program objective is to improve the operations, financing, and services of Statewide court or indigent defense systems.

Court Sub-Program

This Sub-program is primarily directed toward major court reorganization efforts. A growing number of States have chosen to reduce the fragmentation, inconsistency, and inefficiencies of the traditional court system by systemizing the structure, financing, and service delivery in State court systems. This reorganization and overhaul of procedures often occurs through Constitutional revision, legislation, and corollary court rules revision.

Allocations: In fiscal year 1980, a total of $2.5 million has been allocated for this program including $1 million in Part E funds. Of this total, an estimated $1.25 million will be allocated to the Court Sub-Program. (The Defense Sub-Program, described under Discretionary Programs, has also been allocated $1.25 million.)

Number and Dollar Range of Grants:

Approximately five grants will be awarded for an average amount of $250,000.

Submission Deadlines:

Continuation Grants must be received 90 days prior to the termination date of a current grant.

New applicants must submit a concept paper to reach LEAA by February 29, 1980. After the Fundamentall Court Improvement Program staff's review and comment, applications must be received by March 31, 1980.

Contact:

For further information concerning application and match requirements, potential applicants must contact: Greg Brady, Fundamental Court Improvement Program, Adjudication Division, Office of Criminal Justice Programs, LEAA, Washington, D.C. 20531. Telephone: (202) 724–7685.

8. Juror Utilization and Management. This two-year program is designed to achieve permanent improvements in State trail court jury systems through the planned application of specific, proven techniques of juror utilization and management. The basic objectives are equity, savings, and satisfaction. Equity is achieved through better representation of the community on the jury and wider sharing of the burden of jury service. Savings to jurors, to the court, and to the community will result from the application of program techniques for efficient selection and use of jurors and improved management. Satisfaction with the experience of jury duty will result from the more effective use of jurors. Increased community satisfaction with the justice system should result from the respect for the juror built into the program. The development of a permanent capacity at the State level to upgrade and maintain the quality of jury systems within the State is a major objective of the program. While emphasis is placed on Statewide programs, local individual courts which can demonstrate Statewide impact through implementation of the program are also eligible.

The program focuses on 12 specific elements of the jury system. Program participants must address all 12 elements. The program is divided into three distinct phases. Phase I is a six-month organizational phase. Phase II is a six-month assessment phase. Phase III is a 12-month implementation phase. A technical assistance component and a training component are also built into the program.

Allocations: In Fiscal Year 1980, $1,300,000 has been allocated for this program.

Number and Dollar Range of Grants

No more than seven grants to State and local governments will be awarded, not to exceed $200,000 for Statewide programs, and not to exceed $100,000 for individual court programs. No more than three grants will be awarded to non-profit organizations for technical assistance and training. Limited funds will be available for specific short-term demonstration projects.

Match Requirements

Up to 50% of total project costs for State and local government projects can be funded by this program. The remaining costs may be funded from other sources, including other Federal grants. Technical assistance, including program-specific training grants, may be funded up to 100%.

Eligibility: State and local trial court jury systems and non-profit organizations.

Submission Deadlines

Grant applications from State and local governments must be received by April 14, 1980. Continuation applications must be received 90 days prior to the termination date of the current grant. There is no deadline for receipt of applications for short-term demonstration projects or new technical assistance projects.

Contact

For further information concerning application and match requirements potential applicants must contact:

John Gregrich, Program Manager
Juror Utilization and Management Program
Adjudication Division
Office of Criminal Justice Programs
Law Enforcement Assistance Administration
Washington, D.C. 20531
Telephone: (202) 724–7681

9. Integrated Criminal Apprehension Program (ICAP). LEAA is also awarding Discretionary Program grants under this program in FY 1980. The Integrated Criminal Apprehension Program (ICAP) represents a recently developed police service delivery concept that focuses on building a structured approach to the

management and integration of police service delivery. ICAP is designed to establish a solid developmental base of increasing the overall effectiveness and efficiency of a policy organization through the use of crime and operational analysis; training in crime prevention and investigative procedures; and the utilization of directed patrol strategies based on anaylsis information. Application of the concept will result in better matching of manpower allocation to workload demands; better analysis of occuring crimes; and better deployment of directed patrol tactics designed to increase quality arrests, clearances, and prosecutions.

Allocations: In fiscal year 1980, $5,000,000 has been allocated for this program ($2,750,000 for National Priority Programs, and $2,250,000 for Discretionary Programs.)

Number and Dollar Range of Grants

Approximately 23 continuation grants will be awarded for an average amount of $220,000 each.

Match Requirements: In accordance with the terms of the original grant.

Eligibility: Not applicable.

Submission Deadlines

Continuation applications are due 90 days prior to expiration of current grants.

Contact

For further information, contact:

Bob Heck, ICAP Program Manager
Enforcement Division
Office of Criminal Justice Programs
Law Enforcement Assistance Administration
633 Indiana Avenue, N.W.
Washington, D.C. 20531
Telephone: (202) 724-7560

10. Managing Criminal Investigations. The MCI program provides a model by which medium-sized police departments will implement specific national procedures designed to manage and control criminal investigations ranging from preliminary investigations to case preparation. This program seeks to encourage improved program development within the State planning process by amplifying block grant resources and providing a validated design for implementation.

The MCI model is defined by five basic components each having its own elements and performance measures:

—Investigative Role of Patrol;
—Case Screening;
—Management of the Continuing Investigation;
—Police-Prosecutor Relations; and,
—Investigative Monitoring System.

Allocations: In fiscal year 1980, $500,000 has been allocated for the program.

Number and Dollar Range of Grants

Approximately six grants will be awarded to State or local planning agencies for an average amount of $80,000 each.

Match Requirements: 50%.

Eligibility: State or local planning agencies.

Submission Deadlines

Proposals for this program must be received by LEAA by April 14, 1980.

Selected sites must submit grant application to their State or local planning agency following approval by LEAA.

Contact

For further information concerning application process contact:

Donald Anderson, Program Manager
Enforcement Division
Office of Criminal Justice Programs
Law Enforcement Assistance Administration
633 Indian Avenue, N.W.
Washington, D.C. 20531
Telephone: (202) 724-7560

11. Family Violence Program. LEAA is also awarding Discretionary Program grants under this program in FY 1980. The Family Violence Program is based on the recognition that family violence is both a social and legal problem and that a comprehensive community effort is essential to combat it. Thus, the program focuses on improving the criminal justice system's handling of such family cases through a partnership with other community services.

LEAA provides funds to support projects that demonstrate community-wide solutions to family violence—projects that involve the active participation of all relevant public and private agencies. Participants must include the obvious institutions—police, prosecutors, hospitals, mental health and social service agencies—and also local and professional organizations, public education, media, neighborhood groups, and schools. Grants finance planning, coordination, and central data collection, as well as new criminal justice or social service program components necessary for a comprehensive approach to dealing with family violence.

The program also supports a free monthly newsletter and national resource center, a national public education program, and technical assistance to local projects.

Allocations: In FY 1980, $3 million has been allocated for this program: $1 million for National Priority, and $2.0 million for Discretionary Programs.

Number and Dollar Range of Grants

No new grants are planned for fiscal year 1980.

Match Requirements: In accordance with the terms of original grants.

Eligibility: Not applicable.

Submission Deadline

Continuation applications must be submitted 90 days prior to expiration of current grants.

Contact

For further information about application and match requirements, potential applicants must contact:

Jeannie Santos, Program Manager
Family Violence Program
Special Programs Division
Office of Criminal Justice Programs
633 Indiana Avenue, N.W., Room 711
Washington, D.C. 20531
Telephone: (202) 724-5905

12. PROMIS. The Prosecutor's Management Information System (PROMIS) program supports the implementation of PROMIS throughout the States on a multijurisdictional basis to improve the operation and management of local prosecutor's offices. Five States were awarded PROMIS grants is fiscal year 1979 bringing the total number of States participating in this program to eight. Supported by funds from various Federal and local sources, PROMIS is operational in 37 jurisdictions, in the transfer stage in 70, and in the planning stage in over 80 more. States participating in the PROMIS National Priority Program are required to match the Federal funding received.

Allocations: In FY 1980, $3,000,000 has been allocated for this program.

Number and Dollar Range of Grants

6-12 grants will be awarded for between $200,000 and $500,000 each to recipients to be selected by BJS on a competitive basis.

Match Requirements: 50%

Eligibility: State Planning Agencies must apply for funds under this program; local jurisdictions must apply through their State Planning Agencies.

Submission Deadline

Grant applications must be received by April 1, 1980.

Contact

Art Fuldner
Systems Development Division

Bureau of Justice Statistics
Washington, D.C. 20531
Telephone: (301) 492-9057

13. **Comprehensive Data Systems** (CDS). This program consists of three components for which separate grants are awarded to participating States. The three modules are:

Statistical Analysis Center (SAC)
Uniform Crime Reports (UCR)
Offender Based Transaction Statistics/ Computerized Criminal Histories (OBTS/CCH)

The **SAC Component** was designed to enable the States to create statistical analysis capabilities for criminal justice. States may apply for grants to establish and maintain an analysis unit. Staffed with researchers, analysts or information specialists, the SAC is responsible for analyzing data relevant to the major issues and problems facing criminal justice in that State. In addition, SACs are required to respond to requests for statistical information and analysis, whenever possible, to provide advice on data collection and analysis upon the request of State and local agencies, and to conduct the crime analysis required for the comprehensive plan. SACs are also expected to collect information on the management and administration of the criminal justice system in their States.

States are eligible to receive up to four grants, three of which are at full eligibility and the fourth at half. Once Federal funding ceases, the States are expected to assume the costs of operating these units.

Under the **UCR program**, a single State agency is assigned the responsibility to collect, tabulate, and disseminate crime offense and related data using standards established by the Federal Bureau of Investigation and the International Association of Chiefs of Police. The first State programs became operational in 1969. Since then, about 43 additional States have achieved an operational status. The advantages of these programs are that: the number of agencies reporting data has greatly increased, the quality of the data has improved, and the utility of the data has been increased by more frequent and timely feedback to contributors.

The data are used (1) to satisfy the FBI's national reporting needs, (2) by federal, State, and local units of government for administrative and operational purposes, (3) by researchers and academicians in a variety of ways. In recent years the utility of the data has been enhanced by the development of offense reporting systems in many States which take into account the characteristics of criminal incidents (time, place, weapons used, victim/offender relationships, etc.). These are generally called "incident based crime reporting systems," and some 14 States now have some form of such a system.

OBTS/CCH supports the implementation of a computerized or automated information system, at the State level, to collect, store, and retrieve data from police, courts, and corrections on every person arrested on a serious charge. The police provide data on felonies and first-degree misdemeanors; the courts provide judicial dispositions; and corrections provides data on correctional activities. OBTS is utilized to accurately describe the State's criminal justice process which permits statistical analyses to measure the degree of improvement or impact as changes to the process occur. CCH is utilized to develop a timely, accurate, and complete criminal history record on an individual for use by the criminal justice system on an intrastate and interstate basis.

Allocations: In fiscal year 1980 $4,500,000 has been allocated for this program, including $1 million in National Priority (Part E) funds.

Number and Dollar Range of Grants

Approximately 35 grants will be awarded for an average amount of $130,000 each.

Match Requirements: 10% in FY 1980.

Eligibility: In order to apply for grants under these programs, States must have an approved CDS action plan, in accordance with Guideline Manual M 6640.1A, Comprehensive Data System Program.

Submission Deadlines

Since most of these grants will be continuation grants, no fixed deadline for submission has been made. Grant applications should usually be submitted 90 days before expiration of current grants. All grant applications must be received by June 15, 1980.

Contact

For further information contact:

G. Paul Sylvestre
Statistics Division
Bureau of Justice Statistics
Washington, D.C. 20531
Telephone:(301) 492-9066

14. **Serious Juvenile Offender.** This initiative supports the development and improvement of national responses to serious juvenile offenses and offenders through programs, research and legal reforms. It will ultimately assist States and localities to develop comprehensive programs which focus on offenses that are particularly severe and those children that are deemed "chronic" offenders.

The program design is based on an increased need for knowledge with regard to effective programming for serious juvenile offenders and a need for reduction in juvenile rates of recidivism.

Allocations: In Fiscal Year 1980, $4,300,000 has been allocated for this program.

Match Requirement: 10%

Eligibility: Not yet determined; to be published in an upcoming program announcement in the Federal Register.

Number and Dollar Range of Grants

Not yet determined; to be published in an upcoming program announcement in the Federal Register.

Submission Deadline

Grant applications must be received by June 30, 1980. A more detailed program description is expected to be published in the Federal Register within one month.

Contact

Doug Dodge
Office of Juvenile Justice and Delinquency Prevention
Law Enforcement Assistance Administration
633 Indiana Avenue, N.W.
Washington, D.C. 20531
Telephone: (202) 724-7755

G. Discretionary Programs

Authorized by Part F of the Justice System Improvements Act of 1979, Discretionary Programs may be designated by the Administrator of LEAA and the Director of BJS for the purposes set forth in Section 601 of the Act. Generally, discretionary grants may be made for strengthening the criminal justice system and its elements. LEAA and BJS may support up to 100% of the cost of discretionary projects, but usually support 90% or less, requiring grantees to "match" 10% or more of the cost of projects. Formula Grant (Part D) funds or general revenues of recipient governments may be used to provide matching funds.

LEAA and BJS provide technical advice and training in support of discretionary programs. Information about these and other kinds of assistance are available from program managers whose names appear at the end of each discretionary program in the following paragraphs.

H. Discretionary Programs Available

1. **Arson Control Assistance Program.** The objective of this program is to assist State, regional, county, and local efforts

to reduce the number of deaths, the personal injury, and the economic loss related to arson and to upgrade current knowledge regarding arson incidence and arson control approaches.

The investigative and prosecutorial expertise of federal criminal justice agencies will be integrated with the financial and technical assistance capabilities of LEAA to improve arson control efforts in given jurisdictions. Arson control in this context includes but is not limited to such activities as detection, investigation, prosecution, prevention, and public education. A coordinated approach involving police, fire, and prosecutorial agencies as well as others with interest in arson control is a basic requirement of grants funded under this program.

All awards made in FY 1980 will have been based on applications received by August 29, 1979, in accordance with a previous solicitation in the Federal Register. No applications will be accepted during FY 1980. In addition to the grants awarded this year, an evaluation of the arson control grant program will also be funded.

Contact

For further information, including information about alternative or future assistance, contact:

Judy O'Connor, Director, Arson Unit, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, 6633 Indiana Avenue, N.W., Room 1158, Washington, D.C. 20531. Telephone: (202) 724–7659

2. White Collar and Organized Crime Programs. This program is designed to assist State and local law enforcement agencies to (1) identify major criminal conspiracies; (2) apprehend, prosecute and remove those who operate criminal conspiracies; and (3) seize the financial assets of the conspirators to prevent their continuation. Emphasis will be given to multi-jurisdictional enforcement efforts and to those which encompass joint federal/State or local participation.

A criminal conspiracy is defined in this Program as an agreement between two or more individuals to achieve, by concerted action, either an unlawful objective, or a lawful objective by unlawful means where the substantive crime may include, but is not limited to, the following activities: white collar crime (major frauds), extortion, corruption, narcotics, labor racketeering and infiltration of legitimate business by organized criminal elements.

This program will be funded in two sub-program areas, organized crime and white collar crime:

(a) The organized crime sub-program will focus on joint federal, State and local enforcement and prosecutorial efforts against the traditional organized crime activities of narcotics, infiltration of legitimate businesses, extortion, gambling, prostitution and labor racketeering.

(b) The white collar crime sub-program will focus on similar joint efforts against such crimes as public corruption, fraud, economic crime, arson for profit and embezzlement.

Allocations: In FY 1980, $2,000,000 is allocated for the organized crime sub-program, and $1,900,000 is allocated for the white collar crime sub-program.

Number and Dollar Range of Grants

Seven grants, ranging from $100,000 to $700,000 will be awarded, in each sub-program. These are for continuation projects only; no new awards will be made in FY 1980.

Match Requirement: In accordance with terms of original grants.

Eligibility: Not applicable.

Submission Deadline:

Continuation grants must be received 90 days prior to the termination date of current grant.

Contact

For further information contact:

Program Managers: Dick Ward (Organized Crime); Jay Marshall (White Collar Crime), Criminal Conspiracies Division, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, 6633 Indiana Avenue, N.W. Washington, D.C. 20531, Telephone: (202) 724–6229/7560.

3. Corrections Standards Implementation Program. The purpose of this program is to support improvements in the humane custody and effective correctional treatment of incarcerated offenders and encourage the adoption and implementation of national standards (i.e., DOJ and ACA). In prior years, the emphasis in this program area has been in jail and long-term facility renovation. This program will not provide funding for facility renovation, but will focus on program improvements in areas such as recreation, medical and health, visitation, counseling and other inmate services.

Under this program, applicants will assess their existing programs *vis a vis* established national standards and seek funding in order to improve the program areas in which the greatest deficiencies are noted. LEAA will contract for the development and implementation of a self-assessment instrument. It is felt that this mechanism will maximize local (agency) decision-making and priority setting in the determination of which standards or group of standards will be achieved through LEAA support. Funding preference will be given to jurisdictions with facilities under court order and those which are under contract with the U.S. Marshal's Service to house federal prisoners.

Allocations: In FY 1980, $2,400,000 has been allocated for this program.

Number and Dollar Range of Grants

Approximately 25 jails and seven long-term facilities will receive grant awards of between $75,000–$300,000.

Match Requirement: 50%

Eligibility: State and local units of government and State corrections agencies and jails. Institutions and facilities holding persons for less than 24 hours are NOT eligible.

Submission Deadline

Applicants must submit a concept paper by April 30, 1980. After the Corrections Standards Implementation Program staff review and comment, applications must be received by June 30, 1980. Awards are expected to be made by September 1, 1980.

Contact

For further information concerning applications and match requirements, potential applicants must contact:

Kim Rendleson, Program Manager, Corrections Standards Implementation Program, Corrections Division, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, Washington, D.C. 20531, Telephone: (202) 724–5859.

4. Community Service Restitution. The program seeks to test the applicability of community service restitution as a disposition for serious misdemeanants and felons. The program strategy calls for a coordination of existing resources including the criminal justice system, the community and the offender which will benefit all parties.

The criminal justice system is expected to benefit from the lowered costs of non-incarceration; the offender is expected to benefit from the community service experience and/or skills learned in such service; and the community is expected to benefit from the offender's service.

The proposed approach must include the identification of existing community organizations willing to allocate a specific number of non-salaried positions to the project. Project organization shall exhibit a coordinated

effort on the part of system officials or support by these officials to the project. In addition, a specific monitoring function must be included that continuously reviews client success in the completion of the sentence.

Allocations: $1.4 million has been allocated to the program for new starts in FY 1980.

Number and Dollar Range of Grants

Approximately 7 awards will be made within the $100,000–$300,000 range.

Match Requirements: 10% for new grants; 20% for continuations.

Eligibility: Applications are invited from State Planning Agencies local units of government and non-profit organizations as co-applicants with appropriate units of government.

Submission Deadlines

Applicants are encouraged to submit concept papers by March 14, 1980. After the Community Service Restitution staff review and comment, applications must be received by May 15, 1980. Awards are expected to be made by August 15, 1980.

Contact

For further information concerning application and match requirements, potential applicants must contact: Marilyn Greene Jackson, Program Manager, Community Service Restitution Program, Corrections Division, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, Washington, D.C. 20531, Telephone: (202) 724–5944.

5. Treatment Alternatives to Street Crime (TASC). This program addresses the major problem of the substance abusing offender within the criminal justice system by implementing a system which provides the following services: (1) screening arrestees to identify potential clients; (2) providing diagnostic/referral services to ascertain client needs and matching them with the most appropriate treatment facility; and, (3) continuously monitoring the progress of clients while in TASC.

No new TASC programs will be considered. This program will be funding discretionary continuation projects only.

Allocations: In fiscal year 1980, $1,700,000 has been allocated for this program to fund continuation grants only.

Number and Dollar Range of Grants

Eight continuation awards will be made ranging from $100,000 to $450,000.

Match Requirement: In accordance with the terms of the original grants.

Eligiblity: Not applicable

Contact

For further information contact:

Karen McFadden, Program Manager, Treatment Alternatives to Street Crime (TASC) Program, Corrections Division, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, Washington, D.C. 20531, Telephone: (202) 724–5944.

6. Jail Overcrowding & Pre-trial Detainee Program. The "Jail-Overcrowding & Pre-trial Detainee" program is a cooperative Adjudication-Corrections program that emphasizes the role of the court in pre-trial services, and the corrections role in jail intake and jail management.

The goal of the Jail Overcrowding Program is to demonstrate that system-wide planning and policy-making can impact on overcrowding and excessive pre-trial custody time, thereby effectively reducing local jail costs, preventing unnecessary construction, and improving the quality of justice.

This program employs a two-phased approach. Phase I is a planning and analysis period during which local jurisdictions, with LEAA assistance, will identify appropriate methods to address their overcrowding and pre-trial detention problems. Funding is provided under contract with the National Program Coordinator. Phase II is an implementation stage for jurisdictions ready to implement a jail management policy. The central intake model is one approach being offered for consideration of potential participating sites.

Allocations: In FY 1980 $1,800,000 has been allocated for this program.

Number and Dollar Range of Grants

Ten—Phase I sites (up to $20,000 each)

Eight—Phase II sites ($50,000 to $250,000 each)

Phase II grants will be awarded for up to 18 months. No Phase II continuation grants will be awarded.

National Program Coordinator refunding (no match).

Match Requirement: A 10% match is required for all Phase I and II grants.

Eligibility: Eligibility for participation in this program is limited to metropolitan jurisdictions in cooperation with the court of general jurisdiction. Applications must have the endorsement of State and local planning units. Letters of cooperation from the Sheriff/Department of Corrections and the Chief Judge must accompany the application.

Submission Deadlines:

Phase I (planning)—June 1, 1980.

Phase II (implementation)—May 15, 1980.

Contact

For further information concerning application and match requirements potential applicants must contact:

Nicholas Demos
Adjudication Division
Office of Criminal Justice Programs
Law Enforcement Assistance Administration
Washington, D.C. 20531
Telephone: (202) 724–7685

7. Treatment and Rehabilitation for Addicted Prisoners (TRAP) Program. The TRAP model has combined several key elements contained in the LEAA Prescriptive Package entitled "Drug Programs in Correctional Institutions" to provide a unified program approach for institutional drug treatment. The approach requires a 12 to 18 month program for voluntary offender participation which encompasses a six to nine month correctional phase with contract parole and a six to nine month community parole phase. The correctional phase is housed in a functional unit setting designed to treat a minimum of 30 inmates at any given time.

Allocations: In FY 1980, $500,000 has been allocated to continue the first round TRAP projects.

Number and Dollar Range of Grants

Two continuation grants will be awarded for an average of $250,000 each.

Match Requirement: In accordance with the terms of the original grant.

Eligibility: Not applicable.

Submission Deadline

Continuation applications must be submitted 90 days prior to expiration of current grant.

Contact

For further information contact:

Mary Stuart, Program Manager
Treatment and Rehabilitation for Addicted Prisoners (TRAP) Program
Corrections Division
Office of Criminal Justice Program
Law Enforcement Assistance Administration
Washington, D.C. 20531
Telephone: (202) 724–5859

8. Fundamental Court Improvement Program. This program supports State-level efforts to analyze and develop significant alternatives to the present organization, management, and structure of State court systems or State indigent defense delivery systems. Some assistance may be available for

organizational studies, strategy development, public education, and implementation associated with Statewide defense or court reform. Generally this program presupposes that major legislation, court rules, or judicial articles have recently been promulgated or passed or are about to be seriously considered. The general program objective is to improve the operations, financing, and services of Statewide court or indigent defense systems.

Defense Sub-Program

This Sub-program is primarily directed toward major State-level efforts at improving the delivery of defense services on a State-wide basis. A growing number of State, in an effort to be in compliance with recent Supreme Court decisions affecting the right to counsel, have dramatically overhauled their defense delivery systems. In some cases this has meant the creation of State-funded, State-administered defender systems at the trial or appellate level; in other cases, it has meant increased funding—often at the State level—along with the development of improved services and the application of relevant national standards (e.g., National Advisory Commission, American Bar Association, and National Study Commission).

Allocations: In Fiscal Year 1980, $1,25 million has been allocated for the Defense Sub-Program.

Number and Dollar Range of Grants

Approximately five grants, will be awarded for an average amount of $250,000.

Match Requirement: 10%.

Eligibility: For defense improvement projects, applicants may be State governmental entities, bar associations, and non-profit organizations. Any application submitted by a non-profit organization or involving a substantial degree of effort by a non-profit or other private organization must have the clear support of prospective implementing and associated organizations.

Submission Deadlines

Continuation Grants must be received 90 days prior to the termination date of a current grant.

New applicants must submit a concept paper to be received by March 14, 1980. After the Fundamental Court Improvement program staff's review and comment, applications must be received by April 15, 1980.

Contact

For further information concerning application and match requirements, potential applicants must contact:

Gregory Brady
Fundamental Court Improvement Program
Adjudication Division
Office of Criminal Justice Programs
Law Enforcement Assistance Administration
Washington, D.C. 20531
Telephone (202) 724-7685

9. Courts Training and Technical Assistance. The objective of the training component of this program is to expand and update the knowledge and skills of new and experienced court personnel, thereby improving the level of their performance. Annually, these programs provide training for approximately 7,000 court practitioners, including judges, both trial and appellate; prosecutors; defenders; and court administrators. The program provides financial support to eight training institutions which conduct the courses.

The objective of the technical assistance component is to provide on-site and clearinghouse services to the major components of the adjudicatory process—the courts, prosecution, and defense. Pretrial services agencies are also included. Seven technical assistance projects are funded under this program.

Allocations: In fiscal year 1980, $3,900,000 has been allocated for this program. The major portion of this budget will be used to sustain the 15 national-level projects that are currently funded to provide training and technical assistance as described above.

Number and Dollar Range of Grants

Continuation projects have been identified for funding during FY 1980.

Match Requirement: In accordance with the terms of the original grant.

Eligibility: Not applicable.

Submission Deadline

Continuation applications are due 90 days prior to expiration of current grants.

Contact

For further information contact:

Jim Swain, Director
Adjudication Division
Office of Criminal Justice Programs
Law Enforcement Assistance Administration
Washington, D.C. 20531
Telephone: (202) 724-7681

10. Integrated Criminal Apprehension Program (ICAP). The Integrated Criminal Apprehension Program (ICAP) represents a recently developed police service delivery concept that focuses on building a structured approach to the management and integration of police service delivery. ICAP is designed to establish a solid developmental base of increasing the overall effectiveness and efficiency of a police organization through the use of crime and operational analysis; training in crime prevention and investigative procedures; and the utilization of directed patrol strategies based on analysis information. Application of the concept will result in better matching of manpower allocation to workplan demands; better analysis of occurring crimes; and better deployment of directed patrol tactics designed to increase quality arrests, clearances, and prosecutions.

Allocations: In fiscal year 1980, $5,000,000 has been allocated for this program ($2,750,000 for National Priority Program grants, and $2,250,000 for Discretionary Program grants.

Number and Dollar Range of Grants

Approximately 23 continuation grants will be awarded for an average amount of $220,000 each.

Match Requirement: In accordance with the terms of the original grant.

Eligibility: Not applicable.

Submission Deadline

Continuation applications are due 90 days prior to expiration of current grants.

Contact

For further information, contact:

Bob Heck, ICAP Program Manager
Enforcement Division
Office of Criminal Justice Programs
Law Enforcement Assistance Administration
633 Indiana Avenue, N.W.
Washington, D.C. 20531
Telephone: (202) 724-7560

11. Law Enforcement Accreditation Program. A joint program by the International Association of Chiefs of Police (IACP), the National Organization of Black Law Enforcement Executives (NOBLE), the National Sheriffs' Association (NSA), and the Police Executives Research Forum (PERF) with IACP acting as the grantee will be implemented to develop measurable accreditation standards which will be presented to an independent commission for notification and eventual use in the agency accreditation process.

The purpose of the program is to improve the efficiency and effectiveness of law enforcement agencies throughout the nation and, simultaneously, to provide a means by which enforcement agencies can review their operations and services against national criteria set by the independent commission and

developed by their own peers to develop plans for continuous improvement.

LEAA worked successfully with the American Medical Association to develop health care standards for jails and with the American Correctional Association to develop operational standards for prisons.

Under the Accreditation Program for Law Enforcement Agencies, the methodology will be much the same:

— NOBLE will look at all areas of police jurisdiction, including sheriff's independent counties, and state police organizations focusing on development, advancement, recruitment and selection policies;

— NSA will direct its efforts exclusively towards the Nation's sheriff's departments;

— PERF will focus on municipal police departments in communities servicing a population between 100,000 and 500,000 people; and,

— IACP will develop performance standards for all jurisdictions not covered by the other groups and will address such areas as community resources, employee relations, support services and internal discipline for all jurisdictions.

All standards will be reviewed by the independent accreditation commission consisting of 21 members, 11 officials from the law enforcement community and 10 representatives from governmental and private sector agencies.

The accreditation commission will solicit views from local and state government officials, various communities, and public interest groups, including labor representatives, throughout the standards development stage to assure an acceptable nationwide accreditation process. Members of the commission were unanimously approved by the IACP, NOBLE, NSA, and PERF.

Allocations: LEAA's support for this program is $1.1 million in FY 1980.

Match Requirement. None.

Eligibility: Not applicable.

Contact

For further information, contact:

Donald Anderson
Enforcement Division
Office of Criminal Justice Programs
Law Enforcement Assistance Administration
Washington, D.C. 20531
Telephone: (202) 724-7560

12. **Police Management Training.** The overall primary objective of this program, both short or long range, is to increase and expand the management capability and expertise of law enforcement executives and leaders, to obtain optimum efficiency and productivity through enlightened, advanced management. Secondarily, this program will assist police agencies in addressing specifically identified priority problem areas. This program encompasses a sub-set of projects that provide various levels of police management training for current or potential police executives and managers.

Training, instruction, and education is provided at the basic, refresher, and more sophisticated, advanced levels. Clientele served includes State, county, and municipal police executives, senior officers or potential leaders, both elected and appointed, from throughout the country.

Allocations: In FY 80, up to $200,000 has been allocated for an evaluation of the Police Executive Institute Project.

Number and Dollars Range of Grants

One grant, for up to $200,000 will be awarded.

Match Requirement: None.

Eligibility: Not applicable.

Submission Deadlines for Grant Applications

Applicants must submit concept papers by April 1, 1980. After Enforcement Division staff review, comment and acceptance, full applications must be submitted by June 1, 1980.

Contact

For further information regarding training opportunities or any other aspects of this program contact:

Peter Xenakes
Enforcement Division
Office of Criminal Justice Programs
Law Enforcement Assistance Administration
633 Indiana Avenue, N.W.
Washington, D.C. 20531
Telephone: (202) 724-7560

13. **Hazardous Devices Training Program.** The program is conducted for LEAA by the U.S. Army at Redstone Arsenal, Alabama. The attendees are public safety personnel who are assigned to bomb deactivation duties.

Training activities consist of two courses—a three-week course for basic bomb technicians, aimed at officers with little or no previous experience with explosive devices, and a one-week refresher course to bring trained bomb technicians up to date on recent developments in the field.

In the basic course, trainees are taught how to conduct searches for explosives, to investigate suspicious packages, to disarm or dispose of live bombs in the safest possible way, and to develop physical evidence that will support subsequent investigation and prosecution. Ten basic and 16 refresher courses are scheduled for FY 80.

Allocations: In Fiscal Year 1980, $400,000 has been allocated for the program.

Number and Dollar Range of Grants

One grant of approximately $400,000 will be awarded to the U.S. Army.

Match Requirement: None.

Eligibility: Not applicable.

Submission Deadline

Not applicable.

Contact

For further information concerning prospective participation contact:
Ms. Goldie Feldman
Mississippi Criminal Justice Planning Division
510 George Street, Suite 310
Jackson, Mississippi 39201
Telephone: (601) 354-6330

14. **Indian Criminal Justice Program.** This program is designed to assist tribes and aboriginal groups to improve the delivery of criminal justice in the Indian community. Emphasis is being placed on the development of basic criminal justice programs on regional levels and on the continued improvement of the tribal court system. The scope of the Indian program must involve a series of tribes in a regional project or national coverage.

The program design is based upon the commonality of problems faced by Indian tribes throughout the U.S. or in a specific geographical area.

The program focuses on inter-tribal cooperation and communication in addressing criminal justice issues. Projects which are not continuations will be selected based on the documented needs of the tribes involved, degree of inter-tribal cooperation, and the degree to which the proposed project addresses needs, and which may be transferable.

Note.—Individual tribes are also eligible to apply for and participate in programs administered by other offices as outlined in these announcements.

Allocations: In FY 1980, $600,000 has been allocated for this program.

Number and Dollar Range of Grants

It is anticipated that one continuation grant not to exceed $175,000 will be made. Continuation grant applications must be received at least 90 days prior to the end date of the current grant.

Further, it is anticipated that one grant not to exceed $125,000 will be made to

develop model tribal courts, and up to three grants not to exceed $100,000 each for Statewide or regional basic criminal justice system development programs.

Match Requirement: None.

Eligibility: **1. Model Court Development.**

National Indian organizations which represent tribal courts or tribal governments which have a working relationship with the courts.

2. Basic Indian Criminal Justice System Development.

Priority consideration will be given to inter-tribal coalitions in States governed by Pub. L. 280 in which tribes are in the process of retrocession or have been given criminal jurisdiction since July 1978 by court decision or an executive order. Pre-applications are required. Technical assistance will be available, as resources permit, to resolve issues raised by competing applications from the same State.

Submission Deadlines

New applicants must submit a concept paper by February 29, 1980. After the Indian Justice program staff's review and comment, applications must be received by May 31, 1980.

Contact

For further information concerning application and match requirements, potential applicants must contact:

Dale Wing, Program Manager
Indian Justice Section
Office of Criminal Justice Programs
633 Indiana Avenue, NW., Room 713
Washington, D.C. 20531

15. Family Violence Program. The Family Violence Program is based on the recognition that family violence is both a social and legal problem and that a comprehensive community effort is essential to combat it. Thus, the program focuses on improving the criminal justice system's handling of such family cases through a partnership with other community services.

LEAA provides funds to support projects that demonstrate community-wide solutions to family violence—projects that involve the active participation of all relevant public and private agencies. Participants must include the obvious institutions-police, prosecutors, hospitals, mental health and social service agencies—and also legal and professional organizations, public education, media, neighborhood groups, and schools. Grants finance planning, coordination, and central data collection, as well as the new criminal justice or social service program components necessary for a comprehensive approach to dealing with family violence.

The program also supports a free monthly newsletter and national resource center, a national public education program, and technical assistance to local projects.

Allocations: In FY 1980, $3,000,000 has been allocated for this program: $1 million for National Priority Program grants, and $2.0 million for Discretionary Program grants.

Number and Dollar Range of Grants

No new grants are planned for fiscal year 1980.

Match Requirement: In accordance with the terms of the original grant.

Eligibility: Not applicable.

Submission Deadline

Continuation applications must be received 90 days prior to expiration of current grants.

Contact

For further information about application and match requirements, potential applicants must contact:

Jeannie Santos, Program Manager
Family Violence Program
Special Programs Division
Office of Criminal Justice Programs
633 Indiana Avenue, NW., Room 711
Washington, D.C. 20531
Telephone: (202) 724-5905

16. Evaluation Technical Assistance (TA). The Evaluation Technical Assistance Resource Center program (TARC) is collocated with the Criminal Justice Training Centers. The goal of the TARC is to provide technical assistance (TA) in the area of evaluation in the Law Enforcement Assistance Administration's Service Areas.

Technical assistance delivered by and through the TARC will be geared towards developing the capacity of the receiving agencies to carry out evaluations.

The emphasis on capacity building is the central theme of the proposed delivery strategy. To meet this intent, the TA must leave a residue of knowledge of evaluation behind once delivered. This residue should not only reside in the person or persons receiving the TA but should become institutionalized within the operation of the agencies' evaluation effort.

The TARC will deliver, either by outside consultants or TARC staff members, a full range of TA services in the area of evaluation. These services will include:

1. On-site consultations by technically competent experts in the area of evaluation.

2. Workshops dealing with specific problem areas.

3. The delivery of technical information via telephone contacts.

4. Providing pertinent documents, literature, bibliographies from a central resource documents center.

These services will be consistent with training provided via courses in Criminal Justice Evaluation and Monitoring provided by CJTC. The TA provided will not be delivered in lieu of this training but will be geared to enhance it, nor will it subsidize or perform work in evaluation which substitutes a TA effort for a normal function of a particular agency.

There will be two delivery modes: Proactive (Planned) and Reactive. Primary emphasis will be placed on the planned mode in that at least 80 percent of the TA action budget will be dedicated to providing planned TA to the various state, regional, and local criminal justice planning agencies. Monies are not available to provide TA to operational agencies.

Allocations: In fiscal year 1980, $700,000 has been allocated for this program.

Numbers and Dollar Range of Grants

Continuation projects have already been identified for funding during FY 80.

Match Requirement: None.

Eligibility: Not applicable.

Submission Deadline

Continuation applications must be submitted 90 days prior to expiration of current grant.

Contact

For further information, contact:

Jerald Levine
Program Development and Evaluation Staff
Law Enforcement Assistance Administration
633 Indiana Avenue, NW.
Washington, D.C. 20531
Telephone: (202) 724-7664

17. Public Interest Groups. This program is designed to keep officials of State and local government informed about developments in criminal and juvenile justice. It is also designed to insure that LEAA is kept informed of the goals, concerns, and priorities of State and local government.

Financial assistance will be provided to those organizations with unique public constituencies at the State and local levels of government; and to those special interest groups with constituencies which are part of the LEAA delivery system.

The program strategy focuses on nationwide dissemination of information on criminal and juvenile justice matters to State and local government; and providing feedback to LEAA on State and local criminal and juvenile justice priorities and needs.

Allocations: In FY 1980, $600,000 has been allocated for this program.

Number and Dollar Range of Grants

Four continuation grants will be awarded with dollar range of approximately $85,000–$320,000.

Match Requirement: None.

Eligibility: Not applicable.

Submission Deadline

Continuation applications must be received 90 days prior to the expiration of current grants.

Contact

For further information about application and match requirements, potential applicants must contact:

Allen Benson, Program Manager
Public Interest Groups
Special Programs Division
Office of Criminal Justice Programs
633 Indiana Avenue, N.W., Room 712
Washington, D.C. 20531

18. Integrated Police and Prosecution Witness Assistance Program. The Integrated Police and Prosecution Witness Assistance Program is an effort to coordinate successful elements of both Police Department Victim/Witness projects and Victim/Witness projects based in the prosecutor's office into an integrated approach. This comprehensive approach will provide a link between the police and prosecutor resulting in improvements of these systems as well as an improved service delivery system to the witnesses and victims of crime.

This program will support projects in which the police and prosecutor coordinate and integrate procedures, special services, data collection, and other activities designed to improve the treatment of victims and witnesses and ensure better utilization of witnesses, thereby increasing the rate of successful prosecutions. Although police or prosecutor can be the applicant, all program development and implementation must reflect a joint effort by the police and prosecutor.

This program will focus not only on tracking the victim/witness throughout his/her movement in the criminal justice system, but on improving procedures and providing services at key points in order to insure witness cooperation. Although these projects will provide a variety of services to witnesses, the success of the projects will be measured by an increase in the rate of successful prosecutions.

Applicants may choose to establish linkages with probation/parole and other community corrections agencies in their jurisdiction. Such coordination would be intended to ensure that victims and witnesses are provided needed services in cases moving from prosecution to corrections. Formal notification procedures would be established between the prosecutor's office and the probation department or other community corrections agency, enabling the receiving agency to ensure the continuation of services to victims and witnesses. Such services might include enforcement of court-ordered restitution and referrals to social service agencies.

Allocations: In FY 1980, $338,000 has been allocated for the two new projects for this program. Monies for three continuation grants have also been allocated in the amount of $241,000.

Number and Dollar Range of Grants

Two grants will be awarded for an average amount of $100,000. The funding levels for the three continuation grants will be between $53,000 and $99,000.

Continuation applications must be received 90 days prior to expiration of current grants.

Match Requirement: New grants will require 10% match; continuation grants will require a 30% match.

Eligibility: (1) Police departments, prosecutor's offices or other agencies of government which can effectively coordinate the police and prosecutors' activities.

(2) Communities with a population of 50,000 to 500,000. (may be individual precinct, etc., within larger jurisdictions).

Submission Deadline

Grant applications must be received by April 14, 1980.

Contact

For further information about application and match requirements potential applicants must contact:

Jan Kirby
Victim/Witness Unit
Special Programs Division
Office of Criminal Justice Programs
633 Indiana Avenue, N.W., Room 707
Washington, D.C. 20531
Telephone: (202) 724-5905

19. National Victim/Witness Strategy Program. The National Victim/Witness Strategy Program is designed to improve victim/witness services by enhancing coordination and cooperation among criminal justice and non-criminal justice agencies which are and should be involved in these services. Projects supported by this program will develop and expand the services to victims and witnesses by creating centralized structures or networks of victime/witness services providers and by mobilizing existing non-governmental groups and organizations.

Financial assistance will be provided to Statewide organizations to support comprehensive victim/witness planning, resource exchange, and development on the local level to improve the services to victims and witness.

Financial assistance will also be provided to not-for-profit national organizations to develop victim/witness programs and activities among their constituencies. Based on research and experience, it has been determineed that such coordination and cooperation are required to successfully provide victim/witness services that will be beneficial to the victim/witness and improve the successfull operations of the criminal justice system.

Allocations: In FY 1980, $1,720,000 has been allocated for this program.

Number and Dollar Range of Grants

$100,000 for evalnation of the National Victim/Witness Strategy Program.

$200,000 for an Interagency Agreement between the Law Enforcement Assistance Administration and the Department of Housing and Urban Development.

$350,000 for continuation grant to the National Institute of Victimology, Victim/Witness Resources Center.

$248,000 for four new Victim/Witness Strategy grants.

$824,000 for 14 continuation Victm/Witness strategy grants with funding levels between $32,000 and $69,000.

Match Requirement: New grants will require 10% match. Continuation grants will require a 20% match.

Eligibility: (1) Statewide Networks. Any state or local unit of government, not-for-profit organization, or a coalition of these groups that can effectively coordinate victim/witness efforts in that state.

(2) Non-Governmental Organizations. Not-for-profit organizations (criminal justice or other) already active in fields germane to victim/witness services.

(3) Intergovernmental Agencies. Federal agencies that have initiated or are considering initiating programs relating to victim/witness services at the state or local level.

Submission Deadline

Grant applications must be received by April 30, 1979.

Contact

For further information about application and match requirements potential applicants must contact:

Jan Kirby
Victim/Witness Unit
Special Programs Division
Office of Criminal Justice Programs
633 Indiana Avenue, N.W., Room 707
Washington, D.C. 20531
Telephone: (202) 724–5905

20. **Improving Criminal Justice Planning and Coordination.** The goal of this program is to encourage State and local governments to adopt criminal justice planning and coordination as contributing and integral governmental functions. Direct grant assistance is available for selected States and localities to upgrade planning and coordination functions through one of several options, including, but not necessarily limited to (1) non-grant related program development, and; (2) governmental reorganization studies and/or implementation. Activities to enhance planning and coordination must go significantly beyond those routinely carried out in administering the LEAA grant program and result in greater involvement of planning personnel in issues and concerns that transcend the grant program and increase the utility of criminal justice planning and coordination functions in the general government decision-making process.

Allocations: $600,000 has been allocated for this program in FY 1980.

Number and Dollar Range of Grants

5–10 grants, ranging from $25,000–$100,000 to State and local governments

Match Requirement: None

Eligibility Requirement: State Criminal Justice Councils and eligible entitlement jurisdictions.

Submission Deadline

Grant applications must be received by June 1, 1980.

Contact

For further information concerning application and match requirements potential applicants must contact:

Peter Heerwagen
Office of Criminal Justice Programs
Law Enforcement Assistance Administration
Washington, D.C. 20531
Telephone: (202) 724–7659

21. **Community Anti-Crime Program.** This program will provide continuation funding to non-profit community groups to organize neighborhood residents into effective self-help anti-crime activities. Activities conducted by the groups range from some of the more traditional crime prevention techniques such as block watches, tenant patrols, home security efforts, victim services and escort services for the elderly, to innovative, community-based approaches to arson prevention, community dispute settlement, rape prevention, juvenile programming and improved police/community relations.

Grants are made directly to community groups and ongoing program implementation technical assistance in crime prevention organizing and program and financial management is provided to groups throughout their project periods.

Allocations: $10 million in FY 1980 funds have been allocated for this program.

Number and Dollar Range of Grants

Approximately 75–80 continuation grants will be awarded with an average amount of $150,000.

Match Requirement: None

Eligibility: Non-profit community groups.

Submission Deadline

Applications will be submitted throughout the year as first-year projects expire. They must be received at least 90 days prior to the end of their initial project period.

Contact

For further information contact:

James E. Hagerty, Director
Community Anti-Crime Programs Division
Office of Community Anti-Crime Programs
Law Enforcement Assistance Administration
Washington, D.C. 20531
Telephone: (202) 724–6315

22. **Comprehensive Crime Prevention Program.** The Comprehensive Crime Prevention Program (CCPP), administered by the Office of Community Anti-Crime Programs, is a successor to many crime prevention programs and research funded by LEAA, each designed to test the validity of a single crime prevention technique or theory. The program attemps to consolidate Federal, State and local crime prevention efforts in a metropolitan area into one highly coordinated program.

Funding and technical expertise are provided to selected jurisdictions to enable them to accurately determine the local crime problems through crime analysis and citizen surveys, assess all resources which can be mobilized to prevent crime, establish a city-wide advisory council of government and citizen representatives to oversee the program, and design and implement a multi-component crime prevention program addressing crimes against persons, residences, and businesses.

Allocations: In FY 1980, $1,600,000 has been allocated for this program.

Number and Dollar Range of Grants

Four continuation grants will be awarded for an average amount of $400,000 each.

Match Requirement: None

Eligibility: Not applicable.

Submission Deadline

Continuation applications are due 90 days before expiration of ongoing grants.

Contact

For further information contact:

Ronald J. Trethric, Director
Comprehensive Crime Prevention Programs Division
Office of Community Anti-Crime Programs
Law Enforcement Assistance Administration
633 Indiana Avenue, N.W.
Washington, D.C. 20531
Telephone: (202) 724–5940

23. **Educational Development.** All of the activities in this program in FY 1980 will support LEAA's Black College Initiative by continuing technical and financial assistance to the nation's historically Black colleges and universities and by continuing curriculm and faculty development for criminal justice baccalaureate programs serving minority communities.

Objectives of the program are: (1) to improve the quality of criminal justice-related educational programs offered by institutions of higher education, and (2) to strengthen the educational system's ability to meet specifically defined criminal justice manpower needs.

Allocations: In FY 1980, $200,000 has been allocated for this program.

Number and Dollar Range of Grants

Two or three continuation grants will be awarded for about $65,000 each.

Match Requirement: Between 10–25% match is required.

Eligibility: Not applicable.

Submission Deadline

Continuation grant applications must be received at least 90 days prior to the expiration of current grants.

Contact

For further information contact:

Jean F. Moore

Office of Criminal Justice Education and Training
Office of Justice Assistance, Research, and Statistics
Washington, D.C. 20531
Telephone: (301) 492-9144

24. Manpower Planning. This program consists of the development of model criminal justice manpower planning methods and procedures for use by State and local agencies. The criminal justice system consists of complex organizations with widely diverse functions. Yet no concerted effort has been undertaken to develop a comprehensive and systematic way to identify agency personnel needs.

Accomplishment of agency objectives requires development of policies, procedures and programs for education, training, recruitment, selection, placement, compensation and utilization of personnel. Costs for these activities are nearly 85 percent of the criminal justice system's total expenditures. Use of the planning model will improve agency capability to identify numbers of employees and the kinds of employee skills, knowledges, and abilities required to accomplish agency goals.

The program supports development of an adequate criminal justice manpower data base, design of model methods and procedures for manpower planning, and testing of these methods and procedures.

Allocations:

In fiscal year 1980, $500,000 has been allocated for this program.

Number and Dollar Range of Grants:
Approximately two continuation grants will be awarded for an average amount of $250,000.

Matching Requirements:
10-25% match is required.

Eligibility:
Not applicable.

Submission Deadline:
Continuation grant applications must be received at least 90 days before the expiration of current grants.

Contact: For further information contact: Jean F. Moore, Office of Criminal Justice Education and Training, Office of Justice Assistance, Research, and Statistics, Washington, D.C. 20531, telephone: (301) 492-9144.

25. Financial and Grants Management Training.

LEAA has earmarked funds from the FY 1980 budget for a grant to be given to the National Criminal Justice Association for the management and operation of a Financial Management Training Center. The purpose is to facilitate the delivery of financial and grants management training to the State Criminal Justice Council and Regional Planning Unit Personnel.

The training will be provided to approximately 300 persons. Plans are for 10 training sessions with 30 persons at each session. The first session will be scheduled for some time in January 1980.

Training in financial management and grant administration will include subjects such as statutory requirements, regulatory requirements, LEAA administrative requirements, financial reporting, letter of credit and grant costs (allowable and unallowable). The proposed legislation, OMB changes in procurement, cash management and audit standards and the revised Financial Guide will also be covered in these training sessions.

Allocations:

In fiscal year 1980, $200,000 has been allocated for this program.

Number and Dollar Range of Grants:
One grant to National Criminal Justice Association.

Matching Requirements:
None.

Eligibility Criteria:
Not applicable.

Submission Deadline:
Not applicable.

Contact:
For further information contact: Arthur E. Curry, Policy Development and Training Division, Office of the Comptroller, Office of Justice Assistance, Research, and Statistics, Washington, D.C. 20531, telephone: (202) 724-5863.

26. State Level Information Systems.

This program is to assist State Criminal Justice Councils (SCJCs) establishing a system by which they can provide consistent, accurate and timely information on the programs within their agencies to top management, to their constituencies, and to LEAA. The program is divided into two thrusts. The first is an annual grant to the National Criminal Justice Association (NCJA). The major tasks of this grant are to provide technical assistance to the SCJCs, to coordinate mutual assistance between the SCJCs, and to perform a clearinghouse function for the SCJCs.

The second thrust is a series of implementation grants to SCJCs to replicate proven automated management information systems (MIS) or to enhance existing systems.

Allocations:

In Fiscal Year 1980, $600,000 has been allocated for this program.

Number and Dollar Range of Grants:
One grant to NCJA for $250,000; 8 implementation grants to SPAs averaging $43,750.

Matching Requirement:
None.

Eligibility:
State Criminal Justice Councils (implementation grants only).

Submission Deadlines:
Not applicable.

Contact:
For further information contact: Ms. Delphine Day, Information Systems Division, Office of the Comptroller, Office of Justice Assistance, Research, and Statistics, Washington, D.C. 20531, telephone: (202) 633-4842.

27. Computer/White Collar Crime.

This program involves the development of activities which assist criminal justice personnel in combatting the increasing numbers of white collar crimes, with an emphasis on those crimes perpetrated through the use of the computer.

The program attempts to span information gaps within the criminal justice community with regard to such areas as: the establishment of definitions and classifications for white collar and/or computer-related crimes, the identification and analysis of problems associated with determining the extent and impact of these crimes; the utilization of computers as a means of white collar crime control and/or measurement; and the identification of linkages between existing case law and computer crime. While the program is designed to primarily address the needs of criminal justice personnel, efforts will be made to draw upon the existing body of knowledge in this area within the private sector, and to foster cooperation among public and private authorities.

In FY 1980, the program will focus upon identified needs among all segments of the criminal justice community and the further identification of issues, problems and solutions relating to white collar/computer crime.

Allocations:

$425,000 has been allocated for this program in FY 1980.

Number and Dollar Range of Grants:

Two or three grants will be awarded to include a grant in the area of Electronic Funds Transfer systems which will be awarded competitively, and a project in the area of computer security will be negotiated on a sole source or limited competitive basis.

Match Requirement:
None.

Eligibility:
Public or private not-for-profit agencies or organizations may apply.

Submission Deadlines:
Grant applications should be received by March 1, 1980, unless extended by individual program solicitations.

Contact:
Carol G. Kaplan, Director, Privacy and Security Staff, Bureau of Justice

Statistics, Washington, D.C. 20531, Telephone: (301) 492-9036.

28. Privacy and Security. This program is intended to assist state and local governments in their efforts to be in compliance with LEAA regulations governing the privacy and security of criminal history records. These regulations require that criminal history information maintained in LEAA funded systems be collected, stored and disseminated in a manner which assures the completeness, accuracy and security of that information as well as the individual's right to access and challenge such data.

A second major thrust of the program explores and develops various related issues concerning confidentiality of research and statistical data. The program also explores the areas of information management policy and criminal justice intelligence procedures. The intent of the program is to analyze and review current issues and procedures in these areas and to provide information to interested components of the criminal justice community and/or the general public.

Allocations:

$525,000 has been allocated for this program in FY 1980.

Number and Dollar Range of Grants:

Two grants will be awarded, totaling approximately $275,000. One grant will be a continuation grant to Search Group, Inc. (SGI), for approximately $175,000 to $200,000, to further the existing effort to provide State-level assistance. The other grant, to be funded in an amount ranging between $75,000 to $100,000, will be to explore techniques to ensure research/statistical confidentiality and will be awarded competitively.

Eligibility:

Public or private agencies or organizations may apply.

Submission Deadlines:

Grant applications should be received by March 1, 1980.

Contact:

Carol G. Kaplan, Director, Privacy and Security Staff, Bureau of Justice Statistics, Washington, D.C. 20531, telephone: (301) 492-9036.

29. Law Enforcement Information and Communications Systems.

This program will include electronic systems demonstration, analyses, computer software development, and technical assistance for law enforcement agencies in the areas of fingerprint transmission, crime analysis, criminal investigations, and 911 planning.

A system will be developed and tested for the transmission of classifiable fingerprint images by facsimile or by other electronic means from law enforcement agencies to State identification bureaus to permit rapid identification of suspects. The system must be low in cost and have sufficient resolution to permit fingerpring classification.

Under two previous grants, the International Association of Chiefs of Police has developed four generalized computer software modules in BASIC for police crime analysis. A new grant will be awarded to add three crime analysis modules and to convert the software package from BASIC to COBOL.

One result of the crime analysis grants has been the recognition of the need for an information system for the management of criminal investigations. A grant will be awarded to examine the system requirements.

The planning and implementation of 911 emergency telephone systems pose many organizational and technical problems. To aid law enforcement officials in this area, the Bureau of Justice Statistics intends to establish a 911 Clearinghouse, which will include a short-term technical assistance program.

Allocation: $400,000 has been allocated for this program in FY 1980.

Number and Dollar Range of Grants: Three continuation grants will be awarded during fiscal year 1980 for $100,000 each. The grant for the development of a fingerprint transmission system is expected to be awarded to the International Association for Identification as a continuation of a current grant to upgrade identification bureaus. The grant for the continuation of the police crime analysis program development is expected to be awarded to the current grantee, the International Association of Chiefs of Police (IACP). Finally, the grant for development of an information system for management of criminal investigations is expected to be awarded to the IACP as an expansion to the crime analysis program. A grant, cooperative agreement or contract, not to exceed $100,000, is intended for the 911 Clearinghouse.

Match Requirement: Not applicable.

Eligibility: Fingerprint transmission, crime analysis, and criminal investigation, the International Association for Identification and the International Association of Chiefs of Police. 911 Clearinghouse, any agency or organization which can demonstrate the capability to operate a clearinghouse and provide short-term technical assistance in the planning and implementation of 911 systems.

Submission Deadline: Continuation grant applications must be received 90 days before the expiration of current grants. 911 Clearinghouse applications must be received by March 14, 1980.

Contact: S. S. Ashton, Jr., Systems Development Division, Bureau of Justice Statistics, Washington, D.C. 20531, telephone: (301) 492-9053.

30. Alternative Education for Juveniles. This is a new initiative which in FY 1980 will support projects designed to promote institutional changes in schools and provide alternative educational experiences for juveniles who have difficulty adjusting in traditional educational settings.

Allocations: In fiscal year 1980, $8,000,000 has been allocated for this program.

Number and Dollar Range of Grants: Approximately 12 to 15 grants are expected to be awarded by July 30, 1980.

Match Requirement: None.

Eligibility: Public or not-for-profit schools, agencies, or organizations.

Submission Deadline: Grant applications must be received in accordance with an upcoming announcement to be published in the Federal Register.

Contact: Monserrate Diaz, Juvenile Justice Specialist, Office of Juvenile Justice and Delinquency Prevention, Law Enforcement Assistance Administration, 633 Indiana Avenue NW., Washington, D.C. 20531, telephone: (202) 724-7755.

31. Removing Children From Adult Jails and Lockups. This is a new program in FY 1980 to establish services through the development and implementation of projects which will address the problems of removing juveniles from adult jails and lockups. This program is intended to provide the necessary resources, including both financial and technical, to jurisdictions in assisting them to plan and implement a viable strategy to remove juveniles from adult jails and lockups. The results sought are to develop a flexible network of service and placement options based upon (1) the least restrictive alternative and (2) maintenance of juvenile family and community ties.

Allocations: In fiscal year 1980, $3,000,000 has been allocated for this program.

Number and Dollar Range of Grants: Fifteen to eighteen grants for about $200,000 each will be awarded.

Match Requirement: None.

Eligibility: Public or private not-for-profit agencies or organizations.

Submission Deadline: Grant applications must be received by July 30, 1980.

Contact: Doyle Wood, Juvenile Justice Specialist, Office of Juvenile Justice and Delinquency Prevention, Law Enforcement Assistance Administration,

633 Indiana Avenue NW., Washington, D.C. 20531, telephone: (202) 724-7775.

32. Capacity Building; Juvenile Delinquency Prevention. The purpose of this Initiative is to provide support to public and private youth serving groups, indigenous neighborhood organizations, and agencies in order to increase their capacity to implement projects which propose innovative program ideas and address the needs of delinquent youth and youth in danger of becoming delinquent.

Under this Program, OJJDP will select promising new projects and outstanding continuation projects through a competitive review process. Priority areas will be established by OJJDP and applications which support priorities, respond to demonstrated need, and show the greatest potential for impact will be selected.

Allocations: In fiscal year 1980, $4,787,976 has been allocated for this program.

Number and Dollar Range of Grants: Grants will generally range up to $300,000 for 18 months, with actual amounts based upon the objectives and projected impact upon the problem. No matching funds will be required and cost effective proposals are encouraged.

Match Requirement: None.

Eligibility: Public and private not-for-profit youth serving agencies.

Submission Deadline: Applications for new projects and continuation projects must be received by OJJDP by June 30, 1980.

Contact: Roberta Dorn, Juvenile Justice Specialist, Office of Juvenile Justice and Delinquency Prevention, Law Enforcement Assistance Administration, 633 Indiana Avenue NW., Washington, D.C. 20531, telephone: (202) 724-7755.

32. Juvenile Delinquency Prevention Research and Development Project. The purpose of this initiative is to develop information on effective strategies, delinquency prevention and to increase the State and local capability to promote local efforts to implement effective delinquency prevention programs. The particular program components to be researched will be established by the National Institute of Juvenile Justice and Delinquency Prevention prior to solicitation of applications.

Allocations: In fiscal year 1980, $2,300,000 has been allocated for this program.

Number and Dollar Range of Grants: Up to ten (10) awards will be granted to public and private organizations.

Match Requirement: None.

Eligibility: Public or private not-for-profit agencies.

Submission Deadline: To be indicated through a forthcoming announcement in the Federal Register.

Contact: For further information contact: James C. Howell, Office of Juvenile Justice and Delinquency Prevention, Law Enforcement Assistance Administration, 633 Indiana Avenue NW., Washington, D.C. 20531, telephone: (202) 724-7751.

I. Eligibility Criteria

Many of the programs contained in this program announcement have additional eligibility restrictions. Applicants should contact program managers for further information about eligibility criteria.

Henry S. Dogin,

Acting Director, OJARS, Acting Director, NIJ.

Homer F. Broome, Jr.,

Acting Administrator, LEAA, Acting Director, BJS.

[FR Doc. 80-5007 Filed 2-14-80; 8:45 am]

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Federal Register

Friday
February 15, 1980

Part VII

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

February 1, 1980.

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93–344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of February 1, 1980 of three rescission proposals and 45 deferrals contained in the first four special messages of FY 1980. These messages were transmitted to the Congress on October 1, November 15, December 26, 1979, and January 28, 1980.

Rescissions (Table A and Attachment A)

Table A summarizes the status of rescissions proposed by the President as of February 1, 1980, while Attachment A shows the history and status of each rescission proposed during FY 1980.

Deferrals (Table B and Attachment B)

As of February 1, 1980, $2,307.7 million in 1980 budget authority was being deferred from obligation and another $44 thousand in 1980 obligations was being deferred from expenditure. Table A summarizes the status of deferrals reported by the President as of February 1, 1980, while Attachment B shows the history and status of each deferral reported during FY 1980.

Information From Special Messages

The special messages containing information on the rescissions and the deferrals covered by the cumulative report are printed in the Federal Register of:

Friday, October 5, 1979 (Vol. 44, No. 195, Part IX)

Tuesday, November 20, 1979 (Vol. 44, No. 225, Part III)

Monday, December 31, 1979 (Vol. 44, No. 251, Part VII)

Thursday, January 31, 1980 (Vol. 45, No. 22, Part X)

James T. McIntyre, Jr.,

Director.

BILLING CODE 3110-01-M

Table A

STATUS OF 1980 RESCISSION PROPOSALS

	Amount (In millions of dollars)
Rescissions proposed by the President	$122.3
Accepted by the Congress	-0-
Rejected by the Congress	-.1
Pending before the Congress	122.2

* *

Table B

STATUS OF 1980 DEFERRALS

	Amount (In millions of dollars)
Deferrals proposed by the President	$3,219.4
Routine Executive releases (-$518.5 million) and adjustments (-$393.1 million) through February 1, 1980	-911.6
Overturned by the Congress	-0-
Currently before the Congress	2,307.8 a

a. This amount includes $44 thousand in outlays for a Department of the Treasury deferral (D80-23).

Attachments

PAGE 1 ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1980 AS OF 01/31/80 16:46

AS OF FEB. 1, 1980 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
DEPARTMENT OF HEALTH, EDUCATION AND WELFARE							
Health Resources Administration							
Health resources							
BA	R80- 2		104,218	1 28 80			
DEPARTMENT OF THE INTERIOR							
Geological Survey							
Exploration of natl petroleum reserve-Alaska							
BA	R80- 3		18,000	1 28 80			
OTHER INDEPENDENT AGENCIES							
International Communication Agency							
Special international exhibitions							
BA	R80- 1	114		10 1 79		114	11 15 79
TOTAL BA		114	122,218			114	

END OF REPORT

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 02-01-80
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Economic support fund	BA	D80- 1	100,000		10 1 79				100,000
DEPARTMENT OF AGRICULTURE									
Forest Service									
Timber salvage sales	BA	D80- 2	9,298		10 1 79				9,298
Expenses, brush disposal	BA	D80- 3	32,060		10 1 79				32,060
Restoration of forest lands	BA	D80- 4	38		10 1 79				38
DEPARTMENT OF AGRICULTURE TOTAL	BA		41,396						41,396
DEPARTMENT OF COMMERCE									
National Oceanic and Atmospheric Administration									
Construction	BA	D80- 5	7,000		10 1 79				
	BA	D80- 5A		39,459	1 28 80				46,459
Coastal zone management	BA	D80- 6	20,000		10 1 79				
	BA	D80- 6A		a	11 15 79				20,000
Promote and develop fishery products and research	BA	D80- 7	2,400		10 1 79	-2,400			
Fisheries loan fund	BA	D80- 8	5,300		10 1 79				

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 02-01-80
	BA	D80- 8A		b	1 28 80	-93			5,207
DEPARTMENT OF COMMERCE TOTAL BA			34,700	39,459		-2,493			71,666
DEPARTMENT OF DEFENSE-MILITARY									
Procurement									
Shipbuilding and conversion, Navy	BA	D80-41	997,500		1 28 80				997,500
Military Construction									
Military construction, all services	BA	D80- 9	31,386		10 1 79				
	BA	D80- 9A		355,780c	1 28 80	-3,734			383,432
Family Housing, Defense									
Family housing, Defense	BA	D80-42	18,651		1 28 80				18,651
DEPARTMENT OF DEFENSE-MILITARY TOTAL BA			1,047,537	355,780		-3,734			1,399,583
DEPARTMENT OF DEFENSE-CIVIL									
Wildlife Conservation, Military Reservations									
Wildlife conservation, all services	BA	D80-10	595		10 1 79				
	BA	D80-10A		114	12 26 79				709
DEPARTMENT OF ENERGY									
Energy Programs									
Fossil energy construction	BA	D80-11	50,000		10 1 79				50,000

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 02-01-80
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE								
Alcohol, Drug Abuse & Mental Health Administration								
Construction & renovation, St. Elizabeths Hospital								
BA	D80-12	23,314		10 1 79				23,314
Office of Assistant Secretary for Health								
Special foreign currency program								
BA	D80-43	10,000		1 28 80				10,000
Human Development Services								
White House Conferences on Aging and Families								
BA	D80-13	4,649		10 1 79	-2,354			2,295
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE TOTAL BA		37,963			-2,354			35,609
DEPARTMENT OF THE INTERIOR								
Bureau of Land Management								
Oregon and California grant lands								
BA	D80-44	1,134		1 28 80				1,134
Heritage Conservation and Recreation Service								
Land and water conservation fund								
BA	D80-14	30,000		10 1 79				30,000
Geological Survey								
Payments from proceeds, sale of water								
BA	D80-15	39		10 1 79				39
Bureau of Mines								
Drainage of anthracite mines								
BA	D80-16	1,137		10 1 79				
BA	D80-16A		328	1 28 80				1,465

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 02-01-80
DEPARTMENT OF THE INTERIOR									
TOTAL	BA		32,310	328					32,638
DEPARTMENT OF JUSTICE									
Legal Activities									
Fees and expenses of witnesses									
	BA	D80-45	1,181		1 28 80				1,181
Federal Prison System									
Buildings and facilities									
	BA	D80-17	22,853		10 1 79				
	BA	D80-17A		14,888	11 15 79				
	BA	D80-17B		12,610	1 28 80				50,351
DEPARTMENT OF JUSTICE									
TOTAL	BA		24,034	27,498					51,532
DEPARTMENT OF STATE									
International Organizations and Conferences									
Contributions to intl peacekeeping activities									
	BA	D80-32	10,000		11 15 79				
	BA	D80-32A		2,000	1 28 80				12,000
Other									
Emergency refugee and migration assistance fund									
	BA	D80-18	5,650		10 1 79				
	BA	D80-18A		19,350d	1 28 80	-5,300d		d	19,700
DEPARTMENT OF STATE									
TOTAL	BA		15,650	21,350		-5,300			31,700
DEPARTMENT OF TRANSPORTATION									
Federal Aviation Administration									
Civil supersonic aircraft development termination									
	BA	D80-19	5,004		10 1 79	-5,000			4

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 02-01-80
Facilities & equip. (Airport & airway trust fund)									
	BA	D80-20	138,211		10 1 79				
	BA	D80-20A		166,081	1 28 80				304,292
Federal Highway Administration									
Federal aid highways									
	BA	D80-33	495,789		11 15 79	-495,789			
Urban Mass Transportation Administration									
Urban mass transportation fund									
	BA	D80-21	393,076		10 1 79			-393,076e	
DEPARTMENT OF TRANSPORTATION									
TOTAL	BA		1,032,080	166,081		-500,789		-393,076	304,296
DEPARTMENT OF THE TREASURY									
Office of the Secretary									
Investment in national consumer cooperative bank									
	BA	D80-38	12,550		12 26 79				12,550
Office of Revenue Sharing									
State and local government fiscal assistance fund									
	BA	D80-22	79,548		10 1 79				
	BA	D80-22A		34,245	12 26 79	-242			113,551
	O	D80-23	2,735		10 1 79	-2,691			44
Bureau of the Mint									
Construction of mint facilities									
	BA	D80-24	3,230		10 1 79				
	BA	D80-24A		2,500	1 28 80				5,730
DEPARTMENT OF THE TREASURY									
TOTAL	BA		95,328	36,745		-242			131,831
TOTAL	O		2,735			-2,691			44
OTHER INDEPENDENT AGENCIES									

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 02-01-80
District of Columbia								
Loans for capital outlay								
BA	D80-39	8,130		12 26 79				8,130
Federal Emergency Management Agency								
Emergency planning, preparedness, and mobilization								
BA	D80-25	80		10 1 79				80
Foreign Claims Settlement Commission								
Payment of Vietnam prisoner of war claims								
BA	D80-26	1,800		10 1 79	-940			860
International Communication Agency								
Salaries & expenses								
BA	D80-34	2,000		11 15 79				2,000
Special foreign currency program								
BA	D80-35	1,600		11 15 79				1,600
Acquisition & construction of radio facilities								
BA	D80-27	10,973		10 1 79				10,973
National Consumer Cooperative Bank								
Self-help development fund								
BA	D80-40	8,000		12 26 79				8,000
Railroad Retirement Board								
Regional rail transportation protective account								
BA	D80-36	1,000		11 15 79				1,000
National Alcohol Fuels Commission								
Salaries and expenses								
BA	D80-28	250		10 1 79				
BA	D80-28A		500	1 28 80				750
National Commission on Social Security								
Salaries and expenses								
BA	D80-29	250		10 1 79				
BA	D80-29A		145	12 26 79				395

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 02-01-80
Navajo & Hopi Indian Relocation Commission									
Salaries and expenses	BA	D80-30	5,300		10 1 79				5,300
President s Commission on Pension Policy									
Salaries and expenses	BA	D80-37	700		11 15 79				700
Tennessee Valley Authority									
Tennessee Valley Authority fund	BA	D80-31	17,000		10 1 79				17,000
OTHER INDEPENDENT AGENCIES TOTAL	BA		57,083	645		-940			56,788
TOTAL	BA		2,568,676	648,000		-515,852		-393,076	2,307,748
TOTAL	O		2,735			-2,691			44

FOOTNOTES

a. This supplementary report was transmitted solely to expand the application of this deferral to include funds appropriated in FY 1980 as well as balances carried forward from previous years.

b. This supplementary report was transmitted solely to change the justification for deferring the funds.

c. This amount includes the effect of releases totalling $18,270 thousand made prior to the transmittal of the supplementary report.

d. The supplementary report includes the effect of releases totalling $8,000 thousand and adjustments of $5,582 thousand made prior to the transmittal of the report.

e. Congressional action on the 1980 Transportation and Related Agencies Appropriation Bill (P.L.96-131) rescinded these funds.

[FR Doc. 80-4966 Filed 2-14-80; 8:45 am]
BILLING CODE 3110-01-C

Friday
February 15, 1980

Federal Register

Part VIII

Department of Labor

Occupational Safety and Health Administration

Occupational Safety and Health Hazards in Grain Handling Facilities; Request for Comments and Information and Notice of Informal Public Meetings

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910, 1918, 1926, and 1928

[Docket No. H-117]

Occupational Safety and Health Hazards in Grain Handling Facilities; Request for Comments and Information and Notice of Informal Public Meetings

AGENCY: Occupational Safety and Health Administration (OSHA).

ACTION: Request for comments and information and notice of informal public meetings.

SUMMARY: This notice requests comments and information regarding the regulation of occupational safety and health hazards found in grain handling facilities. In addition, this notice announces that OSHA will hold informal public meetings, as set forth below, to permit oral presentations of additional data and information concerning these hazards. The major safety hazards are fires and dust explosions. The health hazards include exposures to grain dust, both plant and animal matter (biological agents) associated with grain and dust, and pesticides. Although regarded primarly as a serious health hazard, pesticides may also affect the explosives properties of grain dust.

OSHA presently regulates certain safety hazards under standards in Subpart H (29 CFR Part 1910). These standards include provisions that cover safety hazards associated with compressed gases, flammable and combustible liquids, spray finishings, dip tanks, explosives and blasting agents, liquefied petroleum gases, and anhydrous ammonia. OSHA plans to revise its safety standards concerning hazardous materials under Subpart H (29 CFR 1910.101 through 1910.116). The revision may include the addition of new provisions to specifically cover operations such as those in grain handling facilities.

OSHA currently regulates exposures to grain dust under 29 CFR 1910.1000, Table Z-3. These regulations for "inert" or "nuisance dust", however, do not include provisions for exposure monitoring, specific personal protective equipment and other control measures. Studies indicate that exposure to grain dust may result in toxic effects.

OSHA also has permissible exposure limits for some 160 substances which may be used as pesticides (29 CFR 1910.1000, Tables Z-1 and Z-2). However, these standards cover only a small percentage of the total number of pesticides manufactured and formulated in this country. In addition, they only establish airborne concentration limits and general control requirements for the 160 pesticides, and do not address other protective measures such as exposure monitoring, specific personal protective equipment, and medical surveillance.

OSHA does not currently have specific standards regulating occupational exposures to harmful fungi, molds, bacteria or their toxins.

OSHA is hereby seeking written information on both the safety and health hazards associated with grain dust and grain dust exposures and on the factors that must be considered in determining how these hazards should be further regulated if OSHA decides that comprehensive standards for grain handling are necessary.

DATES: Notices of intention to appear at the public meetings as scheduled below must be recieved by March 24, 1980.

The informal public meetings are scheduled as follows:

1. April 15, 16, and 17, 1980, Superior, Wisconsin.

2. April 22, 23, and 24, 1980, Kenner, Louisiana.

3. April 29, 30, and May 1, 1980, Kansas City, Missouri.

The written information requested in this notice must be submitted on or before May 5, 1980.

ADDRESSES: Send all notices if intention to appear to Mr. Tom Hall, Division of Consumer Affairs, Room N3635, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

The written information requested in this notice should be submitted, in quadruplicate, to the Docket Officer, Docket No. H-117, Room S6212, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, N.W., Washington, D.C. 20210 (202) 523-7894.

The Informal Public Meetings are scheduled as follows:

1. April 15, 16, and 17, 1980, Holiday Inn, Superior Room, 110 E. 2nd Street, Superior, Wisconsin 54880.

2. April 22, 23, and 24, 1980, Sheraton Inn, Kenner Room, 2150 Veteran's Boulevard, Kenner, Louisiana 70062.

3. April 29, 30 and May 1, 1980, Federal Building, Room 140, 601 E. 12th Street, Kansas City, Missouri 64108.

FOR FURTHER INFORMATION CONTACT:

Public Meetings

Mr. Tom Hall at the address above, (202) 523-8024.

Health

Dr. Flo Ryer, Director, Office of Special Standards Programs, Directorate of Health Standards Programs, Room N3663, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Washington, D.C. 20210, (202) 523-7174.

Safety

Mr. Thomas Seymour, Director, Office of Fire Protection Engineering Standards, Directorate of Safety Standards Programs, Room N3463, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Washington, D.C. 20210 (202-523-7216)

SUPPLEMENTARY INFORMATION:

Background

Grain dust is a mixture of plant fragments, seeds, pollen, minerals, and both living and dead organisms and waste products of organisms. The organisms include insect parts, molds, bacteria, and fungi and fungal spores. Grain dust is generated through all aspects of grain handling, such as harvesting, transportation, storage, conveying, processing, and packaging. Grain dust may be composed of mineral particulates and the particulates of organic material other than grain. Grain dust may be included with grain as part of the marketable raw material or sold as a separate commodity for feed and feed products.

Grain is often infested with weevils and other insects. Under certain conditions, it may also be contaminated with fungi and molds. These biological agents, as well as the pesticides (insecticides and fumigants) used to halt their growth, often pose serious health hazards to grain handlers.

Grain dust particles exhibit a variety of sizes, surface areas, capacitance, and aerodynamic properties. Grain dust particles can aggregate to form larger particles or concentrate in various levels. Because of its composition and physical nature, grain dust can be both toxic and hazardous.

Dust concentrations and particle sizes are factors which influence the potential for explosion. High concentrations of grain dust are fuel sources for either fires or grain dust explosions. The U.S. Bureau of Mines has performed tests that relate particle size to the explosibility of dusts. These tests indicate that as size decreases explosibility increases. Controlled

laboratory tests performed by the Bureau of Mines show that grain dust explosions occurred when 42 percent of the particles were less than 74 microns.

Particles less than 10 microns are of particular concern when considering health effects since they are capable of penetrating the deeper, more sensitive portions of the lung. Inhalation of various sizes of grain dust, ranging from less than 10 microns to as large as 200 microns, has been found to cause respiratory diseases such as emphysema, asthma, and bronchitis.

Pesticides commonly used in grain fumigation include carbon tetrachloride, methyl bromide, ethylene dichloride, ethylene dibromide, phostoxin, carbon disulfide and hydrocyanic acid gas. pesticides used in fumigation are most often chemicals which readily volatilize; however, residues may adsorb to grain dust and other conditions may exist which prevent the dissipation of these toxic chemicals. It is possible that pesticides adhering to the grain dust may alter the explosive characteristics of the dust. In addition, the adsorption of these pesticides onto grain dust particles may increse the severity of the toxic effects of the pesticide residues if they are carried and deposited deep within the lungs by inhalation of grain dust.

The Department of Agriculture has estimated that in 1979, 13 billion bushels of the major grains were produced in this country, requiring the use of approximately 15,000 grain elevators. There are an estimated 225,000 grain elevator workers who are exposed to grain dust. In addition, there are more than 450,000 grain processors who may also be exposed to grain dust.

OSHA Involvement and Activity

In January 1978, following a series of disastrous grain elevator explosions, OSHA focused its attention on the high concentrations of dust found in grain elevators and participated in hazard evaluation meetings with various industry and government representatives. OSHA then issued a Grain Elevator Industry Hazard Alert which contained information about both safety and health hazards. Although the immediate concern was to eliminate conditions that might cause explosions, the alert warned that the serious health hazards associated with grain elevator work may, in the long run, take many more lives than the grain dust explosions. This warning was based upon general information obtained from the NIOSH health hazard surveys of the grain industry. These reports are available from the Docket Officer at a the address given above.

OSHA is presently studying the available scientific literature concerning adverse health effects that result from exposures to grain dust, organic matter and the pesticides used in grain handling operations. Preliminary data indicates that exposures to the dust and organic matter can cause emphysema, chronic bronchitis, fibrosis of the lung, dermatitis, and various allergic reactions that affect both the lung ("farmer's lung") and the skin ("grain itch"). There is also evidence that aflatoxins associated with grain molds can cause cancer. Exposures to pesticides may also cause severe brain, liver, kidney and lung damage, and even death, in grain handling employees.

OSHA has contracted with the National Academy of Sciences (NAS) to study the safety problems in grain handling facilities. The NAS is studying the causes and the prevention of fires and explosions in the grain handling facilities. In addition to the OSHA-NAS effort, the National Institute for Occupational Safety and Health (NIOSH) is conducting similar research with an emphasis on the safety hazards in grain elevators and feed mills. OSHA is evaluating the data and information as it becomes available and will consider the recommendations of both the NAS and NIOSH.

Comments and Information Requested

OSHA has concluded that comprehensive occupational safety and health standards may be needed to protect employees from the hazards found in grain handling facilities. Consequently, OSHA requests all interested persons to submit written and oral comments relating to the need for developing regulations which address both the fire and explosion hazards associated with grain handling operations as well as the health hazards inherent in occupational exposure to grain dust, organic matter associated with grain, and the pesticides used to treat grain. OSHA's decision on the appropriateness of commencing rulemaking proceedings will be based on consideration of all written and oral comments received.

Written Comments

OSHA has developed twelve categories of questions that address both the safety and health hazards found in grain handling facilities, and hereby requests written comments and information on the following:

1. *General Safety Concerns.* (a) Should OSHA require material safety data sheets or equivalent forms that supply employees with basic information (e.g. manufacturer, chemical and trade name, physical and chemical properties, hazards, etc.) for hazardous materials used in grain handling facilities? What information should be contained in these material safety data sheets?

(b) Should OSHA require preplanning for workplace disasters as a part of written emergency action plans? Should such plans require planning and coordination with outside resources such as hospitals, ambulance services, and police and fire departments to ensure appropriate response to workplace disasters? What types and frequency of training should be required for employees who will be affected by such plans? What other elements should be considered for inclusion in such plans?

(c) Is there a synergistic effect between combustible dusts and fumigants which increases the potential for explosions?

(d) Is spontaneous combustion of grain a problem in grain handling facilities?

(e) Are grain elevators operating at overcapacity? What dangers may result from operating at overcapacity?

(f) Are there significant differences between the fire and explosion hazards of the various grain dusts? If so, which grain dusts would require specific provisions? What should be the content of these provisions?

(g) Should operators of grain handling facilities be required to conduct a system safety analysis of their operation? If so, what grain handling facilities should be affected by the requirement and why?

2. *General Health Concerns.* (a) To what extent are the dust, biological and pesticide hazards the same in all grain handling and processing industries?

(b) To what extent are these hazards different in the various grain handling and processing industries?

(c) What other hazards, such as exposures to chemicals used in processing grain, are found in these industries?

3. *Scope and Application.* The grain handling industry can be defined broadly to include all operations involved in processing grain products, from growth of the grain to shipment of the final product to the consumer, or be more narrowly defined to include only some of these operations.

OSHA requests comments and information on the following:

(a) Should the scope and application of a standard for safety and health hazards in grain handling facilities include all industries involved in grain handling or processing (such as grain elevators, grain milling, flour milling,

grain and rice drying, flour and soybean processing, cereal production, grain alcohol production, and the preparation of bakery and confections products)? Are there reasons for excluding any industry or operation?

(b) Are there any other industries that use grain or grain products in which employees risk exposures to these hazards?

4. *Control Measures for Dust Hazards.* OSHA is concerned with the dust hazards which affect employee safety and health in grain handling facilities.

OSHA requests comments and information on the following:

(a) *Preventive Measures.* (i) Should automatic shutdown be required when a segment of the grain handling system fails to function as intended (e.g. dust control equipment failure, bucket elevator slippage, electrical failure, choked legs or conveyors, grinding and milling machine breakdowns, overheated bearings) or when a fire occurs? How often do equipment failures occur?

(ii) Should heat sensor alarms for bearings be required? What bearings should be monitored and at what temperature should alarms activate? What types of sensors should be used?

(iii) Should there be overload relays on motors that stop drive pulleys to avoid over heating if belts slip or bucket elevators become clogged?

(iv) Should there be heat sensors over belt conveyors in galleries and tunnels? If so, where should they be placed and at what temperature should they be set to activate?

(v) Should there be speed indicators on bucket elevators and other conveyor belts to indicate when the speed is so slow that slippage of belts may occur thus causing overheating? At what speed does slippage become a hazard? What should be the alarm and shutdown procedures? Should there be belt alignment sensors? If so, what type?

(vi) Should explosion suppression systems be required in elevator legs, enclosed conveying equipment, grinding and milling machinery, and dust collection equipment? If so, why and what kind? What is the cost of such systems for these operations?

(vii) Should all grain handling facilities be required to have sprinkler system protection throughout the facility? Should the size of the facility determine whether sprinkler systems are necessary? Are sprinkler systems necessary for employee safety?

(viii) Should there be written shutdown procedures for choked legs, stalled conveyor belts or jammed milling machines? Should jogging (a method of shaking loose stalled bucket elevators which tends to suspend dust in air) be prohibited as a method of clearing equipment such as bucket elevators? Should there be written start-up procedures for when the problem is cleared? Should these written shutdown and start-up procedures be distributed to employees or posted at points of operation, or both?

(ix) What criteria should OSHA use to determine the fire resistance and electrical conductivity of conveyor belts? What test procedures should be used?

(x) Should OSHA require explosion venting? Where should the venting be placed and how should the amount of venting be determined? What costs are associated with explosion venting?

(xi) Should new bucket elevator legs be located outside of the main elevator structure? Would this reduce the fire and explosion hazard?

(xii) Should new bearings be located outside of the grain handling equipment, i.e. outside of the casing? Would this reduce the fire and explosion hazard?

(xiii) Should warehousing and bagged finished product facilities be maintained as separate areas from mills and other processing areas by a separate building or by an interior fire wall?

(xiv) Should horizontal surfaces be kept to a minimum to limit the surface area to be cleaned in new grain handling facilities? Should OSHA require that surfaces which are inaccessible for adequate cleaning be inclined not less than 60 degrees?

(b) *Dust Control.* (i) What design criteria should be used for dust control systems? Should the employer be required to receive a certified affidavit from the equipment supplier and installer that the dust control equipment meets the employer's specifications? Should an acceptance test be conducted to assure that newly installed dust control equipment functions properly?

(ii) Should dust collection equipment be of the two stage type, i.e. cyclone and fabric filter? Are there other types of collection systems that can effectively control grain dust emissions?

(iii) What engineering controls are currently used in grain handling facilities? How efficient are these controls in controlling dust emissions?

(iv) Are special dust controls necessary for those grain handling facilities that only store grain dust or process dust for feed?

(v) Should dust particles smaller than 40 microns (or some other size) be prohibited from being returned to the grain stream in any facility? What time period should OSHA allow for installation of dust collection systems?

(vi) What effects, if any, do the various handling operations have on the amount of dust that accumulates in the grain? Do these operations affect the size of the grain dust and consequently the efficiency of the dust collecting systems?

(vii) Should captured dust be stored away from grain handling facilities? How far away and in what manner?

(viii) Should there be a periodic inspection of dust control equipment to detect malfunctioning of the blower and exhaust system? If so, how often? What factors should be considered in such an inspection (e.g. checking the pressure drop across the fabric filter and monitoring the air velocity)? What pressure drop across a fabric filter should be permitted?

(ix) Should gauges on filters and collectors be read and recorded daily? If not daily, then how often?

(x) Would a modification of the U.S. Department of Agriculture's grading schedules for grain affect the concentrations of dust in the workplace? Could a grading schedule modification result in increased protection for employees?

(c) *Ignition Sources.* (i) Do static sparks generated by static electrical charges have enough energy to trigger an explosion in a grain handling facility? If so, what equipment in the facility should be designed to control static electrical charges? Should machinery and mechanical equipment be grounded to electrical system grounds? Should there be a periodic check for electrical ground? If so, how frequent?

(ii) Should grain handling facilities be equipped with lightning and voltage-surge protection? If so, who should be allowed to install such systems?

(iii) What factors and conditions could constitute hazardous areas in grain handling facilities that should be classified according to the Article 500 of the National Electrical Code (NFPA 70) as Class II, Division I or Division II hazardous locations? Under what conditions should a Division I location be reduced to a Division II location?

(iv) Should OSHA require the removal of tramp metal from the grain stream to decrease the possibility of fire and explosion due to tramp metal? Where should tramp metal collectors be required? What is the best method of removal? Are grates and screens with mesh of 1½ inches squared acceptable in lieu of magnetic collectors? What should be the maximum allowable time frame for the installation of tramp metal collectors? What is the cost of an installed tramp metal collector?

(v) Should specific smoking areas be designated in grain handling facilities or

should smoking be prohibited throughout the facility?

(vi) Should OSHA require nonsparking buckets on elevator legs? What time frame should be allowed for conversion from metal buckets? How much would this conversion cost?

(vii) Should the use of self-extinguishing PVC (polyvinyl chloride) belts be required for bucket elevators because of their propensity to soften and melt as opposed to burning? What time frame should be allowed for conversion?

(viii) Under what conditions should employees in grain handling facilities be required to wear static-free clothing and shoes? What is the cost of a set of static-free clothing?

(ix) What safety precautions should be specified for cutting and welding operations in grain handling facilities? Should a "hot work" permit system be required?

(x) Should the operation and construction of grain dryers be as described in Chapter 5 of the latest edition of NFPA Code 61–B, "Grain Elevators, Bulk Handling Facilities"? Should a phase-in period be granted to make the necessary changes? If so, how long?

(d) *Housekeeping and Maintenance.* (i) What is the best method of removing dust accumulations?

(ii) Do present industry practices include employing a spearate crew for housekeeping? If not, how does the grain industry manage housekeeping in their facilities? What housekeeping procedures are currently practiced by the industry?

(iii) Should removal of dust by the use of compressed air (blow down) be prohibited because of the suspended dust it creates? If not, under what conditions should it be permitted?

(iv) What measures should be included in a written preventive maintenance program?

(v) Should there be a periodic shutdown of grain handling oprations for maintenance? How often? Should continuous maintenance be required instead? How much down time will be needed for maintenance if there are periodic shutdowns of grain handling operations?

(vi) Is there an acceptable level of dust accumulation (layers of dust) in grain handling facilities? For instance, should $\frac{1}{16}$ inch be an acceptable level of accumulated dust? Where and how should the level be measured?

(vii) Should the inside walls of grain elevators be painted to reduce dust adherence? Would the paint provide a surface for static electricity adhesion of dusts? Would dangerous static electricity potentials develop on painted surfaces?

(viii) Should all grain handling facilities be required to have pneumatic dust control systems? If so, why?

(ix) What procedures have been established to keep grain handling facilities clear of any decomposed or spoiled grain or processed material?

5. *Grain Dust Exposure.* One of the principal occupational health hazards of the grain industry is exposure to grain dust. OSHA requests comments and information on the following:

(a) At what level should OSHA set a permissible exposure limit for grain dust?

(b) Should OSHA set permissible exposure limits for total and respirable dust fractions?

(c) Should OSHA set limits for the different components of grain dust?

(d) To what extent do the following factors complicate the general assessment of occupational exposure: (1) The seasonal nature of grain handling work activity; (2) the variations in exposure during any given period; and (3) athe variability of physical and chemical composition of grain dust.

(e) To what levels of grain dust are employees of the grain handling industry currently exposed?

(f) Does the practice of returning dust back into the grain stream increase employee exposures to grain dust within the workplace?

(g) Are different dust levels generated by different operations? What dust levels are associated with the various operations?

(h) What kinds of personal protective equipment are used by the industry to reduce employee exposures to grain dust? To what extent is this equipment used?

(i) What is the yearly cost for providing personal protective equipment to control dust exposure?

(j) What are the standard operating procedures followed by industry for personal protective equipment programs?

6. *Pesticide Exposure.* Exposure to pesticides is the second major health hazard found in the grain handling facilities. Work practices and procedures can be designed to limit employee exposure to pesticide-treated grain and can reduce this hazard.

OSHA has permissible exposure limits for airborne concentrations of about 160 substances used as pesticides. In addition to these standards, the Environmental Protection Agency has regulations regarding the registration and application of pesticides. OSHA requests comments and information on the following:

(a) what kinds and amounts of pesticides are used in grain handling operations? In grain processing?

(b) How are pesticides applied to the grain?

(c) At what stages of grain handling are pesticides applied to the grain (e.g. unloading, loading, storage, moving through elevators, etc.)?

(d) What are the contents of labels or other warnings that currently appear on pesticides containers?

(e) Is grain often treated with pesticides before it arrives at the grain handling facilities? Do railcars and trucks containing pesticide-treated grain carry signs and placards that adequately warn of pesticide hazards?

(f) What procedures and work practices are used to prevent employee exposures to pesticides when employees unload incoming grain, enter bins, hopper cars or other confined spaces, or work in facilities that handle pesticide-treated grain?

(g) What type of testing is currently performed to measure pesticide exposure levels prior to unloading the grain, and before entering hopper cars, bins or other confined spaces? Besides testing for pesticides, are oxygen deficiency tests performed?

(h) What procedures and work practices are currently used to prevent employee exposures to pesticides during fumigation operations?

(i) To what extent does the industry use personal protective equipment to protect employees from pesticide exposure? During what procedures?

(j) What types of protective equipment are used to protect applicators of pesticides from pesticide hazards?

(k) What types of protective equipment are used to protect non-applicators of pesticides from the hazards of pesticide exposure?

(l) What personal protective equipment is used when employees probe or grade the grain?

(m) What is the cost per employee to provide him with personal protective equipment for pesticide protection?

(n) What health effects and symptoms have employees suffered upon exposures to pesticides?

(o) To what extent will protective measures to control exposures to grain dust also protect against pesticide exposure?

7. *Biological Agents Associated with Grain Dust.* (a) How should exposures to molds, fungi, bacteria and toxins be regulated?

(b) If dust emissions are controlled, will biological agents be controlled as well?

(c) Do decaying grains which have not been removed from work surfaces create additional biological hazards?

8. *Surveillance Procedures and Other Work Practices.* A comprehensive regulation to control employee exposures to occupational hazards in grain handling facilities would include work practices and procedures, precautions for safe use, exposure monitoring, and other provisions to ensure employee protection.

OSHA requests comments and information on the following:

(a) To what extent does the grain industry monitor grain handling facilities for employee dust exposure?

(b) To what extent does the grain industry monitor grain handling facilities for employee pesticide exposure?

(c) To what extent does the grain industry monitor grain handling facilities for employee exposures to other chemicals or substances used in grain processing?

(d) How often is monitoring done?

(e) What type of medical surveillance programs have been instituted by the industry?

(f) What specific medical tests are performed to evaluate the health of the grain handlers?

(g) Should grain handlers be given pulmonary functions tests and skin sensitivity tests? If so, how often?

(h) What personal protective equipment is used by employees cleaning up dust, grain or spilled pesticides?

(i) What general hygiene practices are followed by the industry?

9. *Employee Training.* (a) How often and to what extent should employees handling grain be trained in recognizing safety and health hazards? What elements should be included in the training?

(b) What specific training should be given in the use of personal protective equipment and clothing? How often?

(c) How often should safety and health meetings be conducted?

10. *Fire Protection and Means of Emergency Escape.* (a) Should there be periodic fire drills in grain handling facilities? How often?

(b) Should a standpipe and hose system be required in grain handling facilities? Where should it be located?

(c) Should OSHA require the use of a fire alarm system in grain handling facilities?

(d) Should employees attempt to fight incipient fires in grain handling facilities? If so, under what conditions?

(e) Should emergency lighting be required in grain handling facilities?

(f) Should OSHA recognize special means of emergency escape from grain handling facilities? For example, should ladders be an acceptable means of emergency escape from the tops of silos, galleries, and headhouses?

11. *Economic and Environmental Impact.* If OSHA determines that regulation of the safety and health hazards in grain handling facilities is necessary, then a formal regulatory analysis may be required. OSHA requests comments and information on the following:

(a) What would be the economic impact of a regulation to control employee exposure to the health hazards in grain handling facilities? What benefits would result from such a regulation?

(b) What would be the economic impact of a regulation to prevent fires and explosions in grain handling facilities? What benefits would result from such a regulation?

(c) What would be the environmental impact of regulating the safety and health hazards in grain handling facilities?

(d) What are the current costs of maintaining the safety and health of employees in grain handling facilities? Please include indications of costs for labor, capital, maintenance, training, medical surveillance, and appropriate control measures.

12. *Miscellaneous.* OSHA requests comments and information on the following related topics:

(a) Should the health hazards found in grain handling facilities be addressed in a separate health standard or combined with safety standard provisions to form a comprehensive standard for grain handling facilities?

(b) Should the health hazard regulations be three separate standards specific for grain dust, pesticides, and biological agents?

(c) Should OSHA regulate the safety hazards in performance or goal-oriented standards which would be designed to provide more flexible compliance practices? How could this be achieved?

(d) What test methods and certification criteria are necessary for personal protective equipment to be used in grain handling facilities?

(e) Are currently available personal protective equipment and clothing effective and suitable for conditions found in grain handling facilities or is additional research necessary?

(f) What machine guards are necessary for grinding and milling operations, conveyor equipment and related machinery in grain handling and processing facilities? What types of machine guards have been found to be effective and why?

Public Meetings

In order to provide an informal forum in which interested persons can orally present comments and information regarding the hazards discussed in this notice, OSHA has scheduled three public meetings as follows:

1. April 15, 16, and 17, 1980, Holiday Inn, Superior Room, 110 E. 2nd Street, Superior, Wisconsin 54880.

2. April 22, 23, and 24, 1980, Sheraton Inn, Kenner Room, 2150 Veteran's Boulevard, Kenner, Louisiana 70062.

3. April 29, 30, and May 1, 1980, Federal Building, Room 140, 601 E. 12th Street, Kansas City, Missouri 64108.

Each meeting will begin promptly at 9:00 a.m., will recess from 12 noon until 1:30 p.m., and then continue until 5:00 p.m. The chairperson of each meeting will be a representative of the U.S. Department of Labor designated by the Assistant Secretary, and will have the necessary authority to regulate the conduct of the meetings.

OSHA requests that any person wishing to make oral presentations notify OSHA in advance. The notice should identify the person and/or organization intending to testify, the amount of time requested for oral presentation, the subject matter, and a brief summary of the intended oral presentation. All persons giving written advance notice will have time reserved for oral presentations. Persons who do not submit advance notice, but still wish to testify, are requested to register at the meeting they attend.

As long as time permits, all persons who wish to be heard will be allowed to make oral presentations. However, priority will be given to those who register in advance.

All persons desiring to participate in the public meetings must file a notice of intention to appear, by March 24, 1980, addressed to Mr. Tom Hall, Division of Consumer Affairs, Room N3635, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Washington, D.C. 20210. All written comments requested in the notice should be submitted in quadruplicate, to the Docket Officer, Docket No. H-117, Room S6212, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Washington, D.C.20210. All written and oral submissions, as well as other information gathered by the agency, will be considered in any action taken.

This document was prepared under the direction of Eula Bingham, Assistant

Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

(Sec. 6 Pub. L. 91-596, 84 Stat. 1593 (29 U.S.C. 655) 29 CFR Part 1911; Secretary of Labor Order No. 8-76 (41 FR 25059)

Signed at Washington, D.C., this 12th day of February, 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80-5038 Filed 2-14-80; 8:45 am]

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Friday
February 15, 1980

Part IX

Department of Housing and Urban Development

Office of Assistant Secretary for Community Planning and Development

Community Development Block Grants, Modifications to Urban Development Action Grant Rules To Accommodate Containing Pockets of Poverty

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R-80-759]

Community Development Block Grants; Modifications to Urban Development Action Grant Rules To Accommodate Communities Containing Pockets of Poverty

AGENCY: Office of Urban Development Action Grants, HUD.

ACTION: Interim rule.

SUMMARY: This rule modifies the requirements governing Urban Development Action Grants available to assist communities in revitalizing the economic base of their Pockets of Poverty. As such, it extends program eligibility to a group of cities and urban counties previously found to be ineligible. The rule implements the amendments made to Section 119 of the Housing and Community Development Act of 1974 as amended by Section 104(a) of the Housing and Community Development Act Amendments of 1979.

EFFECTIVE DATE: March 10, 1980.

COMMENT DUE DATE: April 15, 1980.

ADDRESSES: Send comments to: Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410. Each person submitting a comment should include his/her name and address, refer to the document by the docket number indicated by the headings, and give reasons for any recommendations. Copies of all written comments received will be available for examination by interested persons in the Office of the Rules Docket Clerk, at the address listed above. The proposal may be changed in the light of comments received.

FOR FURTHER INFORMATION CONTACT: Catherine Hare (202/755-6234) or Phillip Comeau (202/755-6193), Office of Urban Development Action Grants, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION:

Background

The Urban Development Action Grant program was authorized in 1977 to provide increased public and private assistance to cities and urban counties throughout the nation which are severely distressed due to their physical, fiscal, economic, and demographic conditions. The expressed intent of the program—to alleviate physical and economic distress through a cooperative effort by all levels of government and private enterprise—is directed to the economic revitalization of communities and to the restoration of deteriorating neighborhoods.

These objectives are met through the provision of Action Grant assistance to commercial, industrial, and neighborhood projects located within severely distressed jurisdictions.

The Pockets of Poverty provision, Section 104(a), amends Section 119 of the Housing and Community Development Act of 1974. It extends the use of Action Grant assistance to communities which were previously ineligible for such assistance because they did not meet Action Grant Program distress criteria. It will help these communities revitalize distressed areas within their boundaries and it will help low- and moderate-income residents from distressed areas within their boundaries secure jobs and improve the quality of their lives.

Because communities participating in the Pockets of Poverty program will not meet the distress criteria defined in the Action Grant program, Congress in Section 104(a) of the 1979 Housing and Community Development Act Amendments defined specific objectives and criteria relative to the targeting of Action Grant assistance and benefits resulting from such assistance. These distinct requirements and procedures are specified in the following regulations for the administration of the Pockets of Poverty provision. They modify the requirements, policies, and procedures of the Action Grant program for Pockets of Poverty communities. Except where changes are specified, the existing program regulations apply. We refer readers to the Urban Development Action Grant final regulations published January 10, 1978 (43 FR 1602) and to supplements published March 29, 1978 (43 FR 13340), October 30, 1978 (43 FR 50668) and June 8, 1979 (44 FR 33372).

§ 570.466 Specific provisions for cities and urban counties containing pockets of poverty.

Until the passage of the 1979 amendment to Section 119 of the Housing and Community Development Act of 1974, Action Grants were available only to distressed cities and urban counties meeting the eligibility criteria specified in Section 570.452. This interim rule implements the 1979 Amendment which extends the coverage of the Action Grant program to include jurisdictions which were previously ineligible because they did not meet Action Grant Program distress criteria, but which contain pockets of severe distress requiring increased public and private assistance to provide jobs and an enhanced physical environment for the low- and moderate-income residents of the pocket. The regulations implementing Pockets of Poverty reflect the intent of Congress to assure that low- and moderate-income residents of severely distressed pockets receive the direct benefits of Action Grant assisted projects and that assisted projects help revitalize distressed Pockets of Poverty.

570.466(a) Determining eligibility for communities containing pockets of poverty.

Cities and urban counties applying for Action Grants on behalf of their Pockets of Poverty must meet the requirements set forth in this section in addition to the requirements of Section 570.452 (d) and (e) concerning demonstrated results in providing housing for persons of low- and moderate-income and demonstrated results in providing equal opportunity in housing and employment for low- and moderate-income persons and members of minority groups. Each applicant must submit a request for a determination of eligibility which includes the following supplemental information: statistical documentation of the Pocket of Poverty and certification that basic services are being provided to the Pocket of Poverty by the local jurisdiction which are equivalent to those provided in more affluent areas of the jurisdiction and which consider the physical characteristics of the pocket.

Eligibility Criteria

The regulations follow the statutory population, income and poverty criteria which determine the eligibility of a Pocket of Poverty. They are directed toward focusing Action Grant assistance on severely distressed areas in applicant communities and to the low- and moderate-income residents of these areas.

Data Requirements

Standardized verifiable data are required in order for HUD to determine eligibility and administer the program. In this context, applicants should use the 1970 Census, special Census surveys or data verified by the Census to record relevant population, income and poverty statistics.

Comparable Services

The applicant's chief executive officer must certify in the preapplication that the applicant provides basic services (police, fire, road repair and sanitation

services) over which it has control to the Pocket's area equivalent to the services provided to more affluent residential areas (areas of the jurisdiction similar in population to the pocket, but with a median income above the jurisdiction's median). The certification must indicate that services in the pocket reflect adjustments based on needs resulting from the physical characteristics of the pocket (e.g., land use pattern, density, housing type).

The preapplication should indicate that the applicant has on file data and analyses which demonstrate that the applicant provides to the pocket basic services which are equivalent to those provided to more affluent areas. To the extent practicable, the data should include per capita expenditures for basic services in the pocket and in more affluent areas. If comparisons of per capita expenditures of basic services are not practicable, HUD suggests that the data and analyses on file should use similar units of measurement, which approximate per capita cost data, to compare the level and type of basic services provided in the pocket to those provided in more affluent areas (response time to resident calls for assistance from police and fire units, number of trash pickups by applicant, etc.).

§ 570.466(b) Location of the project and related requirements for communities containing pockets of poverty.

Action Grants are intended not only to provide employment, but also to provide the physical and economic stimulus to encourage further development within the pocket area. Generally, projects submitted by qualified applicants should be located in the Pocket of Poverty in order to achieve this aim. In limited circumstances, the applicant may propose a project on a site directy adjacent to the pocket's area. HUD will require that such projects clearly and substantially contribute to the physical and economic development of the Pocket of Poverty and to the job choices of its low- and moderate-income inhabitants. If the applicant proposes to locate the project in a directly adjacent area, the application must contain data and analyses which demonstrate that there is no suitable site for the project in the area. That is, the application must provide documentation which demonstrates that the project would not be economically successful if located on a site in the Pocket of Poverty or that an adequate site in the area could not be provided without significant harm to the low- and moderate-income residents of the area and the area's overall physical and economic development.

§ 570.466(c) Application submission factors in addition to those of § 570.456, for communities containing Pockets of Poverty.

Applications from jurisdictions containing eligible Pockets of Poverty must include information to supplement the requirements of § 570.456. § 570.466(c)(2) explains both the uses for and the sources of local matching funds as required by the Act. Paragraph (c)(3) of this section provides for methods of insuring direct benefits to low- and moderate-income persons residing in the pocket. Applicants must provide relevant information concerning the following project benefits: employment opportunities (including, where appropriate, employment of CETA eligible persons), provision of services and physical improvements, and, where appropriate, the use of private sector repayments of Action Grants. In addition, where relevant, the applicant should include information reflecting the use of a significant portion of the tax increment or the equivalent thereof, opportunities provided to minority entrepreneurs and to minority employees, and support of the project from low- and moderate-income residents of the pocket.

§ 570.466 (d) Criteria for selection for communities containing pockets of poverty.

Applications from cities and urban counties eligible as Pockets of Poverty communities will be considered separately from those eligible as distressed communities. Therefore in selecting projects for funding, the Secretary will not use as the primary criterion the comparative degree of distress described in § 570.457(a) and (b) but rather the comparative degree of distress among Pockets of Poverty as measured by the eligibility criteria of § 570.466(a)(2) and (3) and by the comparative benefits to be provided to the low- and moderate-income residents of the Pocket of Poverty described in § 570.457 and § 570.466(d)(2).

In selecting projects for funding, HUD will also consider the extent to which jobs created by the project are provided to CETA eligible residents from the pocket, the extent to which a significant portion of the tax increment, or the equivalent thereof, resulting from the project is allocated for economic and community development purposes in the pocket benefitting low- and moderate-income pocket residents, the extent to which jobs created by the project are provided to minorities from the pocket in excess of their proportion of the pocket's population, the extent to which low- and moderate-income and other residents of the pocket support the project, and the extent to which minority entrepreneurs are provided opportunities to participate in all phases of the project.

The Department wishes to make clear, however, that each project submitted by jurisdictions eligible on the basis of a Pocket of Poverty must compare favorably on its own merits with any other Action Grant project to be selected for funding. In other words, HUD will also consider each of the criteria of § 570.457(c) through (k) in assessing projects for preliminary funding approval.

Other Information

This interim regulation provides the necessary standards to implement the Pockets of Poverty provision of the Action Grant program for Fiscal Year 1980. The rule adds urgently needed criteria for eligibility, application submission and selection of projects for funding. The administration of the program for this fiscal year depends upon the immediate effect of this rule. Further, the broad parameters of the pockets provisions have been known for some time. Numerous eligible jurisdictions have geared up for the program. Without immediate effect of this rule, eligible jurisdictions will not be able to readily respond in a comprehensive manner to the immediate needs of their Pockets of Poverty. Delays in implementing these rules will endanger key projects capable of assisting jurisdictions revitalize their Pockets of Poverty. Expedited implementation of the rule will not negatively affect presently eligible Action Grant jurisdictions nor limit future competition for Action Grants. Accordingly, the Assistant Secretary for Community Planning and Development has determined that it is impracticable and contrary to the public interest to follow prior notice and public procedure and that it would be in the public interest to expedite the effective date of the rule. However, interested persons are invited to participate in the making of the final rule by providing written comments. All comments received by April 15, 1980 will be considered in the development of the final rule. Such comments should be filed with the Rules Docket Clerk, Office of General Counsel, Room 5218, U.S. Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Copies of comments received will be available for inspection and copying at that address.

A finding of no significant impact under the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. This regulation has been evaluated and has been found not to have major economic consequences for the general economy or for individual industries, geographic regions, or levels of governments. Copies of the finding are available for inspection and a copy is in the Office of the Rules Docket Clerk at the above address.

The regulations added below to Subpart G are limited in their coverage to achieving those specific objectives and criteria set forth in the Act concerning Pockets of Poverty. Except where specifically modified in § 570.466, those regulations set forth in § 570.450 through 570.462 apply. Accordingly, 24 CFR 570 is amended:

1. by adding to the index of subpart G § 570.466; and

2. by adding the text § 570.466, to read as follows:

§ 570.466 Specific provisions for cities and urban counties containing pockets of poverty.

Action Grants may also provide funding for economic development and neighborhood revitalization projects targeted to severely distressed areas called Pockets of Poverty in communities which do not meet Action Grant Program distress criteria. Cities and urban counties eligible under this provision will not meet the minimum standards of physical and economic distress defined in § 570.452, but must meet the eligibility criteria of paragraph (a) of this section. In this context, Action Grants for Pockets of Poverty projects are intended to provide increased public and private assistance principally and directly to aid the geographically defined Pocket of Poverty and its low- and moderate-income inhabitants through the provision of jobs, and a revitalized physical environment. Up to, but no more than, 20 percent of all Action Grant assistance made available after October 1, 1979 may be used for Pockets of Poverty. The following paragraphs set forth rules applying only to communities containing pockets of poverty. All other provisions of Subpart G apply to these communities except as modified herein.

(a) *Determining Eligibility for Communities Containing Pockets of Poverty.*

(1) *Preapplication Request for a Determination of Eligibility.* Each applicant for Pockets of Poverty assistance must submit a request for a determination of eligibility to the appropriate HUD area office as specified in § 570.452 and § 570.455 and as modified here. In addition to meeting the criteria of this section, each applicant must have demonstrated reasonable results in providing housing for persons of low- and moderate-income explained in § 570.452(d), must have achieved reasonable results in providing equal opportunity in housing and employment for low- and moderate-income persons and members of minority groups as in § 570.452(e), and each applicant must provide comparable services to and for Pockets of Poverty residents (see Paragraph (4) of this section).

(2) *Cities above 50,000 Population and Urban Counties.* A city with a population over 50,000 or urban county which does not meet the minimum standards of physical and economic distress based on data for the community as a whole may qualify as an applicant for Action Grants if it contains a "pocket" consisting of a specifically defined geographic area meeting all of the following criteria:

(i) *Area.* The Pocket of Poverty must be an area composed of continuous census tracts, enumeration districts or block groups. The defined geographic area must contain at least 10,000 persons or 10 percent of the jurisdiction's population. Enumeration districts and block groups with median income levels greater than 120 percent of the median income of the jurisdiction must be excluded in defining the Pocket Poverty.

(ii) *Income.* At least 70 percent of the residents residing in the Pocket of Poverty must have incomes below 80 percent of the jurisdiction's median income.

(iii) *Poverty.* At least 30 percent of the residents residing in the Pocket of Poverty must have incomes below the national poverty level pursuant to criteria provided by the Office of Management and Budget.

(3) *Small Cities below 50,000 Population.* A small city with a population below 50,000 which does not meet the minimum standards of physical and economic distress based on data for the community as a whole may qualify as an applicant for Action Grants if it contains a specifically defined geographic area meeting all of the following criteria:

(i) *Area.* The Pocket of Poverty must be an area defined by contiguous census tracts, enumeration districts, block groups, or other areas defined by the U.S. Bureau of the Census or for which data certified by the U.S. Bureau of the Census is available. The defined geographic area must contain at least 2,500 persons or 10 percent of the jurisdiction's population, whichever is more. Enumeration districts and block groups with median income levels greater than 120 percent of the median income of the jurisdiction must be excluded in defining the Pocket of Poverty.

(ii) *Income and Poverty.* Small cities must meet the criteria specified in (2) (ii) and (iii).

(4) *Use of Census Data in Documenting a Pocket of Poverty.* Applicants should use the 1970 Census, special Census surveys or data verified by the Census to establish population, income and poverty levels. [1]

[1] The following table illustrates the types of data from the U.S. Census which can be used in documenting the Pocket of Poverty.

Eligibility criteria	Types of Census data [1]			
	Jurisdiction	Census tract	Enumeration district	Block group
Area's population—defined by contiguous census tracts, enumeration districts, or other reasonable methods.	Number of persons.	Number of persons.	Number of persons.	Number of persons.
Poverty [2]—percent of persons living within the Pocket of Poverty with incomes below the national poverty statistic.	Number of persons.	Number of persons.	Number of persons.	Number of persons.
Income [2]—percent of persons with incomes below 80 percent of the jurisdiction's median income.	Median income.	Number of families.	Number of families and unrelated individuals.	Number of families and unrelated individuals.

[1] Sources of such data include Characteristics of the Population (Census Publication PC (1)-C), Census Tracts (Census Publication PHC-1), and the unpublished Fifth Count Census Block Group/Enumeration District file available from Census on summary tape processing centers.

[2] The data acquired from the Census reports are based on a 20 percent sample.

(5) *Certification of the Preapplication Eligibility Data.* The applicant's chief executive officer must certify that to the best of his knowledge the Pocket of Poverty defined in the application meets the population, income and poverty criteria described in this paragraph (a)

and that the data provided in the application to establish eligibility are true and correct.

(6) *Comparable Services.* The applicant's chief executive officer must certify in the preapplication request for a determination of eligibility that the applicant is now providing basic services (police, fire, road repair and sanitation) over which it has control to the designated Pocket of Poverty which are at least equivalent to the basic services which it provides to more affluent residential areas of its jurisdiction (areas similar in population numbers to the pocket but with median incomes above the jurisdiction's median income). The certification must indicate that services in the pocket reflect adjustments based on needs resulting from the physical characteristics of the area (e.g., land use pattern, density, housing type).

(i) The preapplication should indicate that the applicant has on file data and analyses comparing basic services, over which it has control, provided to more affluent areas of the jurisdiction to the level and type of basic services which are provided to the Pocket of Poverty. To the extent practicable, the applicant must document that per capita expenditures are at least equivalent in the Pocket of Poverty when compared to the more affluent area. If comparisons of per capita expenditures of basic services are not practicable, the data and analyses on file should use similar units of measurement, which approximate per capita costs, to compare the level and type of basic services provided in the pocket to those provided in more affluent residential areas. For example, if the police department's standard for response to calls requesting assistance in the more affluent areas is "x" minutes, then the applicant must have documentation in its files that it provides the Pocket of Poverty at least this level of service. Similarly, if the standard for sanitation is "x" trash pickups in the more affluent areas, the applicant must have data and analyses in its file that demonstrate that it provides the Pocket of Poverty at least this level of service, etc.

(ii) The data and analyses on file must also indicate that the compared basic services reflect adjustments to the needs resulting from the physical characteristics of the Pocket of Poverty; they must reflect reasonable local efforts to adjust to the service needs resulting from such physical factors as density, housing types, and land use patterns. For example, a relatively high level of density in the pocket would be expected to generate more frequent trash pickups or shorter scheduled trips for trash pickups than in a lower density area.

(b) *Location of the Project and Related Requirements for Communities Containing Pockets of Poverty.*

The proposed project must be located within the severely distressed area defined in the eligibility criteria of paragraphs (a) (2) and (3). However, in limited instances, HUD will approve a project on a site directly adjacent to the Pocket of Poverty if the applicant demonstrates in the application that there is no other suitable site for the project in the Pocket of Poverty. To do this, the applicant must provide in the application data and analyses that indicate that the project would not be economically feasible if located on a site in the pocket or that its location on a site in the pocket would cause harm to low- and moderate-income residents of the pocket and the area's overall physical and economic development. All assisted projects directly adjacent to the pocket must substantially contribute to the physical and economic development of the pocket, and must meet the minimum requirements described in (c).

(c) *Application Submission Factors in Addition to Those of § 570.456.*

(1) *General.* Applicants for Action Grants under the Pockets of Poverty provision must meet the requirements of this section in addition to those described in § 570.456.

(2) *Provision of Local Matching Funds.* Applicants applying for Action Grants under Pockets of Poverty must make available funding, equal to 20 percent of the amount of the grant requested, to be used as a local match. Such funds may be derived from local funding sources, State funds or from any Federal program which permits the use of financial assistance to meet the non-Federal share requirement of Federal grant-in-aid programs.

(i) *Use of the Local Match.* The 20 percent share must be spent on direct costs resulting from the project and occurring because of the project. For example, the match may be used to provide sewer and water facilities required by the project or roads specifically needed by the project.

(ii) *Provision of a Firm Commitment of the Local Matching Funds.* If the source of the funds to be used as the match is from own source revenues or locally derived revenues, the chief executive officer must submit evidence with the application that a city or county council resolution or other appropriate action has been taken approving the allocation of these funds. If the source of such funds is a State or Federal agency which must approve their utilization, then a letter of commitment from that agency must be submitted with the application.

(3) *Direct Benefits to the Low- and Moderate-Income Inhabitants of the Pocket of Poverty.* Applicants must demonstrate that the proposed project will provide direct benefits to the low- and moderate-income residents of the Pocket of Poverty and substantially contribute to the physical and economic development of the Pocket of Poverty, particularly those areas occupied by low- and moderate-income residents of the pocket of poverty. Applications must address the following categories of benefits and impacts.

(i) *Employment Opportunities.* The application must describe the number and, to the extent possible, the types of new jobs (construction and permanent) which will be provided to the low- and moderate-income residents of the Pocket of Poverty as a direct result of the proposed project. If the application calls for job training programs (such as those related to the CETA program) or job recruiting services for the pocket's residents, then such proposed activities must be clearly and fully explained.

HUD requires applicants to ensure that at least 75 percent of all permanent jobs initially resulting from the project are provided to low- and moderate-income persons and that at least 51 percent of all permanent jobs initially resulting from the project are provided to low- and moderate-income residents from the Pocket. HUD encourages applicants to ensure that at least 20 percent of all permanent jobs are filled by persons from the pocket qualified to participate in the CETA program on a continuous basis.

HUD requires all applicants to continuously use best efforts to ensure that at least 75 percent of all permanent jobs resulting from any Action Grant-assisted project are provided to low- and moderate-income persons and that at least 51 percent of all permanent jobs resulting from any Action Grant-assisted project are provided to low- and moderate-income residents from the pocket. The application should clearly describe how the applicant intends to meet initial and continuous job requirements.

(ii) *Services and Physical Improvements.* If relevant, the application should describe the services and physical improvements to be provided by the project and their specific relationship to the needs of the low- and moderate-income inhabitants of the Pocket of Poverty.

(iii) *Repayment by Private Sector.* HUD requires the applicant to utilize proceeds from any repayment of Action

Grant funds by the private sector for the direct benefit of low- and moderate-income residents of the pocket's area.

(iv) *Tax Increment.* HUD encourages the applicant to allocate local revenues equal to a significant portion of the applicant's tax increment (net increase in property tax revenues over current revenues) resulting from the project to the Pocket of Poverty for economic or community development purposes within the pocket, particularly the areas occupied by low- and moderate-income residents of the Pocket of Poverty. The activities for which the funds may be used must directly benefit the low- and moderate-income residents of the Pocket of Poverty. The funds may not be used to meet comparable service requirements defined in (a)(7) or to substitute for applicant resources normally made available to the pocket's area or their residents.

(v) *Minority Entrepreneurs.* HUD encourages the applicant to provide opportunities for minority entrepreneurs, including minority entrepreneurs from the pocket, in all aspects of the project (planning, design, construction and operation of the project).

(vi) *Minority Jobs.* HUD encourages the applicant to provide job opportunity to low- and moderate-income minorities equivalent, at a minimum, to their proportion of the population in the pocket.

(d) *Criteria for Project Selection for Communities Containing Pockets of Poverty.*

(1) *General.* Applications from eligible Pockets of Poverty communities will be considered separately from those of distressed communities. However, each project submitted by jurisdictions eligible on the basis of its Pockets of Poverty must compare favorably on its own merits with any other Action Grant project to be selected for funding. Criteria for the selection of projects for preliminary funding approval are set forth in the first paragraph of § 570.457 as well as paragraphs (c) through (k) of § 570.457 with the additions and modifications set forth in Paragraph (2) of this section.

(2) *Additional Factors for the Selection of Projects for Funding.* HUD shall in each calendar quarter review all proposals received and pending consideration and shall determine which among such proposals shall receive preliminary funding approval on the following bases:

(i) The comparative degree of distress in the Pocket of Poverty as measured by the percent of residents below the national poverty level and the percent of residents with incomes below 80 percent of the median income.

(ii) The comparative degree of benefits to be provided to low- and moderate-income persons residing in the area. For example, given two equally feasible and effective proposals, HUD will select that proposal which provides the greatest overall benefits to low- and moderate-income persons living in the pocket of poverty.

(iii) HUD shall also consider:

(A) the extent to which the project provides jobs to CETA-eligible residents of the Pocket of Poverty;

(B) the extent to which a significant portion of the tax increment, or an equivalent thereof, is allocated for economic or community development purposes within the pocket for activities which directly benefit low- and moderate-income residents of the pocket;

(C) the extent to which low- and moderate-income minorities are employed in the project in excess of their proportion of the population of the Pocket of Poverty;

(D) the extent to which minority entrepreneurs, including minority entrepreneurs from the pocket, are provided opportunities to participate in all phases of the project; and

(E) the extent of support for the project from bona fide groups representing low- and moderate-income residents of the pocket and from pocket's residents themselves.

[Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.); Title I, Housing and Community Development Act of 1977 (Pub. L. 95-128); and Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).]

Issued at Washington, D.C., February 11, 1980.

Robert C. Embry, Jr.,

Assistant Secretary for Community Planning and Development.

[FR Doc. 80-5048 Filed 2-14-80; 8:45 am]

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Federal Register

Friday
February 15, 1980

Part X

Department of Energy

Economic Regulatory Administration

Sale and Direct Industrial Use of Natural Gas for Outdoor Lighting

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 516

[Docket No. ERA-R-79-6-A]

Sale and Direct Industrial Use of Natural Gas for Outdoor Lighting; Proposed Amended Definition and Guidance on Exemptions; Public Hearing

AGENCY: Economic Regulatory Administration; Department of Energy.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of proposed amendments to the Final Rule on the Sale and Direct Industrial Use of Natural Gas for Outdoor Lighting (the Final Rule) (10 CFR Part 516, 44 FR 27606, May 10, 1979) which implements section 402 of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or "the Act") (42 U.S.C. 8301 *et seq.*). The proposed amendment would revise the definition of "natural gas outdoor lighting fixture" and selected guidelines on exemptions contained in the Final Rule (10 CFR Part 516, Subpart A—General Purpose and Scope; Definitions, and Subpart D—Guidance on Exemptions, respectively).

ERA in 10 CFR Part 516, Subpart C delegated to the "appropriate State regulatory authorities" as defined in 10 CFR 516.11, the full responsibility and authority to implement, administer and enforce a natural gas outdoor lighting program, and, in 10 CFR Part 516, Subpart D, provide guidance on the exemption criteria that could be used by appropriate State regulatory authorities until such time as exemption criteria are established by such regulatory authorities.

Because State regulatory authorities operating under the delegation of authority in 10 CFR 516.30 will be affected by the proposed amendments to the definition of a natural gas outdoor lighting fixture and may also be affected by the proposed revisions to the exemption guidance sections (Subparts A and D) of the Final Rule, ERA recommends that State regulatory authorities not seek civil penalties against any person or entity under the Final Rule until this rulemaking proceeding has been completed and notice given to the State regulatory authorities by ERA. ERA is directly and individually advising the appropriate State regulatory authorities of this recommendation.

DATES: Comments due April 15, 1980; hearing to be held at 9:30 a.m. on March 12, 1980; requests to speak by March 3, 1980.

ADDRESS: Any person wishing to comment on these proposed amendments should send 10 copies of written comments to: Department of Energy, Office of Public Hearing Management, Room 2313, 2000 M Street, NW., Docket ERA-R-79-6-A, Washington, D.C. 20461, Telephone 202-254-5201. This address should also be used to make requests to speak at the public hearing and for submitting copies of hearing testimony. Hearing location: Room 2105, 2000 M Street, NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:
Earl Bragdon, Office of Utility Systems, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Washington, D.C. 20461, 202-254-8209.
Robert C. Gillette (Hearing Procedures), Office of Public Hearing Management, 2000 M Street, NW., Room 2222, Washington, D.C. 20461, 202-254-5201.
Marya Rowan, Office of the General Counsel, Department of Energy, Rm. 6G-087, 1000 Independence Avenue, SW., Washington, D.C. 20585, 202-252-2967.

SUPPLEMENTARY INFORMATION: The Final Rule on the Sale and Direct Use of Natural Gas for Outdoor Lighting (10 CFR Part 516, 44 FR 27606, May 10, 1979) was issued by the Economic Regulatory Administration (ERA) of the Department of Energy on May 3, 1979, to implement section 402 of the Powerplant and Industrial Fuel Use Act of 1978 ("FUA" of "the Act") (42 U.S.C. 8301 *et seq.*). The Final Rule prohibits local natural gas distribution companies from supplying natural gas for residential, municipal, or commercial use, and direct industrial users from using natural gas for outdoor lighting use, as of the effective dates specified in 10 CFR 516.21 and 516.22. Local distribution companies and direct industrial users are also prohibited from installing new outdoor lighting fixtures that will use natural gas (10 CFR 516.20).

Pursuant to the provisions of section 402(e) of FUA, ERA, by means of 10 CFR Part 516, Subpart C, delegated full responsibility with respect to the implementation, administration, and enforcement of the prohibitions on natural gas outdoor lighting to the "appropriate State regulatory authorities". This delegation was intended to permit such authorities to establish and administer regulatory programs at the State and local levels consistent with the purposes of section 402 of the Act while taking into account specific State and local needs. The delegation authorized the issuance of orders exempting certain natural gas outdoor lighting fixtures from the prohibitions of 10 CFR Part 516, Subpart B, the establishment of procedures and criteria for use in processing exemption petitions and reaching determinations on such petitions, the establishment of enforcement mechanisms, the enforcement of the natural gas outdoor lighting prohibitions, and the assessment of civil penalties, as necessary. The State regulatory authorities to which the delegation of authority has been made would administer the natural gas outdoor lighting programs in their jurisdictions using the definition of "natural gas outdoor lighting fixture" contained in 10 CFR Part 516, Subpart A and, unless or until they choose to exercise the authority to establish their own exemption criteria, pursuant to the guidance on exemptions provided in 10 CFR Part 516, Subpart D.

Because of continued comment directed to ERA, particularly regarding its definition of "natural gas outdoor lighting fixture" and certain of its guidelines on exemptions, ERA has given further consideration to its Final Rule and has determined that certain amendments to §§ 516.11, 516.43, 516.44 and 516.46 may be warranted to better facilitate the implementation of the FUA outdoor natural gas lighting program at the State and local levels. Accordingly, ERA has reopened Docket No ERA-R-79-6, redesignated as Docket No. ERA-R-79-6-A, for the purpose of offering its proposed amendments to the Final Rule for public comment. These proposed amendments are discussed below.

Section 516.11—Definitions. ERA has received numerous comments on the definition of "natural gas outdoor lighting fixture" in § 516.11(d) (10 CFR 516.11(d)). When taken with the general prohibition on the installation of new outdoor lighting in § 516.20, the effect of the definition would be to prohibit the installation of replacement parts in existing lights (lights in operation prior to November 9, 1978) and to thus prohibit the further use of any such lights needing replacement parts. The commenters have asked ERA to amend this definition to define a "natural gas outdoor lighting fixture" as the entire, indivisible unit, rather than as the unit or any parts thereof. ERA notes that installation of any natural gas lighting fixture is statutorily prohibited by section 402(a) effective November 9, 1978. ERA agrees that a total prohibition on replacing parts, as opposed to replacing entire lighting fixtures, may be inappropriate and proposes to modify the definition in § 516.11(d) accordingly.

Section 516.43—Commercial lighting of a traditional nature. Various commenters have expressed to ERA the opinion that, by providing identical criteria for the exemptions in 10 CFR 516.41 and 516.43 (lighting of historical significance and commercial lighting of historical significance, respectively) ERA has failed to provide an exemption for commercial lights of a traditional nature that would not also meet the criteria for the exemption for lighting of historical significance. ERA has previously justified its position on the § 516.43 exemption criteria on the grounds that, in the Conference Committee's discussion of the section 402 FUA exemptions, it was noted that "[s]imilar exemptions" are available for commercial lighting units of a traditional nature, and which conform with the cultural or architectural style of the area where the light is located, as are available for memorial lights or lights of historical significance. (H.R. Conference Report No. 95–1749, 95th Congress, 2d Session 88–89 (1978)). The commenters believe that, read in its proper context, the phrase "[s]imilar", as used in the conference report, should not mean identical.

Upon further consideration of these arguments, the conference report statement, and section 402(c)(2) of FUA, ERA agrees that the exemption criteria for §§ 516.41 and 516.43 should not be identical in all respects. However, ERA believes that commercial lights of a traditional nature for which an exemption can be granted pursuant to section 402(c) of the Act must be either an existing light or replace a natural gas light that conforms to the established cultural or architectural style of the area or location and cannot be a new light of a traditional design where no light existed previously during the life of the property. ERA proposes to amend § 516.43(a) to reflect that view with respect to commercial lighting of a traditional nature.

ERA believes that paragraphs (1) and (2) of § 516.43(b) may unduly restrict the replacement of commercial gas lighting fixtures of a traditional nature which may properly qualify for an exemption. Accordingly, ERA proposes to delete these paragraphs. In addition it is proposed that the language of paragraph (b) be revise to state more clearly the criteria which will be used in examining the certifications required in support of an exemption petition.

Section 516.44—Safety of persons and property. Comments with respect to exemptions to protect the safety of persons or property have criticized the criteria for an exemption as vague and unworkable. For example, questions were raised as to how a showing could be made that compliance with the FUA prohibitions would "significantly" increased the chances of occurrence of harm to persons or property when the term "significantly" has not been defined. ERA believes that, to qualify for an exemption on the basis of a need for lighting in a particular location for safety reasons, a petitioner must submit evidence that demonstrates that the likelihood of harm to persons or property would be greater if the exemption were not granted. Therefore, in establishing the criteria in § 516.44(b)(1) (i) and (ii), ERA intended that the word "significantly" indicates demonstrability in an objective sense. For example, crime rates in an area prior to and after the installation of the lighting in question could be used to support a petition for the safety exemption. Other evidence might include a description of conditions in the area making it more difficult, without the lighting, to walk about in safety during darkness. Although no substantive changes have been made, ERA proposes to reword § 516.44(b)(1) to more clearly state the basis for the exemption.

Commenters on § 516.44 objected to the requirement that, before a safety exemption could be granted, it must be found that compliance with the FUA prohibitions would impose a substantial hardship on the petitioner in terms of personal income or savings or would not be justified by savings from the use of a substitute lighting fixture. Section 402(c)(3) of the Act mandates that an exemption be found to be necessary to protect the safety of persons or property before the exemption is granted. ERA has carefully considered the comments on this issue in light of its responsibilities under section 402(c)(3) and is not persuaded that the substantial hardship or savings criteria were inappropriate with respect to the safety exemption. However, after reconsidering this matter, ERA believes that the critieria to be met in demonstrating the need for a natural gas light should be more generally drawn. The proposed changes would permit the submission of all relevant evidence including evidence with respect to financial hardship or savings factors relating to the use of a substitute light. For example, ERA believes that evidence bearing on the issue of the potential unreliability of alternate lighting is appropriate for consideration in connection with a safety exemption petition. ERA proposes to amend § 516.44(b)(2) accordingly. Thus, as proposed under the revised § 516.44(b) and prior to the granting of a safety exempton the petitioner must demonstrate, that a natural gas light is necessary for the purposes for which the petitioner has requested an exemption (§ 516.44(b)(1)), and the petitioner may demonstrate that the light must necessarily be fueled by natural gas as compared to the use of an alternate form of energy in a substitute light (§ 416.44(b)(2)).

Section 516.46—Compliance which entails substantial expense and would not be cost justified. Section 516.46 of the Final Rule permits a local distribution company, a direct industrial customer, or an interested person to petition for an exemption where compliance would entail substantial expense and would not be cost justified. Under the Final Rule, the petitioner was required to show that compliance with the prohibitions would substantially and negatively offset the profit margin, return on investment, or rates of a local distribution company or direct industrial customer. The commenters urged that the criteria be expanded to take into account the potential cost impact that requiring the use of substitute lighting could have upon an individual user. In support of this position it was noted that the intital costs of obtaining substitute lighting might amount to a substantial expense for an individual petitioner and that such costs could outweigh the benefits to be derived from compliance.

At the time ERA promulgated the Final Rule, consideration of such factors as substantial hardship as to individuals, as well as costs in relation to benefits, was limited to the § 516.44 exemption for safety of persons and property. Under that section, a safety exemption was available to individuals for whom the costs of compliance with the prohibitions would impose a substantial financial hardship or could not be justifed on the basis of benefits. This continues to be true. However, ERA acknowledges that it may also be appropriate for individuals to petition for an exemption based on substantial expense where such expense cannot be justified on the basis of benefits to be obtained through compliance. ERA proposes to revise § 516.46 accordingly. ERA now proposes that all petitioners under § 516.46 address the same basic criteria in order to qualify for an exemption. The evidence necessary to demonstrate the cost impact of compliance may, however, still vary depending on the circumstances of the petitioner. Section 516.46(b) would thus be revised to indicate that the petitioner for the exemption must demonstrate that

(1) the cost of compliance with the prohibition on outdoor natural gas lighting would be substantial and (2) that the costs of compliance would outweigh the benefits that would be derived therefrom.

Public Hearing and Comment Procedures

1. *Written Comments.* The public is invited to submit data, views or arguments with respect to these proposed amendments.

2. *Public Hearings*—a. *Procedures for request to make oral presentation.* If you have any interest in this notice or represent a person, group, or class of person that has an interest, you may request an opportunity to speak at the public hearing. Requests to speak must be received in writing by 4:30 p.m. on March 3, 1980.

In your request, briefly describe your interest and, if applicable, state why you are a proper representative of a group or class of persons having such interest. In addition, give a concise summary of the proposed oral presentation and a phone number where ERA may contact you through March 11, 1980. If ERA selects you to be heard, you will be so advised before March 7, 1980. You must submit 50 copies of your hearing testimony to ERA for distribution at the hearing no later than 4:30 p.m., on March 11, 1980.

b. *Conduct of the Hearing.* ERA reserves the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. ERA may limit the length of each presentation, based on the number of persons requesting to be heard. ERA will designate an official to preside at the hearing. This will not be a judicial or evidentiary-type hearing. At the conclusion of all initial oral statements, each person who has made an oral statement may be given the opportunity, if he so desires, to make a rebuttal statement. Rebuttal statements will also be subject to time limitations.

If you wish to ask a question at the hearing, you must submit it in writing to the presiding officer. The presiding officer will determine whether the question is relevant and whether time limitations permit it to be presented for answer.

The presiding officer will announce any further procedural rules needed for the proper conduct of the hearing.

ERA will have a transcript made of the hearing, will retain the entire record of the hearing, including the transcript, and will make it available for inspection at the Freedom of Information Office, Room GA-152, 1000 Independence Avenue, SW, Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase a copy of the transcript from the reporter.

(Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*); Powerplant and Industrial Fuel Use Act (42 U.S.C. 8301 *et seq.*))

Issued in Washington, D.C., February 11, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

In consideration of the foregoing, Chapter II, Title 10 of the Code of Federal Regulations, Part 516, is proposed to be amended to read as follows:

1. Paragraph (d) of § 516.11 is proposing to be revised as follows.

§ 516.11 Definitions.

* * * * *

(d) The term "natural gas outdoor lighting fixture" means a complete stationary natural gas outdoor lighting unit.

2. Section 516.43 is proposing to be revised as follows:

§ 516.43 Commercial lighting of a traditional nature.

(a) *Scope.* A person using natural gas for outdoor lighting which is used for commercial purposes, which is of a traditional nature, may petition for an exemption from the prohibitions set forth in §§ 516.20 and 516.21 of this rule. In the case of a petition for an exemption from the general prohibition on installation of natural gas outdoor lighting fixtures (§ 516.20), an exemption shall be granted only to replace a natural gas outdoor lighting fixture(s) which had been installed prior to November 9, 1978. Such replacement shall include:

(1) Replacement of an existing natural gas light; or

(2) Replacement of a natural gas light which does not presently exist but which existed at some previous time upon the specified property.

(b) *Criteria.* The criteria for an exemption on the basis of commercial lighting of a traditional nature shall be satisfied upon certification by the petitioner that the specifically identified natural gas outdoor lighting fixture(s) used for commercial purposes, which is of a traditional nature and conforms with the long-standing cultural or architectural style of the area in which such light is located, presently exists or will be used to replace a natural gas lighting fixture of a traditional nature and that the replacement lighting fixture will enhance the area in which the property is located by conforming with the long-standing cultural or architectural style of the area in which such light is located.

3. Paragraphs (b) and (c) of § 516.44 are proposing to be revised as follows:

§ 516.44 Safety of persons and property.

* * * * *

(b) *Criteria.* The criteria for an exemption on the basis of necessity to protect the safety of persons and property shall be satisfied upon a demonstration that lighting to be provided by the natural gas fixture for which the exemption is requested is essential—

(1) To prevent a significant increase in the likelihood of bodily injury or damage to property;

(2) To prevent a significant increase in the likelihood of the occurrence of crime in the location served by the light; or

(3) Because other existing lighting in the location does not provide lighting adequate to insure conformance with American National Standards Institute (ANSI) Standard No. D 12.1, "The American National Standard Practice for Roadway Lighting."

(c) *Optional criterion.* In addition to demonstrating any of the criteria in paragraph(b) of this section, the petitioner may elect to demonstrate that the light must necessarily be fueled by natural gas as compared to the use of an alternate form of energy in a substitute light.

* * * * *

4. Section 516.46 is proposing to be revised as follows:

§ 516.46 Compliance which entails substantial expense and would not be cost justified.

(a) *Scope.* A local distribution company, a direct industrial customer, an individual user or an interested person may petition for an exemption form the prohibitions set forth in §§ 516.21 and 516.22 of this rule on the basis that compliance with the prohibitions entails substantial expense and would not be cost justified, if natural gas was being supplied to the petitioner for outdoor lighting purposes on November 9, 1978.

(b) *Criteria.* The criteria for an exemption on the basis of substantial expense shall be satisfied upon a showing by the petitioner that compliance with the prohibitions in § 516.21 or 516.22 of this rule would

(1) Entail substantial expense; and

(2) That such expense would outweigh the benefits to be derived from compliance.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

REMINDERS

The items in this list were editorially compiled as an aid to **Federal Register** users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

77174 12-31-79 / Squid fishery of the Northwest Atlantic; implementation of fishery management plan

ENERGY DEPARTMENT

Federal Energy Regulatory Commission—

5678 1-24-80 / Rules generally applicable to regulated sales of natural gas and ceiling prices

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing February 14, 1980

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2½ hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between Federal Register and the Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

WASHINGTON, D.C.

WHEN: March 21; April 4 and 18; at 9 a.m. (identical sessions).

WHERE: Office of the Federal Register, Room 9409, 1100 L Street NW., Washington, D.C.

RESERVATIONS: Call Mike Smith, Workshop Coordinator, 202-523-5235. Gwendolyn Henderson, Assistant Coordinator, 202-523-5234

MEMPHIS, TENN.

WHEN: March 25 at 1 p.m.

WHO: The Office of the Federal Register in cooperation with Memphis State University.

WHERE: Assembly Room, Richardson Towers, Memphis State University.

RESERVATIONS: Call Dr. Frank Lewis, 901-454-2029.

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For an advance "look" at the Federal Register, try our information service. A recording will give you selections from our highlights listing of documents to be published in the next day's issue of the Federal Register.

Washington: **213-688-6694**

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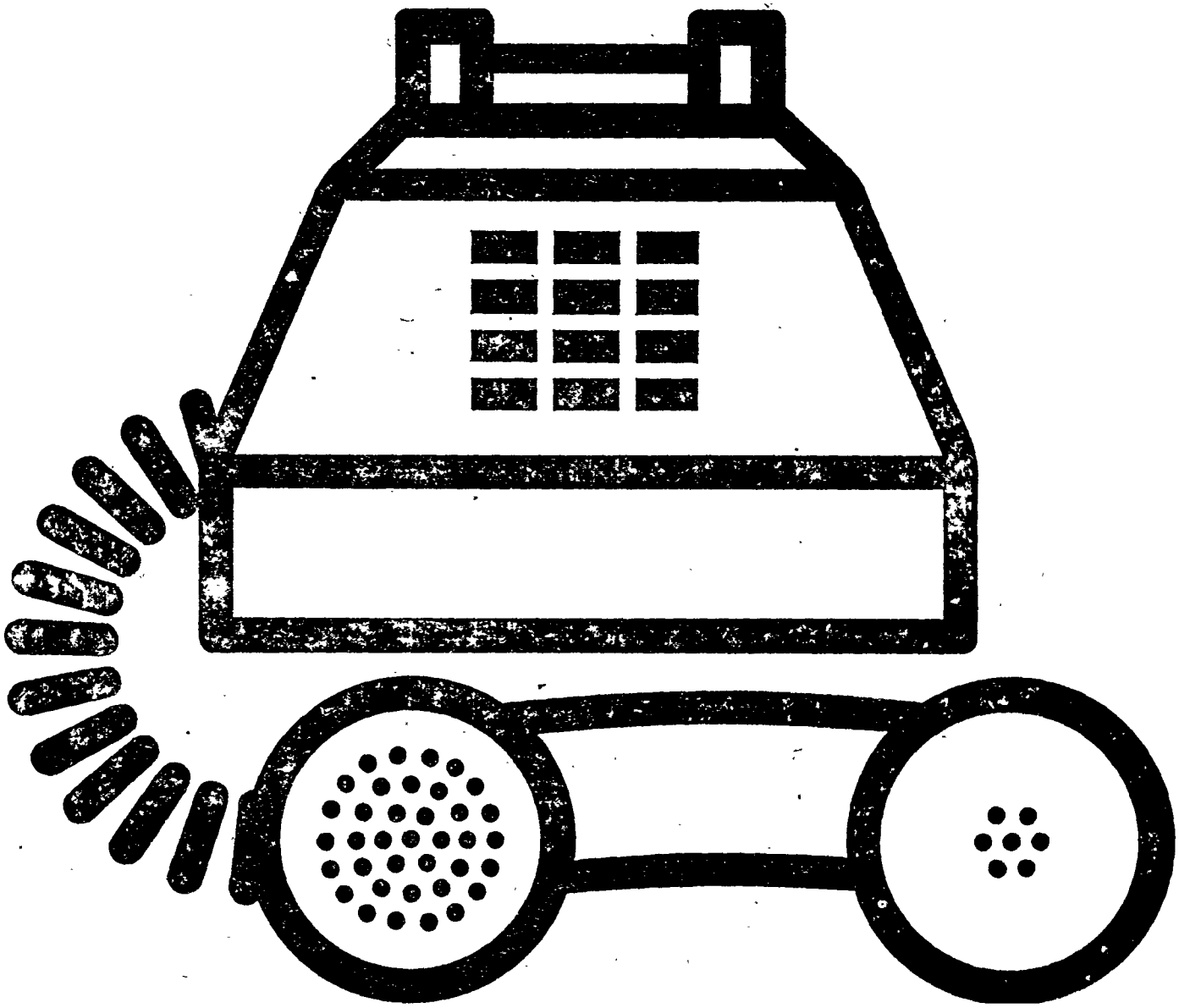
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