5-20-80
Vol. 45 No. 99
Pages 33589-33944

# Federal Register

Tuesday
May 20, 1980

## Highlights

Briefings on How To Use the Federal Register—For details on briefings in Washington, D.C.; Salt Lake City, Utah; Seattle, Wash.; Chicago, Ill.; St. Louis, Mo.; and Pittsburgh, Pa., see announcement in the Reader Aids section at the end of this issue.

33652 **Grant Programs—Nondiscrimination** Justice/ Office of Justice Assistance, Research, and Statistics proposes to prohibit recipients of financial assistance from depriving any person of their constitutional rights; comments by 7-21-80

33930 **Grant Programs—Juveniles** Justice/LEAA sets forth guidelines for "Removing Juveniles from Adult Jails and Lock-Ups" (Part XI of this issue)

33828, 33834 **Energy Conservation** DOE gives notice of proposed exempt corporations and adequate reporting programs; comments by 7-21-80 (2 documents) (Parts VI and VII of this issue)

33589 **School Breakfast** USDA/FNS redirects priorities for use of food service equipment assistance funds to encourge initiation of program; effective 5-14-80

33788 **Community Action Programs** CSA issues final regulations revising policy statement for the Community Food and Nutrition Program; effective 6-19-80 (Part IV of this issue)

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# Highlights

33846 **Employment** Labor/ETA issues regulations implementing changes to the Comprehensive Employment and Training Act (effective 5-15-80) and proposes further changes (comments by 7-21-80) (2 documents) (Part IX of this issue)

33926 **Surface Mining** Interior/OSM amends regulations to provide ten month period for review and resubmission of State programs; effective 5-20-80 (Part X of this issue)

33814 **Oil Pollution** EPA proposes to modify existing requirements for Spill Prevention Control and Countermeasure Plans; comments by 7-21-80 (Part V of this issue)

33784 **Hazardous Materials** EPA gives notice with cooperative arrangements with States that are developing programs for RCRA authorization (Part III of this issue)

33644 **Truth in Lending** FRS proposes to increase tolerance for annual percentage rates in irregular mortgage transactions; comments by 6-20-80

33599 **Truth in Lending** FRS publishes regulations regarding agricultural credit and closed-end credit transactions; effective 5-21-80

33762 **Securities** Treasury announces auction of Series S-1982 notes

33938 **Prisons** Justice/Prisons Bureau publishes regulations relating to control, custody, care, treatment, and instruction of inmates; effective 6-22-80; comments by 7-21-80 (2 documents) (Part XII of this issue)

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33765 **Sunshine Act Meetings**

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# Rules and Regulations

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

## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

### 7 CFR Part 2

### Delegation of Authority by the Secretary of Agriculture and General Officers of the Department

**AGENCY:** Department of Agriculture.

**ACTION:** Final rule.

**SUMMARY:** This document amends the delegations of authority to the Director of Science and Education, appearing in 7 CFR 2.39, to include a delegation to administer a program of patents for the Department.

It has been determined that this action is appropriate as the majority of the Department's patents derive from the activities performed under the Science and Education Administration. When the delegations of authority were first published, this assignment of function was not included.

**EFFECTIVE DATE:** May 20, 1980.

**FOR FURTHER INFORMATION CONTACT:** Wayne T. Thrush, Chief, Program Agreements and Patents Management Branch, Administrative Services Division, Science and Education Administration, U.S. Department of Agriculture, 6505 Belcrest Road, Hyattsville, Maryland 20782 (301–436–8402).

### Subpart D—Delegations of Authority to Other General Officers and Agency Heads

7 CFR 2.39 is amended by adding a new paragraph (a)(62) to read as follows:

**§ 2.39 Delegations of authority to the Director of Science and Education.**

(a) *Related to science and education.*

* * *

(62) Administer the Department's Patent Program except as delegated to the General Counsel in § 2.31(g).

* * * * *

(5 U.S.C. 301, Reorganization Plan No. 2 of 1953; Executive Order 10096, 15 FR 389, as amended; Presidential Statement on Government Patent Policy, 36 FR 16887)

Dated: May 15, 1980.

Bob Bergland,

*Secretary of Agriculture.*

[FR Doc. 80-15358 Filed 5-19-80; 8:45 am]

BILLING CODE 3410-01-M

### 7 CFR Part 6

### Section 22 Import Quotas; Certain Dairy Products; Correction.

**AGENCY:** Foreign Agricultural Service, USDA.

**ACTION:** Correction and clarification to final rule.

**SUMMARY:** This corrects and clarifies the final rule of Import Regulation 1, Revision 7, which was published in the Federal Register on December 20, 1979 (44 FR 7594).

**FOR FURTHER INFORMATION CONTACT:** Carol M. Harvey, Head, Dairy and Import Group, Dairy, Livestock and Poultry Division, CP, Foreign Agricultural Service, Room 6624, South Building, Department of Agriculture, Washington, DC 20250, (202) 447–5270.

**SUPPLEMENTARY INFORMATION:** The corrections and clarifications to the final rule are, with one exception, eliminations of errors both typographical and grammatical, and in one case, the correction of a mistaken reference. One clarification (number 2 below) eliminates a direct contradiction in the regulation. Section 6.26(a)(3) currently prohibits any licensee from receiving a license for Group V Appendix 2 cheese larger than his or her base period imports while § 6.26(a)(4) provides for a clear exception to this prohibition. The provisions of § 6.26(a)(4) as well as the provisions of § 6.26(a)(3) as corrected, have been followed by the Licensing Authority in the allocation of 1980 licenses. The clarification found in this document is designed to eliminate any confusion on this matter.

In FR Doc. 79-39142, appearing at page 75594 of the Federal Register of Thursday, December 20, 1979, the following corrections should be made:

**§ 6.25 [Corrected]**

1. On page 75599, the reference in the last line of § 6.25(d)(4) is corrected by deleting "§ 6.26(b)(2) (ii) and (iv)" and inserting in lieu thereof "§ 6.26(b)(3)(i)".

**§ 6.26 [Corrected]**

2. On page 75599, insert the words ", except as provided in paragraph (a)(4) below," in § 6.26(a)(3) between the words "*and* no licensee" and the words "may receive a historical quota share".

**§ 6.26 [Corrected]**

3. On page 75600 delete the word "other" in the middle of § 6.26(a)(6) and insert in lieu thereof the word "another".

**Appendix 2 [Corrected]**

4. On page 75608, change the heading over the column for quota amounts in kilograms in Appendix 2 from "Annual Historical/nonhistorical quota" to "Annual historical/supplementary quota".

(Sec. 3, Pub. L. 80–897, 62 Stat. 1248, as amended (7 U.S.C. 624); Secs. 701, 703, Pub. L. 96–39, 93 Stat. 268, 272 (19 U.S.C. 1202 note); Part 3 of the Appendix to the Tariff schedules of the United States (19 U.S.C. 1202))

Signed this 15th day of May, 1980.

Thomas R. Hughes,

*Administrator, Foreign Agricultural Service.*

[FR Doc. 80-15463 Filed 5-19-80; 8:45 am]

BILLING CODE 3410-10-M

### Food and Nutrition Service

### 7 CFR Part 230

**[Amendment 4]**

### Child Nutrition Programs; Food Service Equipment Assistance Program

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule finalizes an interim rule published in the Federal Register (44 FR 61562–61567) on October 26, 1979, redesignating and amending the Nonfood Assistance Program. The major reason for this rulemaking is to implement on a final basis provisions of Public Law 95–166 and Public Law 95–627. The Department's proposed rulemaking to initiate the implementation of Pub. L. 95–166 appeared in the Federal Register on Friday, October 27, 1978 (43 FR 50185–

50187). The interim rule implemented the legislative intent of Pub. L. 95-627 and Pub. L. 95-166 with full consideration given to public comments on the October 1978 proposal which were received prior to the close of the comment period. This rule redirects priorities for the use of food service equipment assistance funds to encourage initiation of the School Breakfast Program. The rule was originally issued in an interim form to provide fiscal year 1980 funds to States under the conditions cited in the interim rule so that they could benefit from them while developing their comments based upon actual operating experiences.

**EFFECTIVE DATE:** Upon signature.

**FOR FURTHER INFORMATION CONTACT:** Stanley C. Garnett, Acting Director, School Programs Divisions, Food and Nutrition Service, USDA, Washington, D.C. 20250, (202) 477-8130.

**SUPPLEMENTARY INFORMATION:** Pub. L. 95-166, enacted November 10, 1977, amended the National School Lunch Act and the Child Nutrition Act of 1966 to encourage the onsite preparation of hot meals for service to school children. To initiate the implementation of this legislation the Department published proposed regulations at 43 FR 50185 on October 27, 1978. Nineteen comments were received from State directors, school superintendents, professionals, nutritionists, dietitians, and other concerned citizens prior to the official close of the comment period on December 22, 1978. However, before this comment period closed, Pub. L. 95-627 was enacted on November 10, 1978 to amend the National School Lunch Act and Child Nutrition Act of 1966. Hence, Pub. L. 95-627 superseded several provisions of Pub. L. 95-166 which had not yet been implemented in regulations. Pub. L. 95-627 changed the priority for the use of food service equipment assistance program funds to encourage initiation of the School Breakfast Program.

Since the involved chronology of legislation and subsequent Departmental regulatory activity may cause confusion, the following chart has been drafted as an aid to explain the regulatory changes based upon the provisions of Public Laws 95-166 and 95-627

**Impact of Public Laws 95-166 and 95-627 on Part 230—Nonfood Assistance Program**

| Part 230-Nonfood assistance program regulations | Proposed amendment implementing Public Law 95-166 | Final rule implementing Public Law 95-166 and 95-627 |
|---|---|---|
| PROGRAM TITLE | | |
| Nonfood Assistance Program | Food Service Equipment Assistance Program | No change. |
| CATEGORY OF FUNDS | | |
| Reserved—33⅓% of total funds appropriated | No change | Reserved—40% of total funds appropriated. |
| Unreserved—66⅔% of total funds appropriated | No change | Unreserved—60% of total funds appropriated. |
| APPORTIONMENT OF FUNDS TO STATES | | |
| Reserved—ratio of the number of children in each State enrolled in schools without a food service and in schools without the Facilities to prepare or receive hot meals to the number of children in all States enrolled in such schools. | Reserved—ratio of the number of children in each State enrolled in schools without a food service and in schools without the facilities to prepare and cook or receive hot meals to the number of children in all States enrolled in such schools. | Reserved—ratio of the number of children in each State enrolled in schools without a food service and in schools moving toward the initiation of breakfast,[1] to the number of children in all States enrolled in such schools. |
| Unreserved—ratio of the number of Type A lunches served in each State during the latest preceding fiscal year for which data is available to the number of lunches served in all States. | No change | No change. |
| REAPPORTIONMENT OF RESERVED FUNDS | | |
| Remain reserved with each reapportionment | After the 1st reapportionment any remaining funds will be reapportioned as unreserved funds. | No change. |
| USE OF RESERVED FUNDS | | |
| To purchase or rent food service equipment for schools without a food service and schools without the facilities to prepare or receive hot meals. | To purchase or rent food service equipment for schools without a food service and schools without the facilities to prepare and cook or receive hot meals. | To purchase or rent food service equipment for schools without a food service and schools planning to initiate a lunch or breakfast program. |
| USE OF UNRESERVED FUNDS | | |
| To purchase or rent food service equipment for any school eligible for nonfood assistance fund. | To purchase or rent food service equipment for schools in the following order:<br>1—Schools without a food service<br>2—Schools without facilities to prepare and cook or receive hot meals.<br>3—Schools with inoperable equipment<br>4—Schools needing equipment to maintain or expand existing lunch or breakfast programs. | To purchase or rent food service equipment for schools in the following order:<br>1—Schools without a food service.<br>2—Schools needing equipment to initiate a lunch or breakfast program.<br>3—Schools without facilities to prepare and cook or receive hot meals.<br>4—Schools with inoperable equipment.<br>5—Schools needing equipment to maintain or expand existing lunch or breakfast program. |
| USE OF EQUIPMENT PURCHASED WITH NONFOOD ASSISTANCE FUNDS | | |
| Contracting institutions can use equipment purchased with NFA funds, if equipment is installed and operating on the SFA's premise. | School Food Authorities without hot meal service who contract with public or nonprofit private institutions to provide hot meals for the SL or SB Programs may use NFA funds to purchase equipment to be installed in the contracting institutions' kitchens. | No change. |
| ESPECIALLY NEEDY CRITERIA | | |
| Determined by the State | Determined by the State and included in the State Plan for approval by the Secretary. | No change. |
| PROPERTY MANAGEMENT | | |
| Regulatory requirements for disposing of equipment in private schools. | Private school property be disposed of according to OMB Circular No. A-102. | No change. |

[1] Moving toward the SBP—Refers to schools for which bona fide written commitments of intent to initiate the School Breakfast Program have been made during the twelve month period (April 1-March 31) immediately preceding the date of the report being filed. Examples of such commitments include signed agreements or applications to participate in the Program and letters of intent to initiate the program. Schools in this Category have determined that it is feasible to initiate the Program and have fulfilled the necessary local pre-requisities prior to submitting the bona fide written commitment.

The first column of the chart reflects the existing Departmental regulatory requirements. The second column reflects the provisions of Pub. L. 95–166 which were published in the proposed rule on October 27, 1978. The third column reflects the provisions of Pub. L. 95–166 not superceded by Pub. L. 95–617 and the provisions of Pub. L. 95–627 which will be implemented in this final rule after consideration of comments received before the close of the comment period.

*Analysis of Comments on Interim Rule*

Interested persons and groups were given 81 days in which to submit comments, suggestions or objections regarding the interim rule. A total of twenty (20) comments were received of which the majority favored the intent of the rule, but objected to some of the Department's interpretation of the law. For example, some issues that received considerable comments were the use of pre-plated meal service, the percentage of free and reduced price meal eligibility prescribed for "especially needy" schools and the priority system established for the use of unreserved funds.

*Change of Program Title*

Section 3 of Pub. L. 95–166 amended the National School Lunch Act and the Child Nutrition Act of 1966 to change the title of the Nonfood Assistance Program to Food Service Equipment Assistance Program. Such change in the regulations would make the title more descriptive of the type of service offered to schools by this Program.

*Increase of Funds Allocated as Reserved*

Pub. L. 95–627 increased the percentage of funds allocated as reserved funds from 33⅓ percent of the total funds appropriated to 40 percent. These regulations effect this change. By increasing the amount of FSEA funds allocated as reserved funds to 40 percent, more funds will be available to aid needy schools having no food service and those needy schools planning to initiate a lunch or breakfast program. Three commentors objected to the increase in the percentage of funds designated as "reserved" funds. They stated that the increase penalizes States that have worked hard to expand the lunch and breakfast programs and restricts States' ability to assist schools that have been operating the program for many years. They also stated that additional unreserved funds are needed to upgrade the facilities of those schools already participating in the programs.

*Use of Reserved Funds*

Section 6 of Pub. L. 95–627 amended Section 5 of the Child Nutrition Act of 1966 to encourage schools to initiate a breakfast program and to give strong preference to schools planning to initiate a breakfast or lunch program. Pub. L. 95–627 requires that 40% of the funds appropriated for the Food Service Equipment Assistance Program be reserved to assist schools without a food service program and schools planning to initiate the National School Lunch Program or the School Breakfast Program ("reserved funds").

Two commentors strongly objected to making reserved funds available to the same category of schools which receive first and second priority for unreserved funds. They stated that the reserved funds were being used to entice schools into initiating a breakfast program on a temporary basis. Conversely, one commentor favored the use of reserved funds for initiating the breakfast program. The category of schools eligible for reserved funds is dictated by law and therefore the Department cannot effect any discretionary impact upon this regulatory requirement.

Reserved funds are to be apportioned among the States based on the number of schools without a food service and the number of schools moving toward the initiation of the School Breakfast Program. For uniformity among the States, the Department in the interim regulations defined "school moving toward the School Breakfast Program" as a school for which a bona fide written commitment of intent to initiate the School Breakfast Program has been made during the 12-month period (April 1 thru March 31) immediately preceding the date of the report being filed. Examples of bona fide written commitments are signed agreements or applications to participate in the Program and letters of intent to initiate the Program. Two commentors objected to the definition of "school moving toward the initiation of the service of breakfast" stating that the definition was too restrictive and more reliable data regarding schools planning to begin a breakfast program would be available in September than in March. It was also recommended that the FNS–47, Annual Report of Meal Service in Schools, be cited in the definition rather than using the term "report". This final rule implements this recommendation and maintains the April 1–March 31 reporting period and the report is due to the Department by April 30. This allows sufficient time for reviewing the data and developing the apportionment formulas for the upcoming fiscal year. Schools that meet the definition of a "school moving toward the initiation of the service of breakfast" during the 12-month period (April 1 thru March 31) preceding the submission of the FNS–47, Annual Report of Meal Service in Schools, are eligible for reserved funds. This includes schools which entered the School Breakfast Program during the 12-month period for which data was reported on the FNS–47.

Schools without a food service continue to be eligible for reserved funds and the definition of this category of school has been revised to ensure that food service equipment assistance funds are made available to schools most in need of a lunch program, that is, for schools which do not make available to enrolled children meals approximating the requirements of § 210.10 of the National School Lunch Program regulations. Two commentors recommended that the definition of "schools without a food service" be revised to include schools without either a lunch or breakfast program. The interim definition focused on the National School Lunch Program because considerable emphasis is placed on the School Breakfast Program in the allocation and use of both reserved and unreserved funds in "schools moving toward the initiation of the School Breakfast Program." Including schools without the Breakfast Program in the category of "schools without a food service" could also result in counting these schools twice if they are determined to be moving toward the

Breakfast Program. The final definition allows reserved funds to be used for schools that have only a breakfast program and plan to initiate the lunch program.

Finally, Pub. L. 95–166 extended the reserved provision until September 30, 1980.

*Use of Unreserved Funds*

Unreserved funds may be used in any school eligible for food service equipment assistance funds. Generally, such funds are used to purchase food service equipment needed to maintain or expand existing school food service operations. These regulations implement the intent of Pub. L. 95–166 to encourage the on-site preparation of hot meals by giving schools without facilities to prepare and cook hot meals or receive hot meals third priority for the use of unreserved funds. Several commentors opposed this provision stating that the Department was discriminating against schools which were either using or planned to use frozen or chilled preplated meals in their lunch or breakfast programs.

Instances were cited where centralized or satellite food service operations were essential to the operation of the lunch and breakfast programs, especially in urban areas or in older schools which previously had no lunch or breakfast programs and in those schools with limited space and equipment. Commentors also stated that preplated meals are more economical than on-site food service operations and provide control over program costs in areas where programs would have to be discontinued due to the lack of funds. In reference to defining schools which receive chilled or frozen preplated meals as "schools without facilities to prepare and cook hot meals or receive hot meals", the comments indicated some dissension. Some commentors favored this provision and stated that on-site meal preparation would promote participation in the school nutrition programs. It was also stated that meals prepared onsite provided greater opportunity for teaching the children nutrition using the cafeteria as a learning laboratory and onsite food service operations could meet the needs of children requiring special diets better than centralized kitchens. Three commentors objected to using food service equipment assistance funds for equipment to operate a preplated meal system. Another commentor stated that the use of preplated meal systems should be limited to situations where existence of the lunch or breakfast program would be jeopardized.

Pub. L. 95–166 did not disallow the use of food service equipment assistance funds for schools which would initiate or maintain the lunch or breakfast program through the use of frozen or chilled preplated meals. Rather schools which demonstrate that such meal service is essential to initiate or maintain the lunch or breakfast programs, or is necessary to improve the consumption of food or the participation of children in the programs, would be eligible to use FSEA funds to operate such a food service. Such schools could use FSEA reserved funds. (In particular, if a School Food Authority preparing preplated meals needed additional equipment in its central kitchen in order to expand meal service to one or more "no program schools," reserved funds could be used.) These schools are also eligible for unreserved funds under certain circumstances.

In accordance with Public Law 95–627, the final rule establishes the following priority system for the use of unreserved funds: (1) schools without a food service, (2) schools that do not serve both breakfasts and lunches but that will use food service equipment to initiate the service of breakfasts or lunches, (3) schools that are without facilities to prepare and cook hot meals or receive hot meals, and that will use FSEA funds to establish facilities to prepare and cook hot meals or receive hot meals, (4) schools having equipment that is so antiquated or impaired as to endanger the continuation of an adequate food service program or the ability to prepare and cook hot meals and, (5) schools needing equipment to (a) maintain and (b) expand existing lunch or breakfast programs. FSEA funds may be used for equipment for preplated meals under any of these priority categories except priority #3.

These final regulations maintain the definition of schools without facilities to prepare and cook hot meals or receive hot meals. Schools whose food service equipment is limited to the service of cold meals only and schools that can only heat frozen or chilled individual preportioned meals cannot use the funds received under priority #3 to purchase or rent food service equipment for the continuation or expansion of an ongoing food service operation which lacks facilities to prepare and cook hot meals or receive hot meals. The funds received under priority #3 can only be used to convert to a food service operation that has facilities to prepare and cook hot meals or receive hot meals.

It was suggested that the definition of "frozen or chilled individual preportioned meal" be deleted since the term was not mentioned elsewhere in the regulation. The definition is maintained in this final rule because schools which serve frozen or chilled preplated meals are eligible for food service equipment assistance funds.

*Expanded Use of Food Service Equipment Assistance Funds*

As a result of Pub. L. 95–166, this final rule will also expand the use of food service equipment assistance funds to certain public or private nonprofit institutions which do not themselves participate in the school nutrition programs. Ten percent of the commentors opposed the use of FSEA funds to purchase equipment to be installed in institutions which provide meals to children who attend schools which are unable to operate their own food service, stating that the Department would lose control of the equipment since there is not a legal title inherent in procuring equipment. It was also suggested that in addition to the School Food Authority retaining legal title to the equipment, the regulations should address the areas of accountability, care and maintenance of the equipment. These concerns were raised during the comment period of the proposed rule. This final rule specifies the minimum restrictions established by Congress; however, States have the authority to establish additional State restrictions.

These regulations provide that in circumstances where schools are unable to establish a food service program of hot meals prepared and cooked by the school and the school lacks facilities to receive hot meals and serve them hot when such meals are available from a kitchen operated by the School Food Authority, the school may contract with such an institution to provide hot meals to children attending such schools. Equipment acquired with food service equipment assistance funds may be used to equip the food service operations of the institution. For example, if a school is without a food service program and eligible for food service equipment assistance funds, but lacks space to install a kitchen, the school may contract with a community center to provide meals to its children. The school may equip the community center's kitchen with equipment purchased with food service equipment assistance funds. However, there are restrictions to this provision namely: (1) the school must retain legal title to the equipment and (2) if reserved funds are used, the institution would otherwise have been without food service equipment.

Other Changes

*Especially Needy*

Pub. L. 95–166 and Pub.L. 95–627 require other changes in the operation of the Program. For example Pub.L. 95–166 requires the Secretary's approval of the State's criteria for determining especially needy schools under the Food Service Equipment Assistance Program.

In order to effect this change, this final rule requires State agencies and FNSROs, as applicable, to include their criteria for especially needy schools in the State Plan of Child Nutrition Operations. This practice has been addressed previously by all State agencies and FNSROs in the State Plan, but it has not previously been addressed as a regulatory requirement. Therefore, this regulatory requirement contributes no increased staffing or paperwork burden upon the State agencies. Twenty-five percent of the commentors stated that the percentage of children eligible for free or reduced price meals established by the State as criteria for especially needy schools should be lowered to 40 percent which is the basis for "severe need" eligibility under the School Breakfast Program. One commentor noted that the definition of especially needy omits any reference on which to base the percentage. It was suggested that the percentage be based on enrollment rather than average daily participation. This final rule maintains the 50 percent level for children eligible for free and reduced price meals as set forth in the interim rule and the definition has been revised to base the percentage of free and reduced price meals on enrollment. These regulations make it clear that it is the responsibility of the State to determine the level of free or reduced price eligibility that would best meet the needs of the neediest schools as long as at least 50% of the children enrolled are eligible for free or reduced price meals. This percentage may not be set so high as to eliminate all or most of a State's schools.

*Reapportionments*

Under the current regulations, reserved funds are reapportioned as reserved funds as many times per fiscal year as the Secretary determines a reapportionment is necessary. Pursuant to Public Law 95–166, this final rule finalizes the interim provision to allow only one reapportionment of reserved funds as reserved funds per fiscal year. Any funds remaining in that fiscal year would be reapportioned as unreserved funds. Commentors supported this provision stating that it would allow more funds to be available to assist ongoing programs where there has been a deficit for several years. Nonetheless, another issue was raised concerning the Department determining whether or not the amount of funds returned warrants reapportioning. One commentor suggested that a minimum dollar amount should be specified by regulations. Such a limit would be based on many factors such as the amount released, the amount requested, and the cost in terms of staff to reapportion such funds. The Department is developing a policy regarding minimum amount of funds for reapportionment.

*Property Management*

Prior to the interim rule, property management requirements in the regulations required different procedures for the disposition of personal property in public and private schools. The interim and this final rule requires private school property to be disposed of in the same manner as public school property. This is in accordance with OMB Circular A–102 and Pub. L. 95–166. Commentors concurred with changing the property management requirement for private schools to coincide with those for public schools. A number of substantive comments were received objecting to the increase of the dollar amount of expendable personal property from $500 to $1,000.

Two commentors suggested that the Department request an exception that would preclude it from complying with OMB Circular A–102 for property management requirements which would allow for tighter controls in disposing of equipment. In August, 1978, the Department requested such an exception, but was denied. Since the Department cannot effect any discretionary impact upon this regulatory requirement which is found in OMB Circular A–102, the $1,000 amount has been retained in this final rule.

Accordingly, Part 230 is amended as follows:

1. The title "Nonfood Assistance Program" is deleted each time such title appears in this part and the title "Food Service Equipment Assistance Program" is inserted in lieu thereof.

2. The phrase "nonfood assistance" is deleted each time such phrase appears in this part and the phrase "food service equipment assistance" is inserted in lieu thereof.

3. The title "CND" is deleted each time such title appears in this part and the title "SPD" is inserted in lieu thereof.

4. In § 230.2 paragraphs (e) and (v) are deleted and reserved; four (4) new paragraphs (n–1), (n–2), (cc–1), and (cc–2) are added; and paragraphs (h), (i), (dd), (ee), (u) and (x) are revised to read as follows:

**§ 230.2 Definitions.**

* * * * *

(h) "Equipment" means articles and physical resources, other than land or buildings, used for such purposes as receiving, storing, preparing, transporting, or serving food.

(i) "Especially needy school" means a school whose School Food Authority does not have access to sufficient resources to meet the matching requirement of this part, and which meets the criteria established in the approved State Plan. Such criteria shall include a State's established percentage of free and reduced price eligibles based on enrollment which is applied on an individual school level basis to determine a school's eligibility for especially needy assistance. Such percentage shall not be less than 50 percent and shall not be set at a level so high as to preclude eligibility of all or nearly all schools for especially needy assistance.

* * * * *

(n–1) "Frozen or chilled individual preportioned meal" means a preportioned combination of foods meeting the National School Lunch Program or School Breakfast Program requirements that are received chilled or frozen at the school to be served as an individual meal. Such meal may be packaged in one or more containers and may require heating at the school prior to serving.

* * * * *

(u) "OIG" means the Office of Inspector General of the Department.

* * * * *

(x) "Program" means the Food Service Equipment Assistance Program authorized by section 5 of the Child Nutrition Act of 1966, as amended.

* * * * *

(n–2) "Grossly inadequate equipment" means equipment for receiving, storing, preparing, transporting or serving of food inappropriate for, or without the capacity to meet the demands placed on the foodservice facility. It also means foodservice equipment that is in operative condition, but uneconomical to keep operational due to frequent maintenance and repair.

* * * * *

(cc–1) "School moving toward the initiation of the service of breakfast" means a school for which bona fide written commitments of intent to initiate the School Breakfast Program have been made during the 12-month period (April 1 thru March 31) immediately preceding the date of filing the FNS–47, Annual

Report of Meal Service in Schools. Examples of such commitments include signed agreements or applications to participate in the program and letters of intent to initiate the program. Schools in this category have determined that it is feasible to initiate the program, and have fulfilled the necessary local prerequisites prior to submitting the bona fide written commitment.

(cc-2) "SPD" means School Programs Division of the Food and Nutrition Service of the U.S. Department of Agriculture.

(dd) "School without a food service" means a school that does not make available, to enrolled children, meals approximating the requirements of Part 210.10 of the National School Lunch Program regulations.

(ee) "School without facilities to prepare and cook hot meals or receive hot meals" means a school that lacks adequate facilities to prepare, cook, and serve hot meals onsite which meet the requirements of the National School Lunch and School Breakfast Programs and also lacks facilities to receive meals hot and serve them hot when such meals are available from a kitchen operated by the School Food Authority.

* * * * *

5. In § 230.4, paragraph (a) is revised; paragraph (b) is deleted; and paragraphs (c), (d) and (e) are revised and redesignated as (b), (c) and (d).

**§ 230.4 Apportionment of funds to States.**

(a) Of the Federal funds appropriated for food service equipment assistance under the Act, 60 percent shall be apportioned among the States during each fiscal year on the basis of the ratio that the number of lunches, meeting the meal requirements set forth in § 210.10 of this chapter and served in each State in the latest preceding fiscal year for which the Secretary determines data are available at the time such funds are apportioned, bears to the total number of such lunches served in all States in such preceding fiscal year.

(b) The remaining 40 percent of the Federal funds appropriated for food service equipment assistance under the Act shall be apportioned among the States on the basis of the ratio of the number of children in each State, enrolled in schools without a food service and in schools moving toward the initiation of the School Breakfast Program, to the number of children in all States enrolled in schools without a food service and in schools moving toward the initiation of the School Breakfast program.

(c) If any State agency, or FNSRO, were applicable, cannot use all the funds apportioned to it under paragraph (a) or (b) of this section, it shall release such funds to the Department for further apportionment among the remaining States, in the manner and for the purpose of the respective initial apportionment: *Provided, however,* That no further apportionment shall be made if the Department determines that the amount of such funds is too small to make a further apportionment. If funds apportioned under paragraph (b) of this section remain unused after one reapportionment of these funds as reserved funds, the Secretary shall immediately apportion such funds among the States as unreserved funds in accordance with the provisions of paragraph (a) of this section.

(d) A share of the Program funds apportioned to any State in accordance with paragraph (a) or (b) of this section shall be withheld by FNS for schools of that State if the State agency is prohibited by law from administering the Program with respect to such schools. The amount withheld from the funds apportioned under paragraph (a) of this section shall bear the same ratio to such apportioned funds as the number of lunches, meeting the requirements of § 210.10 of Part 210 of this chapter and served in such schools in such State in the latest preceding fiscal year for which the Secretary determines data are available at the time such funds are withheld, bears to the total number of such lunches served in all schools within such State in such preceding fiscal year. The amount withheld under paragraph (b) of this section shall bear the same ratio to such funds as the number of children in such State, enrolled in such schools without a food service and in such schools moving toward the initiation of the School Breakfast Program, bears to the total number of children enrolled in all schools without a food service and in all schools moving toward the initiation of the School Breakfast Program in such State in such fiscal year.

6. In § 230.7 paragraph (a) is revised to read as follows:

**§ 230.7 Matching of funds.**

(a) During any fiscal year, payments made by FNS to each State agency and payments made by FNSRO to School Food Authorities shall be upon the condition that at least one-fourth of the cost of the equipment financed under this subsection shall be borne by funds for sources within the State: *Provided, however,* That payments used to assist schools that are especially needy, as determined by criteria established by the State agency, or FNSRO where applicable, and approved by the Secretary, shall not be so matched. A School Food Authority's ability to meet the matching requirement of this section may be determined by assessing the funds included in the school food service budget, the funds set aside for equipment replacement, the level of operating balance, the availability of funds from alternate sources and their impact on the School Food Authority's ability to finance the acquisition cost. Payments made by FNS to a State agency may be matched where matching is required, either by the respective recipient School Food Authorities or from other State or local sources and payments made by FNSRO to a School Food Authority may be matched either by the recipient School Food Authority or from other funds available to such School Food Authorities within the State in which the Program is administered by FNS.

* * * * *

7. In § 230.8, the paragraph is designated as paragraph (a) and the last sentence is deleted and new paragraphs (b), (c), (d), and (e) are added to read as follows:

**§ 230.8 Use of funds.**

* * * * *

(b) Funds apportioned under paragraph (a) of § 230.4 may be used to reimburse School Food Authorities of any eligible school. However, States shall use their share of unreserved funds as described under paragraph (a) of § 230.4 by giving priority to four (4) types of schools in the following order: (1) Schools without a food service, (2) schools that do not serve both breakfasts and lunches, but that will use food service equipment to initiate the service of breakfasts or lunches, (3) schools without the facilities to prepare and cook hot meals or receive hot meals, and (4) schools having equipment that is so antiquated or impaired as to endanger the continuation of an adequate food service program or the ability to prepare and cook hot meals. After making funds available to such schools, the State shall make the remaining funds available to eligible schools that do not meet the priority criteria, for the purpose of purchasing or renting equipment needed to (1) maintain and (2) expand existing lunch or breakfast programs. Unreserved funds received under the third priority basis cannot be used to purchase or rent equipment for the maintenance or expansion of food service without facilities to prepare and cook hot meals or receive hot meals.

(c) States shall use their share of reserved funds as apportioned under paragraph (b) of § 230.4 to reimburse

School Food Authorities of eligible schools that do not make available to enrolled children lunches approximating the requirements of § 210.10 of this chapter, but that will use food service equipment to initiate the National School Lunch Program, and School Food Authorities of schools that do not serve breakfasts, but that will use food service equipment to initiate the School Breakfast Program. Reserved funds may be used to reimburse a School Food Authority in need of additional equipment in its central kitchen to expand meal service to schools without a food service.

(d) Food service equipment assistance funds shall be used only for facilities that enable local public or private nonprofit institutions under the conditions prescribed in paragraph (e) of this section or schools to prepare and cook hot meals or receive hot meals at the school or institution unless the School Food Authority can demonstrate to the satisfaction of the State agency or FNSRO where applicable, that an alternate method of meal preparation, such as frozen or chilled meals is necessary for the introduction or continued existence of the school lunch or breakfast programs in the schools or to improve the consumption of food or the participation of eligible children in the programs.

(e) If a School Food Authority authorized to receive funds under this section cannot establish a food service program of hot meals prepared and cooked by the school and the school lacks facilities to receive meals hot and serve them hot when such meals are available from a kitchen operated by the School Food Authority and the School Food Authority enters into an agreement with a public or private nonprofit institution to provide hot lunches or breakfasts meeting program nutritional requirements for children attending the school, the funds provided under this section may be used for food service equipment to be located at such institution, if the school retains legal title to such food service equipment and if, in the case of funds made available under § 230.4(b), the institution would otherwise be without food service equipment.

8. In § 230.9, a new paragraph (d) is added to read as follows:

**§ 230.9 Requirements for participation.**

* * * * *

(d) The State agency, or FNSRO where applicable, shall provide technical assistance to applicant and participating School Food Authorities to assure that school food services use existing and requested equipment with maximum effectiveness in the Program.

9. In § 230.12, a new paragraph (i) is added to read as follows:

**§ 230.12 Special responsibilities.**

* * * * *

(i) In accordance with the State Plan of Child Nutrition Operations submitted under § 210.4(a) the State agency, or FNSRO where applicable, shall include eligibility requirements for schools to be approved for especially needy assistance. These requirements shall include all the elements of an especially needy school as specified in § 230.2(i) of this part.

10. In § 230.13, paragraph (b) is revised to read as follows:

**§ 230.13 Claims against School Food Authorities.**

* * * * *

(b) FNS may review any action the State agencies propose to take under this section.

11. In § 230.16 the title of the paragraph (b)(3) is amended to read "Disposition"; paragraph (b)(3)(i) is deleted and reserved; paragraph (b)(4) is deleted; a new sentence is added to paragraph (b)(2); paragraph (b)(5) is redesignated as paragraph (b)(4); and paragraphs (a), (b)(3)(iii) and (c) and the fifth sentence of paragraph (b)(3) are revised to read as follows:

**§ 230.16 Property Management Requirements.**

(a) General purpose and scope. This section prescribes policies and procedures governing title, use, and disposition of personal property obtained by a State agency or School Food Authority for eligible schools, whose cost was borne in whole or in part with Food Service Equipment Assistance Program funds. State agencies and School Food Authorities may follow their own property management policies and procedures provided they are not inconsistent with the requirements of this section.

* * * * *

(b)(2) * * * Wherever feasible, a State agency or School Food Authority shall remove property which is not used in the Program at its current location and reinstall it for Program use at another location where a need for such property exists.

(b)(3) * * * In such situations, the State agency or School Food Authority may use the property without reimbursement to the Department or State agency, as applicable, or sell the property and retain the proceeds if the property had an acquisition cost of less than $1,000 per unit * * *

(b)(3)(iii) When the Department or State agency, as applicable, determines that nonexpendable personal property has an acquisition cost of $1,000 or more, the Department or State agency, as applicable, may reserve the right to require the State agency or School Food Authority to transfer title of the property to the Department or State agency, as applicable, or to a third party subject to the following provisions:

* * * * *

(c) Expendable personal property. The State agency or School Food Authority may at its option either retain or sell items of expendable personal property on hand when no longer needed for any federally sponsored activity (including activities sponsored by other Federal agencies). Compensation to the Department or State agency, as applicable, is required if the aggregate fair market value of all expendable personal property on hand acquired under the grant or contract exceed $1,000 when no longer needed for any federally sponsored activity. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original property to the current fair market value of items retained and to the sale proceeds of items sold.

* * * * *

(Catalog of Federal Domestic Assistance No. 10.554, National Archives Reference Services.)

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. A final Impact Statement has been prepared and is available from the office of the party identified in the "For Further Information Contact" portion of the preamble during regular business hours (8:30 a.m. to 5:00 p.m.).

Authority: (Sec. 3, Public Law 95-166, 91 Stat. 1332, Sec. 4, Public Law 95-166, 91 Stat. 1332-1334 (42 U.S.C. 1774) and Sec. 6(b), Public Law 95-627, 92 Stat. 3620-3621 (42 U.S.C. 1774)).

Dated: May 14, 1980.

Carol Tucker Foreman,

*Assistant Secretary for Food and Consumer Services.*

[FR Doc. 80-15294 Filed 5-19-80; 8:45 am]

BILLING CODE 3410-30-M

## Agricultural Marketing Service

## 7 CFR Part 917

[Plum Regulations 16 and 17]

## Fresh Pears, Plums, and Peaches Grown in California; Grade, Size, Container, and Pack

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** These regulations specify minimum grade, size, container, and pack requirements for fresh shipments of California plums. These requirements are needed to provide for orderly marketing in the interest of producers and consumers.

**EFFECTIVE DATE:** May 19, 1980.

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

**SUPPLEMENTARY INFORMATION:** *Findings.* These regulations are issued under the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917), regulating the handling of fresh pears, plums, and peaches grown in California. 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 Plum Commodity Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

These regulations are based upon an appraisal of the current and prospective market conditions for California plums. The committee estimates that 12,020,000 packages of plums will be available for fresh shipment during the 1980 season compared to actual shipment of 12,411,000 packages last season. The 1980 California plum crop is reported to be of good quality and sizing normally. Industry reports indicate that 1980 shipments of fresh California peaches and nectarines will be larger than last season. These fruits will provide strong market competition for fresh California plums.

The grade and size regulation specifies a minimum grade of U.S. No. 1 for all varieties of plums except that provision is made for a higher maturity standard. An additional 10 percent tolerance is provided for defects not considered serious for two varieties (Tragedy and Kelsey). It also exempts from consideration as damaged, healed stem end cracks for 14 named varieties. The regulation would also set minimum size requirements for 49 specified varieties of plums in terms of the maximum permissible number of plums contained in an eight-pound sample.

The grade and size requirements are necessary to prevent the shipment of California plums of a lower grade and smaller size than specified and are designed to provide ample supplies of good quality plums in the interest of producers and consumers pursuant to the declared policy of the act.

The container and pack regulation would be effective for the period May 19 through July 14, 1980, and would, among other things, require that (1) closed containers, except master containers of consumer packages of plums and individual consumer packages of plums shipped therein, conform to the requirements of standard pack; (2) the variation in diameter between the smallest and largest plums in any container be not more than one-fourth of an inch; (3) all containers be marked with the name "plums", the varietal name, and the size of the plums; and (4) bulk bin containers of plums contain at least 400 pounds, net weight. This action is necessary to provide standardized packing practices and more informative labeling that will facilitate more orderly marketing of fresh California plums and contribute to more effective operation under said marketing agreement and order.

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 June 19, 1980 (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of 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, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

Therefore, new §§ 917.453 and 917.454 are added to read as follows:

## Grade and Size Regulation

### § 917.453 Plum Regulation 16.

*Order.* (a) During the period May 19, 1980, through July 14, 1980, no handler shall ship any lot of packages or containers of any plums, other than the varieties named in paragraph (b) hereof, unless such plums grade at least U.S. No. 1: *Provided,* That maturity shall be determined by the application of color standards by variety or such other tests as determined to be proper by the Federal or Federal-State Inspection Service.

(b) During the period May 19, 1980, through July 14, 1980, no handler shall ship:

(1) Any lot of packages or containers of Tragedy or Kelsey plums unless such plums grade U.S. No. 1, with a total tolerance of 10 percent for defects not considered serious damage in addition to the tolerances permitted by such grade; or

(2) Any lot of packages or containers of Autumn Queen, Casselman, Empress, Grand Rosa, Improved Late Santa Rosa, King David, Late Santa Rosa, Linda Rosa, Red Rosa, Rosa Grande, Roysum, SW–1, Swall Rosa, and 42–26 (Freedom) plums unless such plums grade U.S. No. 1, except that healed cracks emanating from the stem end which do not cause serious damage shall not be considered as a grade defect with respect to such grade.

(c) During the period May 19, 1980, through July 14, 1980, no handler shall ship any package or other container of any variety of plums listed in Column A of the following Table I unless such plums are of a size that an eight-pound sample, representative of the sizes of the plums in the package or container, contains not more than the number of plums listed for the variety in Column B of said table.

**Table I**

| Column A—variety: | *Column B plums per sample* |
|---|---|
| Ace | 55 |
| Amazon | 64 |
| Andys Pride | 69 |
| Angeleno | 67 |
| Beauty | 91 |
| Bee Gee | 65 |
| Black Beaut | 74 |
| Burmosa | 60 |
| Casselman | 63 |
| Durado | 74 |
| Ebony | 66 |
| El Dorado | 69 |
| Elephant Heart | 53 |
| Empress | 57 |
| Fresno Rosa | 62 |
| Friar | 56 |
| Frontier | 61 |
| Gar-Rosa | 71 |
| Grand Rosa | 54 |
| July Santa Rosa | 69 |
| Kelsey | 47 |
| King David | 60 |
| Laroda | 58 |
| Late Santa Rosa (including Improved Late Santa Rosa and Swall Rosa | 64 |

**Table I** —Continued

| Column A—variety: | Column B plums per sample |
|---|---|
| Linda Rosa | 63 |
| Mariposa | 61 |
| Midsummer | 63 |
| Nubiana | 56 |
| President | 57 |
| Queen Ann | 50 |
| Queen Rosa | 53 |
| Red Beaut | 74 |
| Red Glow-Golden Glow | 60 |
| Red Rosa | 64 |
| Redroy | 58 |
| Rosa Ann | 69 |
| Rosa Grande | 63 |
| Rose Ann | 60 |
| Roysum | 74 |
| Santa Rosa | 69 |
| Simka, Arrosa, New Yorker | 50 |
| Standard | 83 |
| Tragedy | 114 |
| Wickson | 51 |
| 42-26 (Freedom) | 56 |

(d) When used herein, "U.S. No. 1" and "serious damage" shall have the same meaning as set forth in the United States Standards for Fresh Plums and Prunes (7 CFR 2851.1520–1538); and all other terms shall have the same meaning as when used in the amended marketing agreement and order.

(e) Plum Regulation 15 (44 FR 28776, 40051) is hereby terminated as of the effective date hereof.

Container and Pack Regulation

**§ 917.454 Plum regulation 17.**

*Order.* (a) During the period May 19, 1980, through July 14, 1980, no handler shall ship any package or container of any variety of plums except in accordance with the following terms and conditions.

(1) Such plums, when shipped in closed packages or containers, except master containers of consumer packages and individual consumer packages therein, shall conform to the requirements of standard pack.

(2) The diameters of the smallest and largest plums in any individual package or container shall not vary more than one-fourth (¼ inch: *Provided,* That a total of not more than five (5) percent, by count, of the plums in any package or container may fail to meet this requirement.

(3) Each package or container of plums shall bear on one outside end, in plain sight and in plain letters, the name "plums" and the name of the variety if known or, when the variety is not known, the words "unknown variety".

(4) Each package or container of plums shall bear on one outside end, in plain sight and in plain letters, the size description of the contents which description shall conform to the following as applicable:

(i) The size of plums in four-basket crates shall be indicated in accordance with the arrangement of the plums in the top layer of the baskets, such as "4x4 size," "4x5 size," etc.

(ii) The size of plums loose-filled or tight-filled in standard lug boxes, cartons, or other packages or containers, shall be indicated in accordance with the equivalent size designation for such plums when packed in four basket crates, such as 4x4 size, etc.

(iii) The size of plums packed in molded forms in cartons or lugs ("tray pack") and of wrapped plums packed in No. 12B fruit (peach) boxes (as designated and defined by § 1387.11 of the "Regulations of the California Department of Food and Agriculture") shall be indicated in accordance with the number of plums in the container, such as "88 count," "108 count," etc.

(5) Each package or container of loose-filled, or tight-filled plums other than bulk bin containers, master containers of consumer packages, and individual consumer packages in master containers shall bear on one outside end, in plain sight and in plain letters, the words "28 pounds net weight."

(6) Each bulk bin container of loose-filled plums shall contain not less than 400 pounds, net weight, and bear on one outside panel, in plain sight and in plain letters, the following information:

(i) The name and address (including zip code) of the shipper.

(ii) The net weight.

(7) Each master container of consumer packages of plums and each individual consumer package of plums shall bear, in plain sight and plain letters, the net weight of the contents.

(b) Subject to the provisions hereinafter set forth in paragraph (c), any package or container of any variety of plums may marked with the words "tight-fill" only if such package or container and the contents thereof meet the following requirements:

(1) The depth of each container shall be equal to at least three times the average diameter of the plums therein as determined by measuring representative fruits.

(2) All container faces shall be composed of at least two complete layers of wax- or resin-treated corrugated paperboard which treatment shall consist of coating both surfaces of each layer with wax or resin, or impregnating at least the corrugating medium in each layer with wax or resin. The material comprising each bottom layer and one layer of both sides and both ends of each container shall have been marked or certified as having a Mullen or Cady test strength of at least 275 pounds, and the material in all other components of each container shall have been marked or certified as having a Mullen or Cady test strength of at least 250 pounds.

(3) Each container shall be well filled and the plums therein shall have been well settled by vibration, according to approved and recognized methods.

(4) Each container shall have a top pad containing wood excelsior or redwood bark. Such pads that contain wood excelsior shall weigh at least 160 pounds per 1,000 square feet of pad and such pads that contain redwood bark shall weigh at least 200 pounds per 1,000 square feet of pad.

(5) The cover shall be firmly seated against the lower half of each container and firmly fastened to it.

(c) Ten percent of the packages or containers in any lot may fail to meet the requirements of paragraph (b) of this regulation.

(d) When used herein, "standard pack" and "diameter" shall have the respective meanings set forth in the U.S. Standards for Grades of Fresh Plums and Prunes (7 CFR 2851.1520–1538), and all other terms shall have the same meaning as when used in the amended marketing agreement and order.

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

Dated: May 15, 1980; to become effective May 19, 1980.

*D. S. Kuryloski,*

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

[FR Doc. 80-15452 Filed 5-19-80; 8:45 am]

BILLING CODE 3410-02-M

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## Commodity Credit Corporation

## 7 CFR Part 1435

**[Amdt. 4]**

## Price Support Payment Program for 1977 Crop Sugarbeets and Sugarcane; Conforming Amendment

**AGENCY:** Commodity Credit Corporation, USDA.

**ACTION:** Final rule.

**SUMMARY:** The price support payment program regulations at 7 CFR Part 1435 are hereby amended to clarify the program eligibility requirements with respect to refined beet sugar which was marketed after the beginning of the processor's contract marketing year but before the actual production of sugar from the 1977 crop of sugarbeets. The regulations will thus be amended to conform with an administrative action previously taken by the Department to insure the availability of price support for all of the 1977 crop production of domestically grown sugarbeets.

**EFFECTIVE DATE:** May 20, 1980.

**FOR FURTHER INFORMATION CONTACT:**
Laurence E. Ackland, Sugar Branch, (202) 447-5647.

**SUPPLEMENTARY INFORMATION:**

This conforming amendment reflects provisions on quantity of sugar marketed and price support coverage as already specifically considered in approved impact statements for the final rule (42 FR 54556) which announced the 1977 crop price support payment program and for amendments one (42 FR 57948), two (42 FR 64677); and three (43 FR 38686) thereto. Such impact statements are available upon request from the above named individual.

This final action has not been designated a "significant," and is being published in accordance with the procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by Ray V. Fitzgerald, Administrator, Agricultural Stabilization and Conservation Service, that the nature of this final rule warrants publication without opportunity for public comment at this time. 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.

On October 7, 1977, a final rule was published in the Federal Register (42 FR 54556) implementing a program, effective as of September 15, 1977, to support prices in the marketplace for producers of 1977 crop sugarbeets and sugarcane through payments made to sugar processors. Amendments to the rule were published on November 7, 1977 (42 FR 57948); December 28, 1977 (42 FR 64677); and August 30, 1978 (43 FR 38686).

Audits of the 1977 price support payment program were conducted by the Department's Office of the Inspector General (OIG) and the United States General Accounting Office (GAO). In their audits both OIG and GAO took exception with an administrative interpretation of the regulations which permitted sugarbeet processors to report under the payment program all sugar marketed from the beginning of their 1977 marketing year, regardless of when actual harvest of 1977 crop sugarbeets and production of sugar from that crop began. They correctly contend that the Agricultural Stabilization and Conservation Service (ASCS) interpreted "1977 crop" as that sugar which, according to sugarbeet purchase contracts between processors and producers, establishes the settlement price for the 1977 crop. They also contend that this interpretation was inconsistent with the regulations as written.

Since sugarbeet processors' sales of sugar during the 1977 contract marketing year are actually considered to be the "1977 crop" sales for settlement purposes with producers, denial of the opportunity to report all sales from the beginning of that marketing year could have caused producers to realize, on average, less than the minimum level of price support provided for by the program. It was because of this possibility—that producers could, on average, receive less than the minimum level of price support—that the administrative interpretation was made by ASCS.

Although the administrative interpretation comports with the intent of the statutory authority authorizing a price support program for sugarbeets and sugarcane, it is not entirely clear that the regulation as originally promulgated are reasonably susceptible of this interpretation. To clarify the matter the Secretary of Agriculture requested the advice of the Comptroller General of the United States with respect to the following questions:

"1. Was the ASCS administrative interpretation a reasonable interpretation of the 1977 payment program regulations?

"2. If the answer to the previous question is in the negative, may ASCS retroactively amend the 1977 payment program regulations to incorporate the content of the ASCS administrative interpretation?"

In a reply dated August 31, 1979, Opinion B-118622, the Comptroller General stated in response to the first question that the administrative interpretation of the 1977 payment program regulations as rendered by ASCS was not a reasonable interpretation of such regulations. In reply to the second question, the Comptroller General said he would not object to the retroactive amendment to the payment program regulations. The Comptroller General concurred with the Secretary of Agriculture that the retroactive amendment is necessary. Otherwise, there would be a substantial likelihood that producers of a portion of the 1977 crop of sugarbeets would effectively be denied an opportunity to receive price support under either the payment program or the loan program. Such a result would be contrary to the intent of Section 201 of the Agricultural Act of 1949 as amended by Section 902 of the Food and Agriculture Act of 1977 (7 U.S.C. 1446).

Accordingly, in view of the fact that the original regulations did not accurately reflect conditions in the sugar industry with respect to sugarbeet processors and in view of the fact that those processors relied in good faith upon the interpretations and advice of ASCS officials, the regulations are hereby amended to conform with the intent and effect of the ASCS administrative interpretation previously described. This amendment is merely a conforming amendment incorporating the administrative decision of the Department and will have no effect on payments already made under the program.

In consideration of the foregoing, 7 CFR Part 1435 is amended by redesignating paragraph (b) of § 1435.5 as paragraph (b)(1) and by adding a new paragraph (b)(2) to read as follows:

**§ 1435.5 Method of Support.**

* * * * *

(b) *Coverage.* (1) * * *

(2) Notwithstanding any other provision of this Subpart, refined beet sugar marketed by a processor after the beginning of the processor's 1977 contract marketing year (which date shall be determined in accordance with the sugarbeet purchase contracts between the processor and producers) but prior to the actual production by the processor of refined beet sugar from the 1977-crop of sugar beets shall, for the purpose of making payments hereunder, be considered to have been marketed from the 1977-crop during the marketing period, subject to the following limitations: (i) The quantity of sugar claimed as marketed prior to November 8, 1977, shall not exceed the quantity actually produced from the 1977 crop through November 7, 1977; (ii) the quantity of sugar claimed as marketed under the second proviso of Section 1435.3(d) shall not include sugar marketed after the end of the 1977 contract marketing year (which date shall be determined in accordance with the sugar beet purchase contract between the processor and producers); and (iii) multi-regional beet processors having more than one contract marketing year shall segregate marketings by contract marketing year and may claim sugar as marketed during a given 1977 contract marketing year only to the extent that such marketings are marketings of sugar produced in the contract marketing region to which such contract marketing year is applicable.

* * * * *

(Secs. 301-303 and 401 et seq. of the Agricultural Act of 1949, as amended (7 U.S.C 1447 et seq., 1421 et seq.))

Signed at Washington, D.C., on May 15, 1980.

Bob Bergland,

*Secretary.*

[FR Doc. 80-15353 Filed 5-19-80; 8:45 am]

BILLING CODE 3410-05-M

## FEDERAL RESERVE SYSTEM

### 12 CFR Part 226

[Reg. Z; Docket No. R-0294]

### Truth in Lending; Agricultural Credit and Closed-End Periodic Statements

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final rule.

**SUMMARY:** The Board is amending Regulation Z effective immediately to implement two provisions of the recently enacted Truth in Lending Simplification and Reform Act. The first provision being implemented is the exemption of all extensions of credit for agricultural purposes from disclosure requirements. The second is the elimination of disclosures currently required for periodic statements provided in connection with closed-end credit transactions.

The implementation of these amendments does not mean, however, that creditors may comply with any other provision of the simplification act immediately. Creditors may follow the revised act only when the proposal published by the Board in the Federal Register on May 5, 1980 (45 FR 29702), is adopted in final form. Until that time, the current act and regulation must be followed.

**EFFECTIVE DATE:** May 21, 1980.

**FOR FURTHER INFORMATION CONTACT:** Ellen Maland, Senior Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3867).

**SUPPLEMENTARY INFORMATION:** The Truth in Lending Simplification and Reform Act (Title VI of Pub. L. 96-221, the Depository Institutions Deregulation and Monetary Control Act of 1980) was signed into law by the President on March 31, 1980. That act exempts agricultural credit from disclosure requirements. Currently, only agricultural credit extensions of more than $25,000 are exempt. The act also eliminates the disclosure requirements for periodic statements in closed-end credit transactions. Although the simplification act does not become fully effective until April 1, 1982, § 625 of the act states that "any creditor may comply with the amendments made by [the act], in accordance with the regulations * * * prescribed by the Board, prior to such effective date." The purpose of the two year delayed effective date is to allow creditors sufficient time to change their practices and forms as necessary to achieve compliance with the amended Truth in Lending Act and regulations. The Congress has decided that "because agricultural credit is essentially commercial in nature, the type of protections provided by the act are unnecessary and add needless complexity" (S. Rep. No. 96-73, 96th Cong., 1st Sess. 10 (1979)); it has also determined that disclosures are no longer necessary in connection with periodic statements for closed-end credit transactions. Therefore, the Board believes there is no sound reason why those exemptions should not be implemented now.

The Board recognizes that an immediate mandatory exemption of agricultural credit might create problems for some creditors. Certain state statutes may require disclosures for agricultural credit that are inconsistent with those currently mandated by Regulation Z. Those inconsistent state laws have been preempted by federal Truth in Lending law to the extent of their inconsistency. Once agricultural credit is exempted from federal Truth in Lending law, those state laws will again apply. Unless creditors subject to those laws are given an adequate opportunity to prepare to comply with them, the creditors would have to either temporarily suspend all agricultural lending that was previously exempt from the state laws or be in noncompliance with the state laws. On the other hand, creditors not affected by such state laws would be required to continue to comply with Regulation Z during any delay in implementing the exemption.

Therefore, the amendment to § 226.3 of Regulation Z gives creditors two options: (1) Cease making federal Truth in Lending disclosures for agricultural credit and comply with any previously preempted state laws; or (2) continue providing federal Truth in Lending disclosures and disregard any inconsistent state law. This election accommodates all creditors extending agricultural credit and comports with the intent of the simplification act to allow creditors two years to conform their practices to the new act. The election may be made by a creditor at any time and for any transaction before April 1, 1982.

The Board is eliminating the disclosure requirements for periodic statements for closed-end credit transactions immediately since there appears to be no state law complication. This action implements the congressional intent that closed-end periodic statements are not a necessary consumer protection. It does not affect the periodic statement requirements for open-end credit.

The Board believes that both of these changes facilitate implementation of the simplification act and do not impose any additional burden or liability. Therefore, the Board finds that the publication of the changes for public comment and a delay in their effective date are neither necessary nor required under 5 U.S.C. 553(b) and 553(d), and that immediate implementation is in the public interest.

In consideration of the foregoing and pursuant to the authority granted in section 105 the Truth in Lending Act (15 U.S.C. 1604, as amended), the Board amends Regulation Z (12 CFR Part 226) as follows:

**§ 226.3 [Amended]**

1. Section 226.3(e) is amended by deleting the period at the end of the paragraph and inserting the following phrase:

(e) * * *"; and, at the creditor's option, any credit transaction primarily for agricultural purposes in which the amount financed does not exceed $25,000."

**§ 226.8 [Amended]**

2. Section 226.8 is amended by deleting the catchline and text of paragraph (n), and inserting the following in its place:

* * * * *

(p) [Reserved.]

By order of the Board of Governors, May 14, 1980.

Theodore E. Allison,

*Secretary of the Board.*

[FR Doc. 80-15360 Filed 5-19-80; 8:45 am]

BILLING CODE 6210-01-M

### 12 CFR Part 226

[Reg. Z; Docket No. R-0202]

### Truth in Lending; Right of Rescission

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Deferral of effective date.

**SUMMARY:** On September 19, 1979, the Board revoked an amendment to Regulation Z (Truth in Lending) that created an alternative in certain circumstances to the three-day cancellation right otherwise applicable to each individual advance under open-end credit accounts secured by consumers' residences. The revocation,

which also included the revocation of related Board and Official Staff Interpretations, was to become effective on March 31, 1980. On February 29, 1980, the Board delayed implementation of its revocation action until May 31, 1980. This action permits the open-end rescission amendment to continue in effect until the Board completes the regulation Z rulemaking proceeding commenced pursuant to the Truth in Lending Simplification and Reform Act. See the Federal Register of May 5, 1980 (45 FR 29702). A provision similar to the Board's amendment is contained in the simplification act.

**EFFECTIVE DATE:** May 21, 1980.

**FOR FURTHER INFORMATION CONTACT:** Maureen P. English, Section Chief, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–3867).

**SUPPLEMENTARY INFORMATION:** On September 19, 1979, the Board revoked § 226.9(g)(6) of Regulation Z (12 CFR Part 226, Board Interpretation § 226.904, and Official Staff Interpretation FC–0159 (44 FR 55553, September 27, 1979), which relate to the application of the Truth in Lending rescission rules to advances under open-end credit plans secured by consumers' principal residences. In order to provide ample time for the orderly modification of termination of the limited number of such open-end credit plans, the Board delayed the effective date of its action until March 31, 1980. During this time period, however, creditors were instructed by Public Information letter 1354 not to offer new plans or to expand existing plans (44 FR 61587). On February 29, 1980 the Board further delayed until May 31, 1980, the effective date of its revocation action because congressional action expressly authorizing a rescission exemption similar to the Board's amendment appeared imminent. That action continued the prohibition against offering new plans or expanding existing plans (45 FR 14539, March 6, 1980).

The Truth in Lending Simplification and Reform Act (Title VI of Pub. L. 96–221, the Depository Institutions Deregulation and Monetary Control Act of 1980) was signed into law by the President on March 31, 1980. Section 125 of the act, like the Board's amendment, eases the rescission requirements (for an experimental three-year period) for open-end credit plans involving advances that are secured by consumers' principal residences.

The act requires the Board to implement the new law by April 1, 1981, and permits a creditor to comply with the new law as soon as a regulation has been adopted. The Board recently published for comment a completely revised version of Regulation Z (45 FR 29702, May 5, 1980), which implements the statutory amendments, including a provision regarding open-end credit rescission requirements.

The Board's present action permits the current open-end credit rescission amendment to continue in effect until the Board adopts a new open-end credit rescission provision. Moreover, the Board continues the prohibition against offering new plans or expanding existing plans during the interim period. In taking this action, the Board considered the hardship that would result to both consumers and creditors if modification or termination of existing open-end credit plans was required by May 31, 1980, despite the express statutory authorization for such plans.

The Board has determined that compliance with the provisions of 5 U.S.C. 553 relating to notice, public participation and deferred effective date would be impracticable and the delay would be contrary to the public interest, since disruptive modification or termination of existing open-end credit plans would occur during the completion of the general procedures required by section 553. Board action regarding the effective date of the revocation was not warranted until the recent enactment of the simplification act. Therefore, pursuant to 5 U.S.C. 553(b)(3)(B) and 553(d)(3), the Board is extending the termination date of May 31, 1980, without notice and prior opportunity for comment.

Pursuant to section 105 of the Truth in Lending Act (15 U.S.C. 1604 (1970)), the Board delays the effective date of the revocation of § 226.9(g)(6) of Regulation Z (12 CFR Part 226), Board Interpretation § 226.904, and Official Staff Interpretation FC–0159, and continues the effectiveness of Public Information letter 1354 during the delay until the Board adopts a new open-end credit rescission provision, pursuant to the Truth in Lending Simplification and Reform Act, Title VI of Pub. L. 96–221.

By order of the Board of Governors, May 14, 1980.

Theodore E. Allison,

*Secretary of the Board.*

[FR Doc. 80–15362 Filed 5–19–80; 8:45 am]

BILLING CODE 6210–01–M

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## 18 CFR Parts 141 and 260

**[Docket No. RM80–17; Order No. 74]**

## Order Revising Monthly Statements; Correction

May 6, 1980.

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Erratum Notice to Correct Final Order.

**SUMMARY:** This notice corrects Order No. 74 by deleting references in that order made to § 3.142 of the Commission's regulations.

**FOR FURTHER INFORMATION CONTACT:** Cathy Ciaglo, Office of the General Counsel, Federal Energy Regulatory Commission, 825 N. Capital St., N.E., Washington, D.C. 20426, (202) 357–8318.

### Revisions of Monthly Statements FERC Forms No. 5 and 11

In the Federal Energy Regulatory Commission's Order No. 74, "Order Revising Monthly Statements", issued March 28, 1980, 45 FR 21623 (April 2, 1980), references were made to § 3.142 of the Commission's regulations. In that § 3.142 was deleted by the Commission's Order No. 73 issued March 28, 1980, "Recodification of Rules Reflecting the Establishment of the FERC and Certain Rules Concerning its Operation", Docket No. RM80–45, 45 FR 21216 (April 1, 1980), the references to § 3.142 are unnecessary. For this reason, Order No. 74 is corrected to eliminate all references to § 3.142.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 80–15357 Filed 5–19–80; 8:45 am]

BILLING CODE 6450–85–M

## 18 CFR Parts 250 and 260

**[Docket Nos. RM76–10 and RM76–15]**

## Order Suspending Filing Requirements With Respect to Schedule Nos. 501 and 505 of Form 108 and Form 314–B Until Further Notice

Issued: May 5, 1980.

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Order Suspending Filing Requirements With Respect To Certain Annual Reports.

**SUMMARY:** The Federal Energy Regulatory Commission is suspending the filing requirements regarding Schedule Nos. 501 and 505 of Form 108 and also Form 314–B until further notice inasmuch as the Commission is reevaluating the need for the above-mentioned annual reports because these annual reports appear to provide minimal Natural Gas Policy Act regulatory data which is not available from other sources.

**EFFECTIVE DATE:** May 5, 1980.

**FOR FURTHER INFORMATION CONTACT:** James Whitfield, Jr., Office of the General Counsel, Federal Energy Regulatory Commission, 925 North Capitol Street, N.E., Washington, D.C. 20426 (202) 357–8213.

**SUPPLEMENTARY INFORMATION:**

In the matter of rate schedule analysis on a continuing basis: FERC Form No. 108, regulation of small producers; order suspending filing requirements with respect to certain annual reports.

Issued: May 5, 1980.

Large gas producers are required to file their Natural Gas Act annual reports of interstate sales and revenue under filed rate Schedules on Schedule Nos. 501 and 505 of Form No. 108 annually on July 1, for the proceeding report year. Small producer reports of interstate sales and revenue under small producer certificates must be reported annually on Form 314–B by April 1, for the preceding report year.

These particular annual reports appear to provide minimal NGPA regulatory data which is not available from other sources. Consequently, the regulatory needs for these reports is being reevaluated.

Accordingly, good cause exists to suspend the April 1 and July 1, 1980, filing deadlines as well as future deadlines for these reports until further notice.

*The Commission orders:* The filing deadlines, as explained in the body of this order, for schedule Nos. 501 and 505 of Form 108 and for Form 314–B are suspended until further notice.

By the Commission.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 80–15359 Filed 5–19–80; 8:45 am]

BILLING CODE 6450–85–M

## 18 CFR Part 282

[Docket No. RM80–29; Order No. 83]

## Section 206(d) Rule Exempting Agricultural Uses From Incremental Pricing Surcharges

May 7, 1980.

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Final rule, Subject to Congressional Review.

**SUMMARY:** The Federal Energy Regulatory Commission hereby adopts a rule which, if not disapproved by either House of Congress, will exempt agricultural uses of natural gas from incremental pricing surcharges until such time as the Commission determines there is an economically practicable and reasonably available alternative fuel for a particular use.

**EFFECTIVE DATE:** Immediately effective upon expiration of 30-day Congressional review period, if not disapproved by either House of Congress.

**FOR FURTHER INFORMATION CONTACT:** Alice Fernandez, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., (202) 357–9095.

### I. Background

Title II of the Natural Gas Policy Act of 1978 (NGPA) requires the Commission to prescribe and make effective a program of incremental pricing of natural gas used as boiler fuel in large industrial facilities. Under section 202 of Title II, the Commission may expand the incremental pricing program to industrial uses other than boiler fuel use. Any expansion proposed by the Commission is, pursuant to the statute, subject to Congressional review.

Section 206(b) of the statute sets forth the parameters of an exemption from the incremental pricing program for agricultural uses of natural gas.

Section 206(b) provides as follows:

(b) Agricultural Uses of Natural Gas.—

(1) Interim Exemption.—During the period preceding the effective date of any permanent exemption under paragraph (2), the rule prescribed under section 201 shall not apply to any facility to the extent of any agricultural use of natural gas.

(2) Exemption by rule.—Not later than 18 months after the date of the enactment of this Act, the Commission shall prescribe and make effective a rule providing for the exemption from the rule required under section 201 (including any amendment under section 202 to such rule) any facility with respect to any agricultural use of natural gas for which the Commission determines that an alternative fuel or feedstock is not—

(A) economically practicable; or

(B) reasonably available.

(3) Agricultural use defined.—For purposes of this subsection, the term "agricultural use", when used with respect to natural gas, means the use of natural gas to the extent such use is—

(A) for agricultural production, natural fiber production, natural fiber processing, food processing, food quality maintenance, irrigation pumping, or crop drying; or

(B) as a process fuel or feedstock in the production of fertilizer, agricultural chemicals, animal feed, or food.

In accord with the statutory directive, the agricultural use exemption is to consist of two distinct phases. Subsection (1) of section 206(b) provides that all "agricultural uses," as defined in section 206(b)(3), shall be exempt from incremental pricing surcharges for the duration of the initial phase (characterized in the statute as the "interim exemption").

In the second phase of the agricultural exemption, the statute provides that the Commission shall prescribe a rule to exempt permanently from incremental pricing surcharges those agricultural uses—again utilizing the definition set forth in section 206(b)(3)—for which "the Commission determines that an alternative fuel or feedstock is not—(A) economically practicable; or (B) reasonably available."

The Commission implemented the interim exemption for agricultural uses through provisions in the regulations adopted for Phase I of the incremental pricing program.[1] Specifically, § 282.203(b) of the Commission's regulations provides that "all gas used for an agricultural use" is exempt from incremental pricing surcharges. The definition of "agricultural is use" set forth in § 282.202(a) of the Commission's regulations. This definition incorporates by reference the listing of essential agricultural uses as determined by the Secretary of Agriculture and certified to the Commission pursuant to section 401(c) of the NGPA. The definition in § 282.202(a) also includes other agricultural uses of natural gas which the Commission has determined come within the bounds of the definition set forth in section 206(b)(3) of the NGPA.

Section 206(b)(2) of the NGPA provides that the Commission shall adopt the rule defining the permanent agricultural exemption "not later than 18 months after the date of the enactment of this Act," *i.e.*, May 9, 1980.

On March 6, 1980 (45 FR 15563, March 11, 1980), the Commission proposed two companion rules for the purpose of meeting the statutory directive to promulgate a permanent agricultural exemption by May 9th. The proposal in

[1] Order Nos. 49, 50, 51, issued September 28, 1979 (44 FR 57725, October 5, 1979).

Docket No. RM80-28 would have exempted from incremental pricing surcharges any agricultural use listed in § 282.202(a) of the Commission's regulations as to which the Commission had made a determination that an alternative fuel or feedstock was either not economically practicable or reasonably available. The proposal, however, provided no alternative fuel or feedstock test for the Commission to utilize to arrive at such a determination. Thus, the net effect of the proposal, if adopted by itself, would have been to make all agricultural uses subject to incremental pricing surcharges.

As a companion proposal to that set forth in Docket No. RM80-28, however, the Commission proposed in this docket, Docket No. RM80-29, to exempt all agricultural uses from application of any alternative fuel test through April 30, 1981. This proposal was based on the authority vested in the Commission by section 206(d) of the NGPA, which grants the Commission the authority to "provide for the exemption, in whole or in part, of any other incrementally priced industrial facility or category thereof. . . ." The proposal to exempt agricultural uses through April 30 of 1981 would, if adopted by the Commission as a final rule, have been subject to Congressional review and a possible vote of disapproval by one House.

The Commission stated in the Docket No. RM80-29 proposal the four primary reasons it had determined to propose an exemption for agricultural uses through April of 1981. The Commission expressed its belief that the scope of the incremental pricing program should be known before work on the details of the agricultural exemption was undertaken. The scope of the program is, of course, dependent on Congressional review of the Commission's final action on the Phase II proposal in Docket No. RM80-10, which is being issued concurrently with this order.

The Commission also indicated it hoped that the alternative fuel test required under section 206(b) for the incremental pricing program could be made consistent with the alternative fuel test which must be prescribed for purposes of the Commission's curtailment program under section 401 of the NGPA. The Commission further indicated an extended exemption for agricultural uses would be consistent with what has been the Commission's cautious approach to implementation of the incremental pricing program. Finally, the Commission indicated it believed neither its Staff nor affected members of the regulated industries had available sufficient resources to dedicate to development of an alternative fuel test in the time period involved to meet the May 9th deadline for promulgation of a final rule.

## II. Comments Received

A public hearing on the proposals in Docket Nos. RM80-28 and RM80-29 was held in Washington, D.C. on March 27, 1980. Seven persons presented oral statments at the hearing, representing various agricultural and industrial associations. In addition, sixteen written comments were submitted to the Commission on the companion proposals.

Several of the commenters argued that the Commission should not adopt the proposal in Docket No. RM80-28, since the effect of that action, by itself, would make all agricultural uses subject to incremental pricing surcharges.

Several of the commenters urged the Commission simply to extend the interim exemption—required by section 206(b)(1)—for an additional year rather than attempting to meet the directive of section 206(b)(2).

One industrial end-user group stated its view that agricultural uses should not enjoy an extended exemption from incremental pricing surcharges if all other industrial users—*i.e.*, process and feedstock users—become subject to the program under Phase II.

## III. Rule Adopted

The Commission has carefully considered all of the policy arguments and legal considerations raised in the written comments submitted in Docket Nos. RM80-28 and 29 and discussed in the public hearing on the proposals. The Commission's analysis has led it to conclude that the proposals should not be promulgated as final rules.

In contradistinction to the proposed action, the Commission has concluded that the exemption for agricultural uses should not be extended prospectively for a definite additional twelve months. The Commission has reached this determination because it believes that the clear thrust of Title II of the NGPA, and particularly section 206(b)(2), is that agricultural uses ultimately be subject to being incrementally priced, except in those cases where the Commission makes a determination that another fuel or feedstock is not a viable alternative for a particular agricultural use.

However, the Commission still has the first three concerns articulated above which led it to propose an extended exemption. The Commission believes it will have adequate opportunity to address these concerns under the action it has determined to take and as described below. The fourth concern of the Commission—adequate staff resources within both the Commission and impacted parties—has become less crucial as the various threads of the incremental pricing program have been drawn together.

Rather than adopting an exemption for agricultural uses for the period of the next year, the Commission has determined to adopt an exemption of unstated length pursuant to the authority of section 206(d), which shall continue in effect until such time as the Commission determines that an alternative fuel is both economically practicable and reasonably available for a specific agricultural use.

The exemptive rule does not have a definite duration, and thus will provide the Commission with the opportunity to analyze in detail and receive public comment on an appropriate test to use in order to reach the determination that there is a practicable and available alternative fuel to natural gas in the various agricultural uses.

Under the rule set forth below, all agricultural uses, as designed in section 206(b)(3) of the NGPA and § 282.202(a) of the Commission's regulations, will be exempt from being incrementally priced until further action is taken by the Commission. This exemption will apply to Phase II users as well as Phase I users, should the Phase II expansion of the incremental pricing program become effective.

## IV. Alternative Fuel Test To Be Developed at Future Date

As stated in the proposal in this docket, the Commission is contemplating the possibility of utilizing the alternative fuel test promulgated under the authority of section 401 of the NGPA for purposes of the incremental pricing program. The Commission presently has in place an interim rule which sets forth an alternative fuel test for purposes of the Commission's curtailment program. Although the Commission believes it has insufficient information upon which to base a decision to make that test immediately applicable to all agricultural uses within the incremental pricing program, the Commission believes, subject to further analysis, the alternative fuel test in place for the curtailment program may in fact be very appropriate for adoption in the incremental pricing program.

That test states essentially that if an end-user has utilized coal or residual fuel oil at any time since 1973, it is deemed to have alternative fuel capability. The rule was based on the belief that No. 2, or distillate oil, would

not be reasonably available during the 1979 winter heating season.

One factor which must be considered in reaching a determination as to whether to utilize the curtailment program test for purposes of the incremental pricing program is that the class of agricultural uses within the incremental pricing program is much broader than that encompassed by the curtailment program. Another point which merits serious consideration is whether the economic practicability of potential alternative fuels can be determined on the basis of the same criteria for both programs.

The Commission will issue a proposal at a future date setting forth in detail its proposed alternative fuel test to be used for purposes of the incremental pricing program. Public comments will be requested on that proposal before any final action is taken to apply the test to any agricultural user.

## V. Effective Date

The rule below is being referred to the Congress for its review in accord with the provisions of section 206(d) of the NGPA. If neither House of Congress votes to disapprove of the rule, it will take effect following 30 days of continuous session of the Congress, as calculated in accord with section 507(b) of the NGPA.

(Natural Gas Policy Act of 1978, Pub. L. 95-621, 92 Stat. 3350, 15 U.S.C. 3301, *et seq.*)

In consideration of the foregoing, if neither House of Congress passes a Resolution of Disapproval of the regulation transmitted to them in this order, Part 282 of Subchapter I, Chapter I, Title 18, Code of Federal Regulations, is amended as set forth below, effective upon the expiration of 30 days of Congressional review, as described in section 507(b) of the NGPA.

By the Commission.

Kenneth F. Plumb,

*Secretary.*

Section 282.203 is amended by revising the introductory paragraph and paragraph (b) to read as follows:

**§ 282.203 Exempt end-uses.**

In accordance with the provisions of section 206 of the NGPA, natural gas used for the following purposes shall be exempt from incremental pricing under this part:

* * * * *

(b) *Agricultural uses.* All gas consumed in an agricultural use shall be exempt from incremental pricing under this part unless by rule or order the Commission determines that there is an alternative fuel or feedstock for the agricultural use that is economically practicable and reasonably available.

* * * * *

[FR Doc. 80-15406 Filed 5-19-80; 8:45 am]

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## 18 CFR Part 292

**[Docket No. RM79-54; Order No. 70-A]**

## Small Power Production and Cogeneration Facilities; Amendment to Final Rule Providing that Applications for Commission Certification of Qualifying Status Contain a Notice for Publication in the Federal Register

May 5, 1980.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Final rule.

**SUMMARY:** The Federal Energy Regulatory Commission (Commission) hereby adopts an amendments to its final rule implementing Section 201 of the Public Utility Regulatory Policies Act of 1978 (PURPA). The amendment provides that applications for Commission certification of qualifying status by cogenerators and small power producers pursuant to the rules implementing Section 201 of PURPA contain a notice for publication in the Federal Register.

**EFFECTIVE DATE:** May 5, 1980.

**FOR FURTHER INFORMATION CONTACT:** Deborah Gottheil, Office of the General Counsel, 825 North Capitol St., N.E., Washington, D.C. 20426, (202) 357-8457.

On March 13, 1980, the Federal Energy Regulatory Commission (Commission) issued Order No. 70, containing final regulations implementing section 201 of the Public Utility Regulatory Policies Act of 1978 (PURPA), (45 FR 17959, March 20, 1980).

These regulations set forth procedures by which certain small power production and cogeneration facilities can become "qualifying facilities" and thus be eligible for the rate benefits and exemptions from federal and State regulation set forth in the Commission's rules in Docket No. RM79-55 implementing section 210 of PURPA (45 FR 12214, February 25, 1980).

Section 292.207(b) of the regulations implementing section 201 of PURPA establishes an optional procedure whereby facilities may apply to this Commission for certification of qualifying status. The Commission is amending § 292.207(b) by adding a new paragraph providing that each application for certification by the Commission must include a notice describing the application for publication in the Federal Register. The notice should state the name of the applicant, the date of the application, and a brief description of the facility for which the qualification is sought, including a statement indicating whether the facility is a small power production facility or cogeneration facility, the primary energy source used or to be used by the facility, the power production capacity of the facility and its location.

The amendment provides a standard format which should be followed, including a paragraph providing interested persons with information as to how and when they may inform the Commission as to any interest they may have in the proceeding.

**EFFECTIVE DATE:** The Commission has already received several applications for certification, and therefore believes good cause exists under 5 U.S.C. 553(d) to make this amendment effective immediately.

(Public Utility Regulatory Policies Act of 1978, 16 U.S.C. § 2601, *et seq.*, Energy Supply and Environmental Coordination Act, 15 U.S.C. 791 *et seq.*, Federal Power Act, as amended, 16 U.S.C. 792 *et seq.*, Department of Energy Organization Act 42 U.S.C. 7101 *et seq.*, E.O. 12009, 42 FR 46267, Natual Gas Policy Act of 1978, (15 U.S.C. 3301, *et seq.*))

In consideration of the foregoing, Part 292 of Chapter I, Title 18, Code of Federal Regulations, is amended as set forth below, effective immediately.

By the Commission.

Kenneth F. Plumb,

*Secretary.*

1. Section 292.207 is amended by adding a new paragraph (b)(6) to read as follows:

**§ 292.207 Procedures for obtaining qualifying status.**

* * * * *

(b) *Optional procedures.* * * *

(6) *Notice.* (i) Applications for certification filed under this paragraph shall include a copy of a notice of the request for certification for publication in the Federal Register. The notice shall state the applicant's name, the date of the application, and a brief description of the facility for which qualification is sought. This description shall include:

(A) A statement indicating whether such facility is a small power production facility or a cogeneration facility;

(B) The primary energy source used or to be used by the facility;

(C) The power production capacity of the facility; and

(D) The location of the facility.

(ii) The notice shall be in the following form:

(Name of Applicant)
Docket No. QF–

Notice of Application for Commission Certification of Qualifying Status of a (Small Power Production) (Cogeneration) Facility

On (date application was filed), (name and address of applicant) filed with the Federal Energy Regulatory Commission an application to be certified as a qualifying (small power production) (cogeneration) facility pursuant to § 292.207 of the Commission's rules.

[Brief description of the facility].

Any person desiring to be heard or objecting to the granting of qualifying status should file a petiton to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

* * * * *

[FR Doc. 80–15358 Filed 5–19–80; 8:45 am]
BILLING CODE 6450–85–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Part 520

### Oral Dosage Form New Animal Drugs Not Subject to Certification; Triamcinolone Tablets; Correction

**AGENCY:** Food and Drug Administration.

**ACTION:** Correction.

**SUMMARY:** In FR Doc. 80–7710 appearing at page 16477 in the Federal Register of Friday, March 14, 1980, page 16478, in the amendatory language and the codified text for § 520.2480, the paragraph designation "(c)" is corrected to read "(d)".

**EFFECTIVE DATE:** March 14, 1980.

**FOR FURTHER INFORMATION CONTACT:** Agnes Black, Federal Register Writer (HFC–11), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2994.

Dated: May 13, 1980.

Lester M. Crawford,

*Director, Bureau of Veterinary Medicine.*

[FR Doc. 80–15354 Filed 5–19–80; 8:45 am]
BILLING CODE 4110–03–M

## DEPARTMENT OF JUSTICE

### Parole Commission

### 28 CFR Part 2

### Paroling, Recommitting, and Supervising Federal Prisoners

**AGENCY:** United States Parole Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission is amending two procedural rules to clarify its present policy that, following an initial or any other parole hearing, a regional commissioner may refer the case to the original jurisdiction of the Commission (that is the three National Commissioners) for an initial decision, instead of proceeding to a decision under routine procedure. As presently worded, the rules describing the Commission's routine decision-making procedures do not contain a cross-reference to the rule that sets forth the regional commissioner's authority to exercise that option. These amendments will serve to prevent the misinterpretation that the Commission has, by the omission of a cross-reference, removed or limited the regional commissioners' authority to designate cases for the Commission's original jurisdiction.

**EFFECTIVE DATE:** June 19, 1980.

**FOR FURTHER INFORMATION CONTACT:** Michael A. Stover, Office of the General Counsel, United States Parole Commission, 320 First Street NW., Washington, D.C. 20537; telephone 202–724–3092.

**SUPPLEMENTARY INFORMATION:** This rule has not been published for public comment because it relates to the internal procedures of the Commission, and because it codifies an interpretation of the regional commissioners' authority that has been followed by the Commission since the agency regionalized in 1973–74.

Under the Parole Commission and Reorganization Act of 1976, the Commission may by majority vote, and pursuant to rules and regulations, delegate to any commissioner or commissioners the power to grant or deny parole. 18 U.S.C. 4203. The Joint Explanatory Statement of the Committee of Conference states that this statutory language is "flexible enough to permit the Commission by regulation to reserve special categories of cases for initial parole decision by the Commission as a whole * * *". 2 U.S. Code Cong. & Admin. News. at 355 (1976). The Commission has set forth a regional commissioner's authority to designate cases for the attention of the whole Commission at 28 CFR 2.17 (1979).

A problem has arisen in interpreting the Commission's rules because the Commission's rule at § 2.23(d) states that a hearing examiner panel recommendation becomes a final decision unless the regional commissioner initiates action under § 2.24. There is no cross-reference to § 2.17. [Section 2.24 describes the regional commissioner's options under routine procedures of delegated authority, in a case in which the panel's recommendation is not acceptable.]

The Commission has consistently interpreted its rules to permit a Regional Commissioner to utilize the § 2.17 procedure following an initial or any other type of hearing, because § 2.17 is a provision that supersedes any of the routine procedures for decision-making. This seemed to the Commission to be a self-evident result if all of its rules were read together, especially since a Regional Commissioner has no opportunity before an initial hearing to exercise the option provided by § 2.17. [The initial hearing is, under the Commission's rules, the first procedural step that can be taken.]

However, this interpretation has not been accepted by one U.S. District Court, and to prevent any further misunderstanding as to how the Commission has arranged its internal decision-making procedures, § 2.23(d) is herewith amended to provide an appropriate cross-reference to § 2.17 as well as § 2.24. In addition, § 2.17(a) is amended to clarify that the designation power is to be exercised *following* the hearing in which all the information relevant to the ultimate decision to be made has been examined and discussed.

Accordingly, pursuant to 18 U.S.C. 4203(a)(1) and 4204(a)(6), 28 CFR Chapter I, Part 2, §§ 2.17(a) and 2.23(d) are revised as set forth below:

**§ 2.17 Original jurisdiction cases.**

(a) Following any hearing conducted pursuant to these rules, a Regional Commissioner may designate certain cases for decision by a quorum of Commissioners as described below, as original jurisdiction cases. In such instances, he shall forward the case with his vote, and any additional comments he may deem germane, to the National Commissioners for decision. Decisions shall be based upon the concurrence of three votes with the appropriate Regional Commissioner and each National Commissioner having one vote. Additional votes, if required, shall be cast by the other Regional Commissioners on a rotating basis as

established by the Chairman of the Commission.

* * * * *

§ 2.23 Delegation to hearing examiners.

* * * * *

(d) A recommendation of a hearing examiner panel shall become an effective Commission decision upon review and docketing at the Regional Office, unless action is initiated by the Regional Commissioner pursuant to § 2.17 or 2.24.

Note.—There is no change in regard to those paragraphs of §§ 2.17 and 2.23 not set forth in this publication.

Dated: May 14, 1980.

Cecil C. McCall,

*Chairman, United States Parole Commission.*

[FR Doc. 80-15320 Filed 5-19-80; 8:45 am]

BILLING CODE 4410-01-M

## EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

### 29 CFR Part 1601

### Procedural Regulations: 706 Designation

**AGENCY:** Equal Employment Opportunity Commission.

**ACTION:** Final rule.

**SUMMARY:** On August 21, 1979, the Equal Employment Opportunity Commission published proposed revisions to its procedural regulations for notice and comment by the public. 44 FR 48987. The procedural regulations §§ 1601.70 and 1601.71 had provided strict requirements for designating State or local fair employment practices agencies as deferral agencies under § 706(c) of Title VII of the Civil Rights Act of 1964, as amended. The Commission has revised its procedural regulations to provide for the deferral of charges to all agencies that meet the less stringent requirements of the revised § 1601.70.

**EFFECTIVE DATE:** May 20, 1980.

**FOR FURTHER INFORMATION CONTACT:** Constance L. Dupre, Associate General Counsel, EEOC, 2401 E Street, NW., Washington, D.C. 20506, telephone (202) 634-6595.

**SUPPLEMENTAL INFORMATION:** On August 21, 1979, the Equal Employment Opportunity Commission published a proposed revision to its procedural regulations. Sections 1601.70 and 1601.71. Section 1601.71 set forth the procedures by which the Commission designated a State or local agency under § 706(c) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e-5(c). The regulations had provided that only those agencies which notify the Commission of their qualifications under § 706(c) of Title VII and § 1601.70 and request designation as a "706 Agency" would be eligible for such designation. The regulations also required the establishment of an agency to process charges filed under State fair employment practice law.

Pursuant to the *en banc* decision of the U.S. Court of Appeals for the Fifth Circuit in the case of *White* v. *Dallas Independent School District*, 581 F.2d 556 (5th Cir. 1978), the Commission voted to revise Commission regulations § 1601.70 and § 1601.71 to conform with that decision.

The *White* decision held that all charges against employers must be deferred in jurisdictions where there are provisions for the enforcement of laws prohibiting, discrimination in employment. Enforcement may include criminal penalties for violations. Also, because of the *White* decision the performance and decertification standards of § 1601.72 are no longer applicable and, therefore, § 1601.72 is revoked and reserved. However, as will be noted, a deferral agency will be given an opportunity to respond to a proposed Commission decision to withdraw its 706 status.

Revised § 1601.70 continues to request certain materials and information from an agency for designation as a 706 Agency. However, § 1601.70 is amended to allow for the deferral of charges to a qualified agency or authority even though the agency or authority has made no request for 706 designation. Revised § 1601.70 is also amended to allow for the automatic deferral of charges to a newly established State or local authority or an already existing State or local authority empowered to address employment practices found to be unlawful.

Revised § 1601.71 is amended to conform with the changes made to § 1601.70. In addition, based on the automatic deferral status envisioned in the *White* decision, there is no requirement for publishing in the Federal Register for notice and comment the Commission's designation of a 706 Agency; therefore, revised § 1601.71 includes no provision for notice and comment in the Federal Register. The Commission has decided, however, to provide in new § 1601.70(e) that the Attorney General of a concerned State (and Corporation Counsel, of a local government if appropriate) will be provided an opportunity to advise EEOC concerning aspects of State or local law which might affect the apparent qualification of any proposed or recently recognized agency.

Five comments were received regarding the proposed rule change. They generally fell into three major areas of concern.

1. It has been suggested that notwithstanding the revocation of § 1601.72, there should be included an express provision delineating the manner in which a 706 Agency's status is to be withdrawn if it no longer meets the *White* criteria. Considerations of fairness dictate that the affected 706 Agency should be given the opportunity to rebut a Commission finding that it no longer meets the requirements of a 706 Agency, especially since the Commission will occasionally become cognizant of deferral problems through third parties. Accordingly, a new paragraph (c) is added to § 1601.71 to reflect the foregoing.

2. Several of the comments were reflective of a general concern that under the *White* rationale the Commission will be required to defer charges to relatively ineffective agencies. The Commission was aware of this issue when the new regulations were drafted. Ineffective agencies will be monitored as before since evaluation occurs whenever a State or local 706 Agency decision is reviewed pursuant to 706(b) of Title VII, 42 U.S.C. 2000e-5(b). Additionally, under § 1601.70 (b) and (c) the Commission can request from an agency seeking 706 status a copy of its fair employment practice law as well as any rules, regulations and guidelines issued pursuant thereto. Further, a review of § 1601.70(d) indicates that the Commission possesses broad discretion in deciding which agencies should process charges when there are several elgible ones in a particular State. To alleviate any remaining concerns regarding the Commission's commitment to defer charges, whenever, possible, to the most effective 706 Agency in a particular State, the second sentence of § 1601.70(d) has been amended to read as follows:

"However, where there exist agencies of concurrent jurisdiction, the Commission may defer to the 706 Agency which would best serve the purposes of the Act, or to both."

3. It was suggested that there may exist a problem when deferral is made to an agency authorized only to institute criminal proceedings. That is, deferral to a State or local agency under these circumstances may force a change in Title VII by requiring a showing of intent which the U.S. Supreme Court in *Griggs* v. *Duke Power Co.*, 401 U.S. 424 (1971) held was not required.

The response to this comment can be found in *White* where the court ordered deferral to a prosecutor's office which

*only* had authority to institute criminal proceedings. The court noted:

"[T]he availability of a criminal misdemeanor action under state law and procedure does not deprive a litigant of the opportunity to vindicate back pay and reinstatement claims in federal court once the deferral period has ended. Section 706(b) requires that the states be given an opportunity to handle the matters; it does not require a state to 'clone' federal remedies." *White* v. *Dallas Independent School District, supra,* 581 F.2d at 561.

By virtue of the authority vested in the Commission under § 713 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e–12, the Equal Employment Opportunity Commission, pursuant to a vote at a duly constituted Commission meeting, hereby publishes the following revisions to its procedural regulations to be effective May 20, 1980. Sections 1601.70 and 1601.71 are revised as set forth below. Sections 1601.72 and 1601.73 are revoked and reserved.

Signed at Washington, D.C. this 14th day of May, 1980.

For the Commission.

Eleanor Holmes Norton,

*Chair, Equal Employment Opportunity Commission.*

1. In 29 CFR Part 1601, §§ 1601.70 and 1601.71 are revised to read as follows:

**§ 1601.70 706 Agency Qualifications.**

(a) State and local fair employment practice agencies or authorities which qualify under section 706(c) of Title VII and this section shall be designated as "706 Agencies." The qualifications for designation under section 706(c) are as follows:

(1) That the State or political subdivision has a fair employment practice law which makes unlawful employment practices based upon race, color, religion, sex or national origin; and

(2) That the State or political subdivision has either established a State or local authority or authorized an existing State or local authority that is empowered with respect to employment practices found to be unlawful, to do one of three things: To grant relief from the practice; to seek relief from the practice; or to institute criminal proceedings with respect to the practice.

(b) Any State or local agency or authority seeking 706 designation should submit a written request to the Director, State and Local Division, Office of Field Services (OFS). However, if the Commission is aware that an agency or authority meets the above criteria for 706 designation, the Commission shall defer charges to such agency or authority even though no request for 706 designation has been made.

(c) A request for 706 designation should include a copy of the agency's fair employment practices law and any rules, regulations and guidelines of general interpretation issued pursuant thereto. Submission of such data will allow the Commission to ascertain which employment practices are made unlawful and which bases are covered by the State or local entity. Agencies or authorities are requested, but not required, to provide the following helpful information:

(1) A chart of the organization of the agency or authority responsible for administering and enforcing said law;

(2) The amount of funds made available to or allocated by the agency or authority for fair employment purposes;

(3) The identity and telephone number of the agency (authority) representative whom the Commission may contact with reference to any legal or other questions that may arise regarding designation;

(4) A detailed statement as to how the agency or authority meets the qualifications of paragraph (a) (1) and (2) of § 1601.70.

(d) Where both State and local 706 Agencies exist, the Commission reserves the right to defer to the State 706 Agency only. However, where there exist Agencies of concurrent jurisdiction, the Commission may defer to the 706 Agency which would best serve the purposes of the Act, or to both.

(e) The Director, State and Local Division, OFS, will provide to the Attorney General of the concerned State (and corporation counsel of a concerned local government, if appropriate) an opportunity to comment upon aspects of State or local law which might affect the qualifications of any new agency in that State otherwise cognizable under this section.

**§ 1601.71 706 Agency Notification.**

(a) When the Director, State and Local Division, OFS, determines that an agency or authority meets the criteria outlined in § 706(c) of Title VII and § 1601.70, he or she shall so notify the agency by letter and shall notify the public by publication in the Federal Register of an amendment to § 1601.74.

(b) Where the Director, State and Local Division, OFS, determines that an agency or authority does not come within the definition of a 706 Agency for purposes of a particular basis of discrimination or where the agency or authority applies for designation as a Notice Agency, the Director, State and Local Division, OFS, shall notify that agency or authority of the filing of charges for which the agency or authority is not a 706 Agency. For such purposes that State or local agency will be deemed a Notice Agency.

(c) Where the Director, State and Local Division, OFS, becomes aware of events which lead him or her to believe that a deferral Agency no longer meets the requirements of a 706 Agency and should no longer be considered a 706 Agency, such Director will so notify the affected Agency and give it 15 days in which to respond to the preliminary findings. If the Director deems necessary, he or she may convene a hearing for the purpose of clarifying the matter. The Director shall render a final determination regarding continuation of the Agency as a 706 Agency.

**§§ 1601.72 and 1601.73 [Reserved]**

2. In 29 CFR Part 1601, §§ 1601.72 and 1601.73 are revoked and reserved.

[FR Doc. 80-15355 Filed 5-19-80; 8:45 am]

BILLING CODE 6570-06-M

## FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

### 29 CFR Part 2702

### Regulations Implementing the Freedom of Information Act

**AGENCY:** Federal Mine Safety and Health Review Commission.

**ACTION:** Adoption of rules and procedures for implementing the Freedom of Information Act, 5 U.S.C. 552.

**SUMMARY:** The Federal Mine Safety and Health Review Commission hereby adopts rules and procedures for the guidance of those wishing to obtain information from the Commission under the Freedom of Information Act, 5 U.S.C. 552. The rules will supersede the interim implementation procedures published in the Federal Register on May 22, 1979 (44 FR 29666).

The Commission is a recently-created independent agency with authority to adjudicate contests arising under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 801 *et seq.* It is the intent of the Commission members promptly to comply with the Freedom of Information Act and by these rules and procedures to make all designated information readily available to the public. However, to ensure the opportunity for participation by the public, proposed rules and procedures were initially published for comment in the Federal Register on Thursday, March 20, 1980. No comments having been received during the 30-day period provided, the rules and procedures which were originally proposed are hereby adopted.

**EFFECTIVE DATE:** Effective May 20, 1980.

**FOR FURTHER INFORMATION CONTACT:**
Dan R. DeLacy, (202) 653-5656.

Dated: May 12, 1980.

Marian Pearlman Nease,

*Commissioner/Acting Chairman, Federal Mine Safety and Health Review Commission.*

Under the authority of section 113 of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-165 (30 U.S.C. 801 *et seq.*), the Federal Mine Safety and Health Review Commission hereby amends Title 29 of the Code of Federal Regulations by revoking and deleting existing Part 2702—"Interim Implementation Procedures", and adding as a new Part 2702 formal rules and procedures for implementing the Freedom of Information Act as follows:

## PART 2702—REGULATIONS IMPLEMENTING THE FREEDOM OF INFORMATION ACT

Sec.

2702.1 Purpose and scope.
2702.2 Location of offices.
2702.3 Requests for information.
2702.4 Materials available.
2702.5 Fees for production of material.

Authority: Sec. 113, Federal Mine Safety and Health Act of 1977, Pub. L. 95-165 (30 U.S.C. 801 *et seq.*).

### § 2702.1 Purposes and scope.

The Federal Mine Safety and Health Review Commission is an independent agency with authority to adjudicate contests between the Mine Safety and Health Administration of the U.S. Department of Labor and private parties, as well as certain disputes solely between private parties, arising under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 801 *et seq.* The purpose of these rules is to establish procedures for implementing the Freedom of Information Act, 5 U.S.C. 552; to provide guidance for those seeking to obtain information from the Commission; and to make all designated information readily available to the public. The scope of these rules may be limited to requests for information that is not presently the subject of litigation before the Commission and that is not otherwise governed by the Commission's Procedural Rules at 29 CFR 2700.

### § 2702.2 Location of offices.

The Federal Mine Safety and Health Review Commission maintains its central office at Suite 600, 1730 K Street NW., Washington, D.C. 20006. It has two regional offices for Administrative Law Judges, one at Skyline Towers No. 2, Tenth Floor, 5203 Leesburg Pike, Falls Church, Virginia 22041, and the other at Suite 320, 333 West Colfax, Denver, Colorado 80204.

### § 2702.3 Requests for information.

All requests for information should be in writing and should be mailed or delivered to Executive Director, Federal Mine Safety and Health Review Commission, 6th Floor, 1730 K Street NW., Washington, D.C. 20006. The words "Freedom of Information Act Request" should be printed on the face of the envelope. A determination whether to comply with the request will be made by the Executive Director, with the consent of a majority of the Commissioners. Except in unusual circumstances, the determination will be made within 10 working days of receipt. Appeals of adverse decisions may be made to the Chairman of the Commission, at the same address, within 10 working days. Determination of appeals will be made by the Chairman within 20 working days of receipt.

### § 2702.4 Materials available.

Materials which may be made promptly available from the Commission include, but are not limited to:

- Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;
- Quarterly indices providing identifying information as to the opinions described in the preceding paragraph which may be relied upon, used, or cited as precedent;
- Any statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register.

### § 2702.5 Fees for production of material.

The usual fee for production of materials requested under the FOIA shall be the cost of duplication, not to exceed 10 cents per page. In appropriate circumstances, a reasonable standard charge for document search, not to exceed the direct cost of such search, may be imposed. Documents may be furnished without charge or at a reduced charge where the Commission determines that waiver or reduction of the fee is in the public interest.

[FR Doc. 80-15202 Filed 5-19-80; 8:45 am]
BILLING CODE 6820-12-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[FRL 1487-8]

## Approval and Promulgation of State Implementation Plans; Approval of the Revision of the Pennsylvania State Implementation Plan

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The purpose of this notice is to approve, in part, and to approve conditionally the remainder of the State Implementation Plan revision submitted by the Commonwealth of Pennsylvania on April 24, June 7, 8, 12, and 13, 1979. This revised plan was for those areas in Pennsylvania designated as not attaining the National Ambient Air Quality Standards for Total Suspended Particulate, Ozone, and Carbon Monoxide. The plan addresses attainment of the standards for those pollutants and includes revisions required to meet the requirements of Part D of Title I of the Clean Air Act as amended in 1977.

EPA assessed the approvability of the revised Pennsylvania State Implementation Plan by reviewing the plan revision in connection with the requirements for an approvable nonattainment SIP which are described in a Federal Register notice of April 4, 1979, 44 FR 20372, and the requirements of Section 110 and Part D of the Clean Air Act. On June 11, 1979, EPA published a Notice of Availability of the Pennsylvania SIP revision, 44 FR 33438. EPA evaluated the comments received during the public comment period in its assessment of the final approval status of Pennsylvania's revised SIP. It is EPA's conclusion that the revised Pennsylvania plan for those areas not attaining the National Ambient Air Quality Standards for Total Suspended Particulates, Ozone, and Carbon Monoxide, should be approved in part with portions conditionally approved. Approval of those portions conditionally approved will be contingent upon the satisfactory accomplishment of the conditions contained herein.

Elsewhere in today's Federal Register, EPA is inviting public comment on the acceptability of deadlines for complying with the conditions of approval.

In this notice the Pennsylvania State Implementation Plan is summarized, issues resulting in this conditional

approval are discussed, and EPA's response to relevant comments received on its proposal are included. It should be noted that only the requirements with respect to Part D of the Act are discussed.

**EFFECTIVE DATE:** May 20, 1980.

**ADDRESSES:** Copies of the revision and accompanying support material are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Air Programs Branch, Curtis Building, Tenth Floor, Sixth & Walnut Streets, Philadelphia, PA 19106. ATTN: Patricia Sheridan.

Pennsylvania Department of Environmental Resources, Bureau of Air Quality Control, Fulton Bank Building, Third and Locust Streets, Harrisburg, PA 17120. ATTN: Gary L. Triplett.

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

For the Transportation Elements of the plan, the appropriate lead planning agency can be contacted:

Delaware Valley Regional Planning Commission, 1819 John F. Kennedy Boulevard, Philadelphia, PA 19103. ATTN: Kent Miller.

Southwestern Pennsylvania Regional Planning Commission, 564 Forbes Avenue, Pittsburgh, PA 15219. ATTN: Norman Howenstein.

Joint Planning Commission—Lehigh-Northampton Counties, Allentown-Bethlehem-Easton Airport, Government Building, LeHigh Valley, PA 18103.

Lackawanna County Regional Planning Commission, 200 Adams Avenue, Scranton, PA 18503.

Luzerne County Planning Commission, Luzerne County Court House, Wilkes-Barre, PA 18711.

Tri-County Regional Planning Commission, 2001 North Front Street, Building No. 2, Suite No. 221; Harrisburg, PA 17120.

**FOR FURTHER INFORMATION CONTACT:** Harry G. Hanson, Air Programs Branch, U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106, telephone number: 215-597-8173.

**SUPPLEMENTARY INFORMATION:** The information in this notice is divided into six sections entitled "INTRODUCTION," "BACKGROUND," "EPA REVIEW CRITERIA AND PROCEDURES," "SIP DEFICIENCIES AND REMEDIES," "PUBLIC COMMENTS ON PROPOSAL," and "EPA ACTIONS." The "INTRODUCTION" section outlines the development of the Pennsylvania State Implementation Plan (SIP) revision. The "BACKGROUND" section describes the Pennsylvania plan revision for each nonattainment area. The "EPA REVIEW CRITERIA AND PROCEDURES" section summarizes the criteria used to evaluate the plan revision. The "SIP DEFICIENCIES AND REMEDIES" section describes where the SIP is inadequate because it did not satisfy all the regulatory requirements and indicates actions necessary to correct these deficiencies. It also explains how some of the deficiencies cited in the proposed rulemaking Federal Register notice were satisfied by supplemental submittals on June 13, 1979, August 20, 1979, September 17, 1979, November 19, 1979, and November 28, 1979, and by submittal of transportation air quality work programs by lead planning agencies. The "PUBLIC COMMENTS ON PROPOSAL" section summarizes relevant comments received on the proposal and provides EPA's response to them. "EPA ACTIONS" section explains EPA's decision to approve in part and approve conditionally the remainder of Pennsylvania's nonattainment plan revision based on considerations discussed in the two preceding sections.

## I. Introduction

The Pennsylvania revision was developed and submitted to EPA in response to the requirements of Part D of the Clean Air Act (Act), as amended in 1977. In general, the SIP is required to provide for attainment and maintenance of the National Ambient Air Quality Standards (NAAQS) for all areas which have been designated "nonattainment" pursuant to Section 107 of the Act. On March 3, 1978, 44 FR 8962, on September 12, 1978, 43 FR 40502, on February 12, 1980, 45 FR 9262, and in 45 FR 19553 on March 26, 1980, the Administrator of the Environmental Protection Agency (EPA), in accordance with requirements of Section 107 of the Act, designated the entire Commonwealth of Pennsylvania as nonattainment for ozone ($O_3$) and various portions of Pennsylvania as nonattainment for total suspended particulate matter (TSP), sulfur dioxide ($SO_2$), and carbon monoxide (CO). The Commonwealth of Pennsylvania was required to develop, adopt, and submit to EPA revisions to its SIP, for these nonattainment areas.

For areas not attaining the ozone and CO standards, the major events leading to submittal of a plan revision are now described. In accordance with Section 174 of the Act, primary responsibility for preparing the transportation elements of the ozone and CO plans was delegated by the Governor to organizations of locally elected officials to act as lead planning agencies. These lead planning agencies are the Delaware Valley Regional Planning Commission (DVRPC) for the Philadelphia metropolitan area, the Southwestern Pennsylvania Regional Planning Commission (SPRPC) for the Pittsburgh metropolitan area, the Lehigh-Northampton Joint Planning Commission (JPC) for the Allentown-Bethlehem-Easton area, the Lackawanna County Regional Planning Commission (LCRPC) for the Scranton area, the Luzerne County Planning Commission (LCPC) for the Wilkes-Barre area, and the Tri-County Regional Planning Commission (TCRPC) for the Harrisburg area. The designated lead planning agencies were responsible for developing transportation measures to improve air quality in coordination with the ongoing regional transportation planning process. The State was responsible for developing vehicle inspection and maintenance (I/M) programs and stationary source controls. Allegheny County, through authority granted it by the State, developed its own stationary source controls for incorporation into the State plan.

The locally prepared plans were submitted to the State in the winter and spring of 1979 after public hearings were held in each area and public comments were considered in the final plan development. The State and Allegheny County held public hearings on the control of stationary sources of volatile organic compounds (VOC) on January 30 and 31, and February 1, 6, 8, and 20, 1979. Subsequent to these public hearings, the regulations were formally adopted on April 9, 1979, by the Pennsylvania Environmental Quality Board and on May 10, 1979, by the Allegheny County Board of Commissioners.

On April 24, 1979, the Governor of Pennsylvania submitted a revision to the State Implementation Plan which addresses the control of stationary sources of VOC and I/M for the Philadelphia and Pittsburgh metropolitan areas, and requested a five-year extension of the ozone attainment date until December 31, 1987 for the Philadelphia, Pittsburgh, Allentown-Bethlehem-Easton, Scranton, and Wilkes-Barre areas. No extension was requested for the Harrisburg area because it was demonstrated by the State that that area could attain the ozone standard by 1982.

On June 7, 1979, the Governor submitted the transportation elements of

the ozone and CO plan revisions for the Philadelphia, Pittsburgh, Allentown-Bethlehem-Easton, and Scranton areas and extended his commitment to implement an I/M program in the Allentown-Bethlehem-Easton, Scranton, and Wilkes-Barre areas. On June 8 and 13, 1979, the Governor's designee, Secretary Clifford L. Jones, submitted the transportation elements of the ozone plan revision for the Wilkes-Barre and Harrisburg areas. Finally, on June 13, 1979, Secretary Jones transmitted the Allegheny County VOC regulations and requested their inclusion in the Pennsylvania SIP.

On July 24, 1979, EPA proposed action on the ozone and CO plan revision, 44 FR 43306. In response to EPA's proposed action, the Commonwealth, LCRPC, SPRPC, and JPC provided additional information. On August 20, 1979, the State responded to the deficiency concerning the cutback asphalt regulation and substantiated the State's request for a five-year extension for attainment of the ozone standard in Allentown-Bethlehem-Easton, Scranton, and Wilkes-Barre areas.

LCRPC, in its letter of August 20, 1979, provided additional information on the implementation of transportation measures. On September 17, 1979, SPRPC provided additional information on the calculation of emission estimates and on the status of certain transportation measures. Finally, on November 19, 1979, Pennsylvania submitted additional information concerning rejection of transportation measures in the Allentown-Bethlehem-Easton area.

Furthermore, detailed transportation air quality work programs were submitted by the six lead planning agencies. The information and commitments in these work programs resolved several of the deficiencies cited in the July 24, 1979 proposed rule.

For all areas of Pennsylvania not attaining the primary or secondary TSP standards, (except for the Metropolitan Philadelphia region and Allegheny County), the Commonwealth prepared plans and held public hearings on May 2, 3, and 4, 1979. At these hearings Pennsylvania also presented a revision titled "Special Permit Requirements for Sources Locating in or Significantly Impacting Non-attainment Areas." Subsequent to these public hearings, the plan revisions were formally adopted by the Pennsylvania Environmental Quality Board on June 12, 1979 and submitted to EPA the same day.

For the areas of the Metropolitan Philadelphia Interstate Air Quality Control Region (AQCR) not attaining the secondary TSP standard, the State requested on June 13, 1979 an 18 month extension to submit a plan.

On June 13, 1979, Pennsylvania transmitted additional information to EPA concerning emission inventories. Also, on November 28, 1979, further substantiation of planning and attainment schedules was provided by the Commonwealth.

The TSP plan revision, the Special Permit Requirements, and the request for an 18-month extension to prepare a secondary TSP plan for the Philadelphia region were proposed by EPA in the Federal Register on July 24, 1979, 44 FR 43306. For Allegheny County a TSP plan and a special permitting regulation were prepared by the County; public hearings were held on September 17, 1979. As of December 31, 1979, however, no TSP plan or special permitting requirements had been formally submitted to EPA by the Commonwealth. Until a plan providing for attainment and maintenance of the particulate standards is submitted to and approved by EPA, no permits for major new sources of particulate matter desiring to locate in Allegheny County may be issued.

The July 24, 1979 notice by EPA proposing Pennsylvania's revisions to the SIP for ozone, CO, and TSP, also identified six sulfur dioxide ($SO_2$) nonattainment areas. The $SO_2$ attainment plan for the Philadelphia Metropolitan Control Region was approved under Section 110 of the Act in a final rulemaking notice on June 4, 1979, 44 FR 31980. In the July 24, 1979 notice proposing the Pennsylvania SIP revision, it was stated that the Philadelphia plan also satisfied the requirements of Part D of the Act. Therefore, this area has an approved Part D plan for $SO_2$. Since publication of the July 24, 1979 notice, the Monongahela Valley Air Basin has been redesignated from "does not meet primary standards" to "cannot be classified" because recent monitoring data indicate no violations of primary or secondary NAAQS for $SO_2$ and because results of an ongoing modeling study indicated no violations of the NAAQS for $SO_2$. This redesignation was proposed on June 15, 1979, 44 FR 34603 and approved on February 12, 1980, 45 FR 9262.

However, as of December 31, 1979, no $SO_2$ revisions had been submitted for Allegheny County or for the nonattainment areas impacted by the Armstrong Power Plant (West Penn Power Company), the Warren Power Plant (Pennsylvania Electric Company), and the Sunbury Plant (Pennsylvania Power and Light Company). Revisions to the Pennsylvania Implementation Plan addressing these $SO_2$ nonattainment areas will be proposed in a future notice; no action will be taken in this notice on these revisions.

## II. Background

The following discussion identifies the nature of the air quality problems and describes the proposed SIP revision for those TSP, ozone, and CO nonattainment areas in Pennsylvania proposed by EPA in the July 24, 1979 notice.

### Total Suspended Particulates

*Description of Submittal*

On June 12, 1979, the Commonwealth of Pennsylvania officially submitted a proposed revision to the SIP for attainment of the primary and secondary NAAQS for total suspended particulates (TSP). For the following areas the proposed revision addresses the attainment of both primary and secondary NAAQS for TSP:

1. Allentown-Bethlehem-Easton Air Basin
2. Beaver Valley Air Basin
3. Monongahela Valley Air Basin
4. Cities of Sharon and Farrell in Mercer County.
5. York Air Basin
6. Erie Air Basin
7. Lancaster Air Basin
8. Johnstown Air Basin

For the following areas the proposed revision addresses only the attainment of the secondary NAAQS for TSP:

1. City of Altoona in Blair County
2. Harrisburg Air Basin
3. Reading Air Basin
4. Scranton-Wilkes-Barre Air Basin
5. City of Williamsport in Lycoming County

The nonattainment designations to which the proposed SIP revision responds are consistent with those published on September 12, 1978, 43 FR 40502, as modified on February 12, 1980, 45 FR 9262.

In addition, in 45 FR 19553, on March 26, 1980 is a rulemaking notice for 40 CFR Part 81, which revises the Section 107 nonattainment designation of the Harrisburg Air Basin with respect to TSP from "does not meet primary standards" to "does not meet secondary standards."

For all of the above areas, the plan submitted by the Commonwealth contains (1) an emission inventory, (2) a demonstration that more than the application of Reasonably Available Control Technology (RACT) is needed for attainment of the standards, (3) a commitment to annual incremental reductions (Reasonable Further Progress), and (4) a proposal for further study of fugitive emissions to result in the adoption of fugitive particulate regulations. In all cases, the

Commonwealth commits to attaining the primary NAAQS for TSP by December 31, 1982, and the secondary NAAQS for TSP by December 31, 1987. In addition, Pennsylvania submitted a revision to the test method for sampling particulate matter from sources (Section 139.12 of the Pennsylvania Air Resources Regulations).

*Control Strategy and Demonstration of Attainment*

Pennsylvania submitted as part of its proposed SIP revision for TSP detailed studies of existing and projected suspended particulate levels for all thirteen nonattainment areas. The projected levels reflect, where applicable, the reductions which will be achieved by Pennsylvania's coke oven battery regulations (previously approved as a SIP revision at 44 FR 41429, July 17, 1979). In all areas except the Johnstown Air Basin, the demonstration included a diffusion modeling analysis. For the Johnstown Air Basin, Pennsylvania was unable to validate adequately a diffusion model because of the complexity of the terrain and, consequently, utilized a linear rollback model. EPA has reviewed the modeling demonstrations for all areas and has concluded that the Commonwealth has adequately demonstrated in all cases the need for non-traditional fugitive dust controls which exceed RACT. In general, the State has shown that about 40 percent of the TSP ambient concentrations are attributable to fugitive emissions.

A major portion of the Commonwealth's demonstration to attain both the primary and secondary standards is its plan for investigating and controlling non-traditional fugitive dust emissions in all 13 nonattainment areas. In this plan, Pennsylvania commits to undertake a comprehensive program to investigate non-traditional sources, industrial process fugitive particulate emissions, alternative control measures, and to develop and implement an effective control program to attain the primary and secondary NAAQS. The schedule for this study (as described in Appendix K of the Pennsylvania TSP SIP revision) is as follows:

**Schedule for Investigating and Controlling Nontraditional Particulate Matter Emissions**

| Task | Completion date |
|---|---|
| Scheduled tasks: | |
| 1. Quantify nontraditional sources | June 1, 1980. |
| 2. Investigate control techniques | Apr. 1, 1982. |
| 3. Investigate source-receptor relationship | June 1, 1980. |

**Schedule for Investigating and Controlling Nontraditional Particulate Matter Emissions—Continued**

| Task | Completion date |
|---|---|
| Analysis and control strategy development: | |
| 1. Analyze nonattainment areas | July 1, 1981. |
| 2. Develop control strategies | Jan. 1, 1982. |
| 3. Develop, adopt, submit SIP | July 1, 1982. |
| 4. Implement SIP | Begin—July 1, 1982. |

*Margin for Growth*

Pennsylvania accommodates growth of area sources and of some point sources by including a growth increment of one-half of one percent each year for all projected emissions from 1979 through 1987; this growth increment is in addition to estimates of projected growth for each area. Provision for increases in emissions from major point sources will be on a case-by-case emission offset basis.

*Emission Inventory*

The emission inventory for TSP includes actual emissions for base years (1975, 1976, or 1977) and projected emissions for 1982 (the primary standard attainment date) and 1987 (the secondary standard attainment date). EPA has reviewed the inventory and determined that the Commonwealth is correct in its contentions that control beyond RACT for stationary sources is needed to attain the NAAQS for TSP and that the implementation of non-traditional fugitive controls is needed for attainment of the primary standard by 1982 and the secondary standard by 1987.

*Reasonable Further Progress*

The Commonwealth of Pennsylvania has submitted a graphical presentation on Reasonable Further Progress (RFP) for each nonattainment area. Each RFP curve is linear, with different slopes for the periods 1977 through 1982 and 1982 through 1987, and represents it's commitment to annual incremental emission reductions for TSP emissions, through application of controls as expeditiously as practicable.

*Reasonably Available Control Technology*

The Commonwealth concluded that its existing regulations for stationary sources represent Reasonably Available Control Technology (RACT) for TSP. EPA has reviewed and accepts Pennsylvania's reasoning and conclusions. Furthermore, the Commonwealth has determined that the application of RACT is not sufficient for attainment because of the relatively small contribution of stationary sources to the nonattainment problem in most areas.

**Ozone and Carbon Monoxide**

*Description of Submittal*

The Commonwealth of Pennsylvania officially submitted a proposed revision of the SIP for ozone (less the transportation elements) to EPA on April 24, 1979. The transportation elements of the SIP were officially submitted on June 7, 8, and 13, 1979. The ozone submittal encompasses the entire Commonwealth of Pennsylvania, including the six metropolitan areas over 200,000 in population: Philadelphia, Pittsburgh, Harrisburg, Scranton, Wilkes-Barre, and Allentown-Bethlehem-Easton. In addition to control of stationary sources, control of transportation sources are required for these six areas. Revisions to the SIP for carbon monoxide are included in the transportation element for the nonattainment areas of Philadelphia and Pittsburgh.

Allegheny County adopted separate regulations covering volatile organic compounds (VOC); the Commonwealth proposed the County's VOC regulations as part of the Pennsylvania SIP. The regulations proposed by Allegheny County are substantially consistent in content with the regulations submitted by Pennsylvania for the balance of the Commonwealth. Except where noted, comments pertaining to the Pennsylvania VOC regulations are also applicable to the Allegheny County regulations.

For ozone nonattainment areas, EPA requires the adoption of Reasonably Available Control Technology (RACT) for eleven VOC stationary source categories. Pennsylvania regulates all eleven of these categories in the SIP. EPA considers these regulations as RACT. These categories are: (1) solvent metal-cleaning, (2) tank truck gasoline loading terminals, (3) cutback asphalt, (4) bulk gasoline plants, (5) gasoline service stations—Stage I controls, (6) storage of petroleum liquids in fixed-roof tanks, (7) surface coating of large appliances, (8) surface coating of cans, coils, paper, fabrics, automobiles, and light-duty trucks, (9) surface coating of metal furniture, (10) surface coating for insulation of magnet wire, and (11) petroleum refineries.

*Attainment Date*

As stated in the April 24, 1979 submittal, the Commonwealth of Pennsylvania does not anticipate

attaining the ozone standard by the end of 1982 in any of the above-noted metropolitan areas except Harrisburg. Therefore, except for Harrisburg, an extention of the deadline until the end of 1987 for attaining the standard has been requested.

*Control Strategy and Demonstration of Attainment*

The Pennsylvania SIP was developed using the 0.12 ppm ozone standard. An acceptable commitment to attain the ozone standard by 1987 in all areas of the Commonwealth was provided in the SIP.

*Emission Inventory*

Pennsylvania has submitted a 1976 emission inventory. EPA requires that if the emission inventory was developed for a year other than 1977, a commitment to develop a 1977 inventory should be provided. Pennsylvania has committed to develop a 1977 base year inventory by November of 1979. However, this will now be submitted by March 30, 1980.

*Reasonable Further Progress*

A Reasonable Further Progress presentation indicating attainment of the ozone standard as expeditiously as practicable was provided in the proposed Pennsylvania ozone SIP revision.

*Margin for Growth*

The Commonwealth of Pennsylvania has adequately addressed growth in its plan by incorporating a margin for growth beyond that currently expected for each metropolitan area.

*Inspection and Maintenance (I/M)*

In its State Implementation Plan, Pennsylvania included provisions for an I/M program. This program would cover light duty and medium duty vehicles, and would provide for inspection each year. In the Allentown-Bethlehem-Easton, Philadelphia, Pittsburgh, and Scranton-Wilkes-Barre urbanized areas, which cannot attain the primary ozone standard by December 31, 1982, inspections will be carried out by private licensed garages, in accordance with the terms of a Consent Decree (entered August 30, 1978 in Federal District Court) for the Philadelphia and Pittsburgh areas, which were subsequently extended to the Allentown-Bethlehem-Easton and Scranton-Wilkes-Barre areas. An idle mode test will be used. Vehicles failing inspection must be repaired and re-inspected. Prohibition of operation on non-complying vehicles will be carried out through the window sticker system.

Vehicles older than 25 years (15 years for discontinued models) will be excluded. Also, a vehicle exceeding the standards after its second inspection could be granted a waiver if adequate repairs as defined by the Pennsylvania Department of Transportation in the *Pennsylvania Bulletin* on December 22, 1979 are made.

The Governor has committed Pennsylvania to follow the decree in all four areas of the Commonwealth in which I/M is required. EPA's approval of this plan is expressly conditioned upon the retention by the Governor of the authority to prepare and implement the I/M program and other elements of the plan.

In December, 1979, the Pennsylvania Legislature passed House Bill (H.B.) 739, which in several respects was inconsistent with the consent decree and the I/M program in Pennsylvania as proposed by EPA on July 24, 1979, 44 FR 43306. The Governor vetoed H.B. 739, noting these inconsistencies in his veto message. The House has not overridden this veto, but EPA takes note that if the veto were to be overridden, the Governor's statutory authority to prepare and implement the plan which is the subject of this notice would have been withdrawn. If this should occur, EPA could no longer consider the Part D plan for ozone and CO approvable. The Commonwealth, in the Consent Decree, has made a commitment to the required 25 percent reduction in carbon monoxide and hydrocarbon emissions by 1987, provided that the stringency factor is not greater than 25 percent. Based on information in the SIP, the program will achieve a 26 percent reduction in hydrocarbon emissions and a 33 percent reduction in carbon monoxide emissions by December 31, 1987, thus complying with EPA's requirement for minimum emission reductions. Fees have not yet been established, but the Commonwealth is firmly committed to a mechanics training program by the specific terms of the Consent Decree. Pennsylvania is committed to implementing its I/M program by the schedule set out in the Consent Decree incorporated into this plan by the Governor June 7, 1979. The United States and the Commonwealth of Pennsylvania have since agreed to ask the Court to approve minor modifications of the Consent Decree. Once these modifications are approved, EPA will propose in a Federal Register notice any changes necessitated in the schedule for implementation of I/M.

Transportation Element

There are six metropolitan areas in Pennsylvania with populations greater than 200,000 designated as nonattainment areas for ozone: the Philadelphia metropolitan area with approximately five million people, the Pittsburgh metropolitan area with approximately two and one half million people, and the Allentown-Bethlehem-Easton, Harrisburg, Scranton, and Wilkes-Barre metropolitan areas with populations between 200,000 and 500,0000 people. Areas of high traffic density in the central portions of the Philadelphia and Pittsburgh areas are also designated nonattainment for carbon monoxide.

*Description of Philadelphia Area Transportation Element*

The transportation element of the 1979 SIP for Southeastern Pennsylvania was prepared by the Delaware Valley Regional Planning Commission (DVRPC) and submitted by the Commonwealth of Pennsylvania after reasonable notice and public hearing. DVRPC is the lead planning agency certified by the Governor of Pennsylvania under provisions of Section 174 of the Clean Air Act. The plan covers the Pennsylvania Counties of Philadelphia, Chester, Bucks, Delaware, and Montgomery. Similar planning was done by the State of New Jersey for the Counties of Mercer, Burlington, Camden, Gloucester, and Salem. The State of Delaware and the Wilmington Metropolitan Area Planning Coordinating Council performed planning for New Castle County.

The plan demonstrates that neither the carbon monoxide nor ozone NAAQS will be attained until after December 31, 1982. The submittal requests extension of attainment of the ozone NAAQS until 1987 and an extension of the carbon monoxide standard until some time between 1983 and 1985. Both of these requests require implementation of an inspection and maintenance program for motor vehicles by the Commonwealth of Pennsylvania.

(1) Carbon Monoxide—The carbon monoxide portion of the plan includes a comprehensive emissions inventory for current and future years. The determination that CO standards cannot be attained by 1982 is based on an evaluation of four continuous monitoring locations and eight hot spot locations. A linear rollback analysis shows that five of the locations will still violate the eight-hour CO standard as of July 1, 1982. The worst location (16th Street & J. F. Kennedy Blvd. in center city Philadelphia) with a design value for CO of 14.7 ppm for an eight-hour period is not expected to attain the eight-hour CO standard until the spring of 1983, provided an I/M program is

implemented. All locations are currently attaining the one-hour CO standard.

The plan does not provide for implementation of any transportation measures, except for inspection and maintenance, to ensure expeditious attainment of the CO standard. However, some CO emission reductions can be expected from implementation of transportation measures designed to expedite attainment of the ozone standard.

The plan contains a reasonable further progress schedule for CO which consists of a linear reduction of CO emissions between 1979 and 1987. Expected emissions for all years between 1979 and 1987 are less than those required by the reasonable further progress schedule.

(2) Ozone—The ozone portion of the plan includes a comprehensive emissions inventory for current and future years. A linear rollback model shows that a 50 percent reduction of 1976 levels of emissions is needed in order to attain the 0.12 ppm ozone standard. A 37 percent reduction of hydrocarbon emissions is possible by 1982. By 1987, a 51 percent reduction of hydrocarbon emissions is possible, allowing approximately a one percent growth of hydrocarbon emissions. An Early Action Program of transportation measures is proposed to expedite attainment of the ozone standard and to allow a margin for growth. The projects contained in the Early Action Program are:

a. Center City Commuter Connection—A project to connect the tracks of the former Reading and Pennsylvania Railroads.

b. Airport Rail Link—A high speed rail line from Penn Center to the Philadelphia International Airport.

c. Carpool/Vanpool Program—A region-wide program sponsored by DVRPC.

d. Commuter Stations/Parking Lots—New and expanded commuter stations and parking lots at various locations within the region.

e. Newtown Branch Electrification—Electrification of the Newtown Branch of the former Reading Railroad line from Bethayres to Newtown with connection to the Trenton Branch.

f. Extension of Route 66 Trolley Line—Extension of the Frankford Avenue trackless trolley (Route 66) on Knights Road, Philadelphia (2.3 miles).

The carpool/vanpool program is contained in DVRPC's Unified Planning Work Program. The Center City Commuter Connection, the Airport Rail Link, and the Commuter Stations/Parking Lots are in various stages of construction. Technical studies are being performed for the Newtown Branch Electrification and the Extension of Route 66 Trolley Line. DVRPC believes that implementation of the Early Action Program is possible and would reduce hydrocarbon emissions by about 0.4%. Approximately 18,740 gallons of gasoline will be saved daily.

The plan contains a reasonable further progress schedule for hydrocarbon emissions which is a linear reduction from 1979 to 1987. Expected emissions for all years between 1979 and 1987 and less than those shown in the schedule. The plan contains a preliminary evaluation of 23 additional measures which will be studied in more detail by 1982.

(3) Other Commitments—On April 26, 1979, the Board of the Delaware Valley Regional Planning Commission adopted the plan and the commitments contained in the plan. Specifically:

a. DVRPC shall undertake a continuing air quality planning program.

b. DVRPC reaffirms its commitment to public transit.

c. DVRPC endorses the Early Action Program.

(4) Public Participation and Local Government Consultation—The DVRPC Board created a Policy Advisory Committee (PAC) to advise DVRPC on policy and technical matters relating to transportation-air quality planning. Voting members on the PAC consisted of all Pennsylvania member governments, the Commonwealth transportation and environmental agencies, local transit operators, and Philadelphia Air Management Services. DVRPC citizen advisory committees were used to obtain public input to the plan.

(5) Modification of Currently Approved SIP—The plan proposes to modify the Commuter Carpool Matching regulation contained in the currently approved SIP. Other regulations in the currently approved SIP which Pennsylvania proposes for deletion include: management of parking supply, study and establishment of bikeways, various busways in the region, limitation of public parking, employers' provision for mass transit priority incentives, and monitoring of transportation trends.

(6) Other Plan Elements:

a. The plan proposes detailed criteria for assessment of consistency of transportation plans and programs with the SIP.

b. The plan proposes modifications to the transportation planning process to include air quality considerations.

(7) Schedule for Preparation of 1982 SIP—The plan proposes a preliminary schedule for preparation of the 1982 SIP. The schedule proposes that the detailed work program be submitted to EPA and the Urban Mass Transportation Administration (UMTA) in October, 1979 with planning work beginning in December, 1979. (A detailed work program was submitted to EPA and UMTA on September 28, 1979.) Alternative air quality plans are expected to be presented to the public by June, 1981 with public hearings in November, 1981. An extensive public information and consultation program is proposed as part of the transportation-air quality planning process.

*Description of Pittsburgh Area Transportation Element*

The transportation element of the 1979 SIP for Southwestern Pennsylvania was prepared by the Southwestern Pennsylvania Regional Planning Commission (SPRPC) and submitted by the Commonwealth of Pennsylvania after reasonable notice and public hearing. SPRPC is the lead planning agency certified by the Governor of Pennsylvania under provisions of Section 174 of the Clean Air Act. The plan covers the Pennsylvania Counties of Allegheny, Armstrong, Beaver, Butler, Washington, and Westmoreland.

The submittal contains a demonstration that the carbon monoxide and ozone NAAQS will not be attained until after December 31, 1982, and requests an extension of the attainment date for carbon monoxide and ozone NAAQS.

(1) Carbon Monoxide—The carbon monoxide portion of the plan includes an emissions inventory for current and future years. The determination that CO NAAQS cannot be attained until after 1982 is based on an evaluation of two CO monitors in the Pittsburgh Golden Triangle. The design value for CO is 21.4 ppm for an eight-hour period. A linear rollback analysis using Golden Triangle CO emissions shows that attainment of the CO NAAQS is not likely until late in 1985, provided that an I/M program is implemented.

The plan does not provide for implementation of any transportation measures, except I/M, to expedite attainment of the CO NAAQS. However, some CO emission reductions can be expected from transportation measures which will be implemented to expedite attainment of the ozone NAAQS.

The plan does not contain an RFP schedule for CO. However, EPA proposed an RFP schedule based on data contained in the plan. The proposed schedule requires that CO emissions in the Golden Triangle be reduced by 698.6 tons per year between 1979 and 1982, and by 347 tons per year between 1983 and 1985. Such a schedule

will result in attainment by the end of 1985.

(2) Ozone—The ozone portion of the plan includes a comprehensive, categorical emissions inventory for current and future years. A linear rollback model shows that a 48.6 percent reduction in 1976 hydrocarbon emissions is needed to attain the 0.12 ppm NAAQS for ozone. Emission projections to 1987, which include an allowance for growth, show that 1987 emissions will exceed allowable HC emissions by approximately 0.4%. This shortfall will be made up by transportation measures.

The plan contains transportation measures designed to expedite attainment of the ozone standard and to allow a margin for growth. The transportation measures contained in the plan are:

a. Coraopolis Joint Rail/Bus Park-n-Ride Lot—A park and ride lot north of Coraopolis serving Transportation Route (TR) 51 and the Pittsburgh and Lake Erie (P&LE) Commuter Rail Corridor.

b. McKeesport Commuter Rail Station/Park-n-Ride Lot—Transportation terminal at McKeesport; improved park and ride lots at Versailles, Portvue, and Braddock.

c. Port Authority Transit (PAT) Park-n-Ride—A non-capital program whereby PAT will establish two or three park and ride lots per year through agreements with shopping centers, churches, and municipalities.

d. North Hills Park-n-Ride Lot—The exact location of this project is currently under study.

e. East Busway—An exclusive right-of-way facility between the Pittsburgh Central Business District (CBD) and Wilkinsburg.

f. Bike-n-Ride Lockers—Bikelockers provided at various locations to encourage bike access to PAT facilities.

g. Area-wide Carpool/Vanpool Program—Ongoing service to encourage and assist major employer involvement in carpool or vanpool programs.

The carpool/vanpool program is contained in SPRPC's Unified Planning Work Program. PAT has committed to establish two or three new park and ride lots per year. Funding commitments are firm for the McKeesport Commuter Rail Station Park-n-Ride Lot, the East Busway, the Bike-n-Ride Lockers, the Coraopolis Joint Rail/Bus Park-n-Ride Lot, and the North Hills Park-n-Ride Lot.

The plan contains an RFP schedule for hydrocarbon emissions and an initial screening of 20 transportation measures which will be considered for submission as part of the 1982 SIP.

(3) Other Commitments—On October 30, 1978 the Southwestern Pennsylvania Regional Planning Commission met and made the following commitments:

a. Support implementation of all reasonably available control measures by 1982.

b. Continue to place emphasis upon the utilization of public transit and to remain alert for new opportunities to use transit as a tool for achieving air quality objectives.

c. Investigate transportation control measures and consider for implementation those which are found feasible. SPRPC will furnish staff, cooperate with air quality agencies, and establish technical and citizen advisory committees.

(4) Public Participation and Local Government Consultation—To develop the 1979 SIP, SPRPC's Ad Hoc Air Quality Advisory Committee coordinated its efforts with the Transportation Planning Committee. The two committees met jointly on a monthly basis between June and September, 1978. Membership of the joint committee includes SPRPC member governments, PAT, Pennsylvania DOT, FHWA, UMTA, EPA, DER, and the Allegheny County Bureau of Air Pollution Control.

SPRPC also established an Interim Public Interest Advisory Committee to advise SPRPC during preparation of the 1979 SIP revision. Membership included civic, environmental, and special interests. The committee met between July and September, 1978 and was invited to attend joint meetings of the Transportation Planning Committee and the Ad Hoc Air Quality Advisory Committee.

(5) Schedule for Preparation of 1982 SIP—The plan includes a preliminary schedule for preparation of the 1982 SIP. The preliminary schedule proposes completion of an analysis of alternative transportation control measures by September 30, 1980 and final plan adoption by SPRPC by December 31, 1981. An extensive public information and consultation program is planned as part of the transportation-air quality planning process. (A detailed work program was submitted to EPA and UMTA on 2/13/80.)

*Description of Allentown-Bethlehem-Easton Area Transportation Element*

The Lehigh-Northampton Joint Planning Commission (JPC) developed the transportation element of the proposed ozone SIP revision for the Allentown-Bethlehem-Easton (A-B-E) area. The JPC designated itself as lead agency after suggestions by DER, the Pennsylvania DOT, and the Coordinating Committee of the Lehigh Valley Transportation Study (LVTS) which is the certified Metropolitan Planning Organization (MPO); the Governor concurred on June 22, 1978.

The geographic area covered by the submittal includes the cities of Allentown, Bethlehem, and Easton, and the Counties of Lehigh and Northampton.

The final transportation element for the A-B-E area was officially submitted by the Governor on June 7, 1979, after adoption by the JPC and the LVTS. The ozone design value for the area is 0.201 ppm, necessitating a 40.3 percent reduction of hydrocarbon emissions using the straight linear rollback method. A reasonable further progress schedule was included in the plan.

The emissions reduction measures committed to by the JPC and the MPO for implementation by 1982 are intersection improvements, corridor improvements, safety updates and realignments, the Basin Street project, growth in bicycling, and expansion and improvement of public transportation measures.

An I/M program will be implemented in the A-B-E area by the Pennsylvania DOT. Control measures listed for possible future study include establishment of ridesharing programs, improvement of bicycling routes and facilities, raising downtown parking fees, parking restrictions, auto-free zones, road tolls, increasing gas taxes, minor road improvements, staggered or flexible work hours, exclusive bus or carpool lanes, bus service improvements, park and ride lots, reduction of transit fares, rapid transit, I/M, cleaner fleet vehicle engines and fuels, a vehicle maintenance program to reduce cold-start emissions from vehicles, control of extended idling, and temporary controls during air pollution episodes. The study and implementation of some of these measures is included as a work task in a planning work program for FY 1980-81. Five control measures (auto-free zones, road tolls, lower transit fares, rapid transit system, and bicycling routes and storage facilities) were rejected.

In a supplementary submittal on November 19, 1979 three of these measures (auto-free zones, lower transit fares, and bicycling routes and storage facilities) were removed from the list of rejected measures and will be re-considered in the planning process.

A public hearing to present the transportation element was held on March 26, 1979 and summaries of public comment are included in the submittal. Citizen input was also incorporated through open meetings and mailings by both the LVTS and the JPC.

*Description of Harrisburg Area Transportation Element*

The lead agency responsible for developing the transportation element of the SIP is the Tri-County Regional Planning Commission (TCRPC). This designation was certified by the Governor on June 22, 1978 after a consultation process involving the Commonwealth, County, and municipal officials. The MPO, namely the Coordinating Committee of the Harrisburg Area Transportation Study (HATS), is unable to receive or disburse funds and has inadequate staff for plan development. Therefore, the TCRPC requested designation as the Section 174 lead agency. Close coordination between the MPO and the TCRPC has been maintained, however.

The City of Harrisburg and the urbanized portions of Cumberland, Dauphin, Perry, and York Counties compromise the geographic area covered by this submittal. The ozone design value for this area is 0.167 ppm as reported in the Pennsylvania ozone submittal. Using a straight linear rollback, a 28.1 percent reduction of hydrocarbon emissions is needed to meet the 0.12 ppm standard; this reduction is expected to occur by 1982. Based on this projection of attainment, an inspection/maintenance program will not be required for the Harrisburg area. However, the TCRPC has endorsed the following transportation control measures to ensure attainment as expeditiously as practicable: carpool matching, fringe parking, bicycle lane and storage facilities, traffic flow improvements, transit service improvements, and increasing transit management efficiency. Control measures listed for future study include those listed in Section 108(f) of the Clean Air Act.

Public participation was included in this process through public information mailings and the Citizens' Advisory Committee of HATS. A public hearing was held on February 28, 1979, and a summary of public comments is included in the final submittal. The transportation element was adopted by the TCRPC and the MPO.

*Description of Scranton Area Transportation Element*

The Lackawanna County Regional Planning Commission (LCRPC) is the Section 174 lead agency with responsibilities for coordinating the preparation of the transportation element of the implementation plan revisions for the Scranton area. The designation of the LCRPC as lead agency occurred after a consultation process with local and State government agencies which determined that the MPO, namely the Lackawanna-Luzerne Transportation Study Coordinating Committee, does not have the authority to receive federal funds or the staff to develop a plan. The LCRPC therefore requested designation, and the Governor concurred on June 7, 1978.

The geographic area covered by the submittal includes the City of Scranton and the surrounding urbanized areas of Lackawanna County. The ozone air quality level for Lackawanna and Luzerne Counties is currently exceeding the NAAQS of 0.12 ppm. An ozone design value of 0.188 ppm was determined by DER as the appropriate value for this area. A total of 19,325 tons per year of hydrocarbon emissions was reported from all mobile and stationary sources. Using straight linear rollback, a 34.8 percent reduction in ozone levels is projected to occur by 1982, with an additional 1.4 percent reduction needed for attainment of the ozone standard. The LCRPC endorses an I/M program which is committed for implementation by the Pennsylvania DOT. In addition, it supports the following control measures for mobile source emission reductions: a bike route plan, park and ride facilities, and transit improvements. Control measures identified for future study include all those in Section 108(f) of the Clean Air Act. The City of Scranton and the Lackawanna County Council of Governments endorse this plan and are committed to transit and transportation measures which will result in improved air quality.

Provisions for public interest group and local official involvement are included in the planning process through the activities of the Citizens Advisory Committee, the Local Governments Advisory Committee, local service agencies, and other concerned citizens. A public hearing was held on February 13, 1979.

*Description of the Wilkes-Barre Area Transportation Element*

The transportation element for the Wilkes-Barre urbanized area was developed by the Luzerne County Planning Commission (LCPC). The LCPC designated itself as the Section 174 lead agency after a consultation process among State and local government agencies determined that the MPO, namely the Lackawanna-Luzerne Transportation Study Coordinating Committee, could not receive Federal funds and did not have the staff to develop an air quality-transportation plan. LCPC's self-designation was suggested by the Pennsylvania Departments of Environmental Resources and Transportation; the Governor concurred with this designation on June 9, 1978.

The submittal covers the geographic areas of the City of Wilkes-Barre and the surrounding urbanized region of Luzerne County. The ozone design value was determined by DER to be 0.188 ppm, requiring a hydrocarbon emission reduction of 36.2 percent using the linear rollback method. The total hydrocarbon emissions for the County were determined to be 21,567 tons per year. A reasonable further progress schedule which is included in the submittal indicates that in 1982 the 0.12 ppm standard will be exceeded by approximately 2.53 percent. The plan revision includes commitments for the following control measures: transit usage, land use plan, voluntary bicycling activity, bikeway system, bus/carpool program, and a park and ride program. The LCPC endorses implementation of an inspection/maintenance program by the Pennsylvania DOT in the Wilkes-Barre area. Transportation control measures listed for future study include (in addition to the 18 measures recommended in Section 108(f) of the Clean Air Act) a parking policy, municipal coordination in relieving traffic congestion, and the implementation of a land use plan encouraging less use of the automobile.

Citizen and local government participation was included through the Local Governments Advisory Committee, public mailings and workshops, local media coverage, and a public hearing held on April 24, 1979. The plan was adopted by the LCPC and by the MPO on June 4, 1979.

**General Comments**

*Permit Program for New or Modified Sources*

On June 12, 1979, the Commonwealth of Pennsylvania submitted proposed rules and regulations titled "Special Permit Requirements for Sources Locating in or Significantly Impacting Non-attainment Areas" (Title 25, Part I, Subpart C, Article III, Chapter 127, Subchapter C of the Pennsylvania Code) to EPA. These regulations were proposed on July 24, 1979 as a revision to the Pennsylvania SIP, 44 FR 43306, as required by Section 173 of the Clean Air Act.

The Special Permit regulations apply to new or modified sources with potential emissions equal to or greater than 100 tons per year and with allowable emissions greater than fifty tons per year located in or significantly impacting areas designated as nonattainment for particulate matter

and sulfur dioxide or located in any of 21 non-rural counties designated as nonattainment for ozone. The proposed regulation requires that all emissions resulting from such a new source or major modification to an existing source be subject to stringent review. Sources subject to this regulation must comply with the Lowest Achievable Emission Rate (LAER). The regulations require a certification that all facilities owned or operated by the applicant and located in Pennsylvania are either in compliance or on an approved schedule for compliance with the SIP. Emission offset ratios ranging from 1.1:1 to 5:1 are also required, depending on the type of pollutant and whether primary or secondary standards are being violated in the nonattainment area. The regulation also provides for the banking of emission offsets where offsets either exceed requirements, result from source shutdown, or result from voluntary implementation of improved control techniques. Emissions can be banked for a maximum of five years.

*State Commitments and Resources to Implement and Enforce Adopted Measures.* The Commonwealth of Pennsylvania made a commitment of financial and manpower resources to implement the TSP plan and the VOC regulations.

*State Commitments to Comply With Schedules.* EPA will be issuing additional control technology guidance (CTG) documents for the control of stationary source categories of VOC's. The Commonwealth of Pennsylvania has made an adequate commitment to develop regulations for all appropriate stationary source categories of VOC subsequent to EPA's issuance of these guidance documents.

As noted in the General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas, 44 FR 20376 (April 4, 1979), the minimum acceptable level of stationary source control for ozone SIPs including the SIP submitted by Pennsylvania, includes RACT requirements for VOC sources covered by CTGs the EPA issued by January 1978, and schedules to adopt and submit by each future January additional RACT requirements for sources covered by CTGs issued by the previous January. The submittal date for the first set of additional RACT regulations was revised from January 1, 1980 to July 1, 1980 by Federal Register notice of August 28, 1979, 44 FR 50371. Today's approval of the ozone portion of the Pennsylvania plan is contingent on the submittal of the additional RACT regulations which are due July 1, 1980 (for CTGs published between January 1978 and January 1979). In addition, by each subsequent January beginning January 1, 1981, RACT requirements for sources covered by CTGs published by the preceding January must be adopted and submitted to EPA. The above requirements are set forth in the "Approval Status" section of the final rule. If RACT requirements are not adopted and submitted to EPA according to the time frame set forth in the rule, EPA will promptly take appropriate remedial action.

In addition, the Commonwealth of Pennsylvania provides a commitment to perform a detailed study of non-traditional particulate emissions and to adopt and implement appropriate fugitive emission regulations.

*Public Involvement and Analysis of Effects.* The Clean Air Act requires a SIP to include evidence of involvement and consultation with the public, local government, legislature, and all other interested parties. Pennsylvania satisfied this requirement through a series of public mailings, public hearings, presentations, and consultations with industrial representatives.

Also required in the Act is an analysis of the energy, economic, environmental and social impacts of the plan. Pennsylvania's economic analysis of effects of regulations is sufficient for the 1979 SIP submittal. However, a more detailed analysis of effects of regulations and measures in future submittals will be required.

## III. EPA Review Criteria and Procedures

The Pennsylvania State Implementation Plan revisions were submitted to EPA in order to satisfy the requirements of Part D, Title I of the Clean Air Act. The basic requirements for an approvable nonattainment SIP were described in a Federal Register notice published on April 4, 1979, 44 FR 20372, and in the following supplements:

July 2, 1979, 44 FR 38583
August 28, 1979, 44 FR 50371
September 17, 1979, 44 FR 53761
November 23, 1979, 44 FR 67182

The following items must be included in the plan revision:

1. Evidence that the proposed SIP revision was adopted by the State after reasonable notice and public hearing.
2. A provision for expeditious attainment of the standards.
3. A determination of the level of control needed to attain the standards by 1982 and the criteria necessary for approval of any extension beyond that date.
4. An accurate inventory of existing emissions.
5. Provisions for reasonable further progress (RFP).
6. An identification of emissions growth.
7. A permit program for major new or modified sources, consistent with Section 173 of the Act.
8. Use of Reasonably Available Control Technology (RACT) control measures as expeditiously as practicable.
9. Inspection and Maintenance (I/M), if necessary, as expeditiously as practicable.
10. Necessary transportation control measures, as expeditiously as practicable.
11. Enforceable regulations.
12. An identification of and commitment to the resources necessary to carry out the plan.
13. State commitments to comply with schedules.
14. Evidence of public, local government, and State involvement and consultation.

### *A. Inspection and Maintenance Program*

The pivotal role of an inspection and maintenance (I/M) program as the major condition for extension of the ozone attainment date for major metropolitan areas beyond 1982 requires the establishment of specific conditions for its approval. The program requirements and conditions for approvability are discussed in the following paragraphs.

"Inspection/Maintenance" refers to a program whereby motor vehicles receive periodic inspections to assess the functioning of their exhaust emission control systems. Vehicles which have excessive emissions must then undergo mandatory maintenance. Generally, I/M programs include passenger cars, although other classes can be included as well. Operation of non-complying vehicles must be prohibited. This can be accomplished by requiring proof of compliance to purchase license plates or to register a vehicle. In certain cases, a windshield sticker system can be used, much like many safety inspection programs.

Section 172 of the Act requires that SIP's for States which include nonattainment areas must meet certain criteria. For areas which demonstrate that they will not be able to attain the ambient air quality standards for ozone or carbon monoxide by the end of 1982, despite the implementation of all reasonably available measures, an extension up to 1987 will be granted. In such cases Section 172(b)(11)(B) requires that: "the plan provisions shall establish a specific schedule for implementation of a vehicle emission control inspection and maintenance program . . ."

EPA issued guidance on February 24, 1978, on the general criteria for SIP approval including I/M, and on July 17, 1978, regarding the specific criteria for I/M SIP approval. Both of these items are part of the SIP guidance material referred to in the General Preamble for Proposed Rulemaking, 44 FR 20372, (1979). Though the July 17, 1978 guidance should be consulted for details, the key elements for I/M SIP approval are as follows:

*Legal Authority.*—States or local governments must have adopted the necessary statutes, regulations, ordinances, etc., to implement and enforce the inspection/maintenance program. (Section 172(b)(10).)

*Commitment.*—The appropriate government unit(s) must be committed to implement and enforce the I/M program. (Section 172(b)(10).)

*Resources.*—The necessary finances and resources to carry out the I/M program must be identified and committed. (Section 172(b)(7).)

*Schedule.*—A specific schedule to establish the I/M program must be included in the State Implementation Plan. (Section 172(b)(11)(B).) Interim milestones are specified in the July 17, 1978 memorandum in accordance with the general requirement of 40 CFR 51.15(c).

*Program Effectiveness.*—As set forth in the July 17, 1978 guidance memorandum, the I/M program must achieve a 25% reduction in passenger car exhaust emissions of hydrocarbons and a 25% reduction for carbon monoxide. This reduction is measured by comparing the levels of emissions projected to December 31, 1987, with and without the I/M program. This policy is based on Section 172(b)(2) which states that "the plan provisions * * * shall * * * provide for the implementation of all reasonably available control measures. * * *"

Specific detailed requirements of these provisions are discussed below.

To be acceptable, I/M legal authority must be adequate to implement and enforce effectively the program and must not be conditioned upon further legislative approval or any other substantial contingency. However, the legislation can delegate certain decision-making to appropriate regulatory bodies. For example, a State department of environmental protection or department of transportation may be charged with implementing the program, selecting the type of test procedures as well as the type of program to be used, and adopting all necessary rules and regulations. I/M legal authority must be included with any plan revision which must include I/M (i.e., a plan which establishes an attainment date beyond December 31, 1982) unless an approved extension to certify legal authority is granted by EPA. The granting of such an extension, however, is an exceptional remedy to be utilized only when a State legislature has had no opportunity to consider enabling legislation.

Written evidence is also required to establish that the appropriate governmental bodies are "committed to implement and enforce the appropriate elements of the plan" (Section 172(b)(10)). Under Section 172(b)(7) supporting commitments for the necessary financial and manpower resources are also required.

A specific schedule to establish an I/M program is required. (Section 172(b)(11)(B). The July 17, 1978 guidance memorandum established as EPA policy the key milestones for the implementation of the various I/M programs. These milestones were the general SIP requirement for compliance modified at 40 CFR 51.15(c). This section requires that increments of progress be incorporated for compliance schedules of over one year in length.

To be acceptable, an I/M program must achieve the requisite 25% reductions in both hydrocarbon (HC) and carbon monoxide exhaust emissions from passenger cars by the end of calendar year 1987. The Act mandates "* * * implementation of all reasonably available control measures as expeditiously as practicable" (Section 172(b)(2)). At the time of passage of the Clean Air Act Amendments of 1977, several I/M programs were already operating at about 20% stringency. (The stringency of a program is defined as the initial proportion of vehicles which would have failed the program's standards if the affected fleet had not undergone I/M. Because some motorists tune their vehicles before I/M tests, the actual proportion of vehicles failing is usually a smaller number than the stringency of the program.) Depending on program type (private garage or centralized inspection) a mandatory I/M program may be implemented as late as December 31, 1982 and the attainment date may be as late as December 31, 1987. Based on an implementation date of December 31, 1982 and a 20% stringency factor, EPA predicts the reductions of both CO and HC exhaust emissions of 25% can be achieved by December 31, 1987. Earlier implementation of I/M will produce greater emission reductions. Thus, because of the Act's requirement for the implementation of all reasonably available control measures and because some States have effectively demonstrated practical operation of I/M programs with 20% stringency factors, it is EPA policy to use a 25% emission reduction as the criterion to determine compliance of the I/M portion with Section 172(b)(2).

*B. General Compliance Requirements*

Congress established new attainment dates under Section 172(a) to provide additional time for previously regulated sources to comply with new, more stringent requirements and to permit previously uncontrolled sources to comply with newly applicable emission limitations. These new deadlines were not intended to give sources that failed to comply with pre-1977 plan requirements by the earlier deadlines more time to comply with those requirements. As stated by Congressman Paul Rogers in discussing the 1977 Amendments:

"The added time for attainment of the National ambient air quality standards was provided, if necessary, because of the need to tighten emission limits or bring previously uncontrolled sources under control. Delays or relaxation of emission limits were not generally authorized or intended under part D."

(123 Cong. Rec. H11958, daily ed. November 1, 1977)

To implement Congress' intention that sources remain subject to pre-existing plan requirements, sources cannot be granted variances extending compliance dates beyond attainment dates established prior to the 1977 Amendments. EPA cannot approve such compliance date extensions even though a Section 172 plan revision with a later attainment date has been approved. However, a compliance date extension beyond a pre-existing attainment date may be granted if it will not contribute to a violation of an ambient standard or a PSD increment. This subject is discussed further in the General Preamble for Proposed Rulemaking, 44 FR 20373–74 (April 4, 1979).

In addition, sources subject to pre-existing plan requirements may be relieved of complying with such requirements if a Section 172 plan imposes new, more stringent control requirements that are incompatible with controls required to meet the pre-existing regulations. Decisions on the incompatibility of requirements will be on a case-by-case basis.

The 1978 edition of 40 CFR Part 52 lists in the subpart for Pennsylvania the applicable deadlines for attaining ambient standards (attainment dates) required by Section 110(a)(2)(A) of the Act. For each nonattainment area where a revised plan provides for attainment

by the deadlines required by Section 172(a) of the Act, the new deadlines are substituted on Pennsylvania's attainment data chart in 40 CFR Part 52. The earlier attainment dates under Section 110(a)(2)(A) are referenced in a footnote to the chart. Sources subject to plan requirements and deadlines established under Section 110(a)(2)(A), prior to the 1977 Amendments, remain obligated to comply with those requirements. These sources must also comply with the new Section 172 plan requirements.

*C. Conditional Approvals*

A discussion of the conditional approval of certain elements in Pennsylvania's plan and its practical effect appears in Supplements to the General Preamble, 44 FR 38583, July 2, 1979, and in 44 FR 67182, November 23, 1979. The conditional approval requires the Commonwealth to submit additional materials by the deadlines proposed elsewhere in today's Federal Register. There will be no extensions of conditional approval deadlines when they are made final. EPA will follow the procedures described below when determining if the Commonwealth has satisfied the conditions:

1. If the Commonwealth submits the required additional documentation according to schedule, EPA will publish a notice in the Federal Register announcing receipt of the material. The notice of receipt will also announce that the conditional approval is continued pending EPA's final action on the submittal.

2. EPA will evaluate the Commonwealth's submittal to determine if the condition is fully met. After review is complete, a Federal Register notice will be published proposing or taking final action either to find the condition has been met and approve the plan, or to find the condition has not been met, withdraw the conditional approval and disapprove the plan. If the plan is disapproved the Section 110(a)(2)(I) restrictions on growth will be in effect.

3. If the Commonwealth fails to submit in a timely manner the required materials needed to meet a condition, EPA will publish a Federal Register notice shortly after the expiration of the time limit for submittal. The notice will announce that the conditional approval is withdrawn, the SIP is disapproved and Section 110(a)(2)(I) restrictions on growth are in effect. Moreover, if a State has failed to submit the required data to meet any condition contained in this notice, EPA will at that time consider whether the funding restrictions contained in Sections 176(a) and 316 are also appropriate (see 44 FR 33473, June 11, 1979).

Although public comment is solicited on the deadlines, and the deadlines may be changed in light of comment, the Commonwealth remains bound by its commitment to meet the proposed deadlines, unless they are changed.

*D. Definitions*

In the following sections of this notice there are several references to the terms "design value" and "rollback." To avoid confusion or misunderstanding, these terms are defined below.

Design Value—the level of existing air quality used as a basis for determining the amount of change of pollutant emissions necessary to attain a desired air quality level.

Rollback—a proportional model used to calculate the degree of improvement in ambient air quality needed for attainment of a national ambient air quality standard.

## IV. SIP Deficiencies and Remedies

This section contains a discussion of the status of deficiencies identified by EPA in the July 24, 1979 proposed rulemaking and during the public comment period; also included is a discussion of deficiences remedied to date. Deadlines on schedules for correction of deficiencies are proposed elsewhere in today's Federal Register. These deficiencies are summarized for each pollutant following the same format as the proposed rulemaking and the "BACKGROUND" above.

### Total Suspended Particulates

*Control Strategy and Demonstration of Attainment*

EPA expressed concern about two aspects of Pennsylvania's control strategy and demonstration of attainment in EPA's notice of proposed rulemaking. The first concern was the Pennsylvania's planned December 31, 1987 attainment date for secondary standards might not meet the requirement that secondary standards be attained as expeditiously as practicable.

Section 172(a)(1) of the Clean Air Act requires that secondary standards be attained as expeditiously as practicable, while Section 110(a)(2)(A) requires that secondary standards be attained by a reasonable time. Where application of RACT will not be sufficient for attainment and maintenance of the secondary standard, 40 CFR 51.13 states that "reasonable time" shall depend on the degree of emission reduction needed for the attainment of the secondary standard and on the social, economic, and technological considerations involved in carrying out a control strategy adequate for attainment and maintenance of the secondary standard. A specified date for attainment of the secondary TSP standards which meets these requirements also satisfies the requirement of Section 172 that the secondary standard be attained as expeditiously as practicable.

Pennsylvania indicates in its SIP revision that its attainment date for secondary standards is December 31, 1987. Pennsylvania further states that during the final stages of its study the ". . . Department of Environmental Resources (DER) will select a strategy specific to each nonattainment area from among those strategies that are demonstrated to result in attainment of the NAAQS for the area by the appropriate date. In making this selection, DER will subject the strategies to economic analysis, institutional review, social analyses, and public evaluation. At this point, DER will reevaluate the appropriateness of the date for attainment of the secondary NAAQS and revise it if necessary."

The Administrator determined that Pennsylvania's present commitment to attain secondary standards by no later than December 31, 1987, is acceptable in the light of Pennsylvania's commitment to revise the date if future studies indicate that an earlier attainment date is possible.

The second concern expressed by EPA regarding Pennsylvania's control strategy was that Pennsylvania's plan of developing and adopting control measures beginning in November, 1981 might not assure attainment of the TSP standards by December 31, 1982. This concern arose because of the possibility that sources of TSP might not be able to comply with Pennsylvania's new regulations before December 31, 1982.

EPA raised this issue; Pennsylvania responded that its present schedule provided for developing and implementing fugitive dust control measures as rapidly as possible. Pennsylvania pointed out that a large amount of preliminary work had to be completed before it could begin developing fugitive dust control strategies. The Commonwealth summarized these tasks as follows: the location and quantification of fugitive dust sources in each nonattainment area, the investigation of various techniques of controlling fugitive dust, and the identification of source-receptor relationships. Pennsylvania indicated that the October, 1980, deadline it had chosen for completing this preliminary work was reasonable. The Administrator concurs with

Pennsylvania's contention that October, 1980, is an expeditious deadline for completing these tasks.

Pennsylvania maintained that its fourteen-month schedule for developing control strategies was also reasonable when one considers the State's large number of nonattainment areas and the difficulty of identifying the most cost effective control strategies for each of those areas.

Finally, Pennsylvania indicated that the eight months it had scheduled to develop, adopt, and submit a SIP revision for TSP was reasonable because of the necessity of writing and reviewing the proposed revision in conjunction with several established committees, conducting public and local official consultations, proposing the revision for comment, holding public hearings and altering the revision in response to comment.

The Administrator has examined and found acceptable Pennsylvania's arguments that it has committed to an as expeditious as practicable schedule for implementing fugitive dust controls in the light of the need to develop technically adequate and legally defensible control measures.

The Administrator has also determined that Pennsylvania's TSP control strategy and demonstration of attainment appears to meet the requirement that it show attainment of primary TSP standards by December 31, 1982, and of secondary TSP standards as expeditiously as practicable.

*Emission Inventory*

The emission inventory for TSP includes actual emissions for base years (1975, 1976, or 1977) and projected emissions for 1982 (the primary standard attainment date) and 1987 (the secondary standard attainment date).

EPA noted in its notice of proposed rulemaking that these inventories contained several incorrect or missing emission estimates particularly for the Beaver and Monongahela Valley Air Basin. On June 13, 1979 the Commonwealth of Pennsylvania responded to EPA's concerns on the emissions inventory by providing additional information. The Administrator has reviewed the State's response and finds it acceptable. This deficiency is considered corrected.

*Reasonable Further Progress*

The Commonwealth of Pennsylvania submitted a graphical presentation on Reasonable Further Progress for each nonattainment area. These graphics represent Pennsylvania's commitment to annual incremental reduction in TSP emissions.

In the July 24, 1979 notice EPA expressed concern that the emission reduction committed to by the Commonwealth for attainment of the secondary standards may not be as expeditious as practicable. Pennsylvania responded to EPA on the issue of secondary attainment which is addressed in the earlier section entitled *Control Strategy and Demonstration of Attainment.* Based on EPA's evaluation of this response the Administrator has found the RFP presentation acceptable.

**Ozone and Carbon Monoxide**

*Attainment Date*

In the July 24, 1979 Notice of Proposed Rulemaking, EPA proposed an extension to the attainment date for ozone to December 31, 1987 for the Philadelphia and Pittsburgh areas, and to December 31, 1984 for the Allentown-Bethlehem-Easton, Scranton, and Wilkes-Barre areas. In subsequent letter on August 20, 1979, the Commonwealth reiterated its request for an extension of the attainment date to December 31, 1987, for the latter three areas, since use of the EKMA oxidant model indicated that attainment by the 1987 date cannot be achieved without the implementation of additional VOC control measures beyond the RACT measures required by EPA.

Since Pennsylvania has committed to the use of the more stringent EKMA model in determining the VOC emissions reductions necessary to attain the ozone standard, and has demonstrated that attainment in the designated areas is not possible before December 31, 1987, EPA grants extensions to the attainment date for ozone until December 31, 1987 for all major urbanized areas except Harrisburg.

*Reasonably Available Control Technology*

There are two deficiencies in the cutback asphalt paving regulations in Section 129.64 of Pennsylvania's regulations and Section 510 of the Allegheny County regulations. First, the exemption allowing the use of cutback asphalt as a tack coat is not considered RACT. Second, in Section 121.1 (Commonwealth Regulation) and Section 101 (County Regulation) emulsified asphalt containing less than 12% solvent by volume is exempted from the definition of cutback asphalt. This is not considered RACT. However, EPA will accept two options.

Option A. A regulation stipulating allowable maximum solvent contents for specific uses or for specific grades of emulsified asphalt, as follows:

| Use: | Maximum solvent content (percent) |
|---|---|
| Seal coats in early spring or late fall | 3 |
| Chip seals when dusty or dirty aggregate is used | 3 |
| Mixing w/open graded aggregate that is not well washed | 0 |
| Mixing w/dense graded aggregate | 12 |

Option B. A blanket-type of regulation stipulating maximum solvent contents of 7 percent.

In its August 20, 1979 letter, DER has agreed to consider revising the cutback asphalt regulations in conjunction with the next round of VOC regulatory changes. EPA is conditionally approving the DER and Allegheny County cutback asphalt paving regulations provided that regulations consistent with one of the two options cited above are submitted.

Elsewhere in today's Federal Register, EPA is soliciting public comments on the acceptability of the deadline for this condition. If this condition is not met, the regulation will be subsequently disapproved.

*Enforceability*

EPA still suggests that the Allegheny County regulations include cross references at appropriate places to the inspection, monitoring, and testing provisions contained in Chapter II of the County regulations. This recommendation by EPA is made to facilitate the enforceability of the regulations and reflects what is considered to be only a minor deficiency.

In the July 24, 1979 Federal Register notice proposing the Pennsylvania SIP revision, EPA had expressed concern with the enforceability of regulations governing vapor leaks based on visual and audible observations, as set forth in Section 129.62(b)(3) of the State Regulations and Section 508(B) of the Allegheny County regulations. While EPA is not requiring changes in this standard at this time, the clarification of this standard, together with a definition of vapor tight which is consistent with the EPA CTG concerning tank trucks and vapor collection systems, must be submitted by July 1, 1980.

**Transportation Element**

*Philadelphia Area*

The July 24, 1979 Federal Register Notice proposing the Pennsylvania SIP noted numerous deficiencies in the Philadelphia Area Transportation Element. Listed below are the deficiencies, any actions taken by the Commonwealth or DVRPC to remedy the deficiencies, and EPA's decision about the acceptability of the corrective action:

1. The SIP submission does not contain a description of the process used by State and local agencies to program transportation projects for implementation. This deficiency has not been corrected; a description of the programming process has not been submitted. EPA will not disapprove the plan because of this deficiency.

2. The submission does not contain a detailed description of the process for evaluation of alternatives. There were no specific dates for adoption and implementation of additional measures needed to attain air quality standards.

On September 28, 1979 DVRPC submitted a grant application for Section 175 transportation-air quality planning funds. A detailed work program was included with the application. The information contained in the work program describes the planning process and sets dates for DVRPC Board actions leading to plan adoption in March 1982. EPA believes that the information submitted remedies the deficiency.

3. The submission does not contain a commitment to justify decisions not to adopt difficult but reasonable transportation measures. The September 28, 1979 work program contains a task which will produce a document justifying such decisions. EPA believes this constitutes an adequate commitment.

4. The submission does not contain a complete public participation and consultation program which is consistent with EPA guidelines. As part of the September 28, 1979, grant application, DVRPC submitted information which demonstrates that development of a public participation and consultation program is underway. Inventory and assessment activities are complete; goals and objectives have been set and key milestones for public involvement have been identified. The September 28, 1979, transportation-air quality planning work program contains specific tasks which will produce a complete public participation and consultation program for 1982 plan development. EPA believes that this deficiency has been corrected.

5. The submission does not identify additional financial and manpower resources needed to carry out the transportation-air quality planning process. The September 28, 1979, work program identifies those financial and manpower needs. This deficiency has been corrected.

6. All transportation-air quality planning activities were not included in the Unified Planning Work Program (UPWP) for the Philadelphia area at the time of the initial submission of the nonattainment SIP revision. DVRPC has submitted evidence that the entire transportation-air quality planning work program subsequently submitted on September 28, 1979, has been adopted as part of the UPWP for the Philadelphia Area. This deficiency has therefore been corrected.

7. The submission does not contain evaluation of health, welfare, economic, and social effects of the plan. There is no identification of analytical methods for evaluating such impacts, and there is no public comment on such methods.

This deficiency has not been corrected. However, the September 28, 1979, work program contains tasks which will perform an evaluation of measures selected for the 1982 plan. This evaluation should have been conducted for the measures contained in the 1979 plan. However, EPA will not disapprove this plan because of this deficiency.

8. The submission does not contain adequate commitments (or schedules for obtaining commitments) for implementation of two projects in the Early Action Program: (a) Newtown Branch Electrification; (b) Extension of Route 66 trolley.

This deficiency has not been corrected. EPA stated in the July 24, 1979 proposal that these projects are reasonably available and should be part of the SIP. EPA is therefore approving the plan on the condition that firm commitments for implementation of these projects be submitted to EPA. If firm commitments are not submitted on these projects, the Commonwealth must submit substitute measures with equivalent emission reductions.

Elsewhere in today's Federal Register, EPA is soliciting public comment on this condition and the acceptability of the proposed deadlines. If this condition is not met, the transportation element of the ozone plan for the Philadelphia area will be subsequently disapproved.

9. The submission proposed to delete or modify a number of measures in the currently approved SIP. Listed below is each measure, its CFR section, the action requested by the Commonwealth, and EPA's decision.

a. Management of Parking Supply (40 CFR 52.2040)—Delete

This measure has not been implemented. The September 28, 1979 work program contains tasks to study parking in Philadelphia. EPA therefore will delete this measure from the currently approved SIP.

b. Study and Establishment of Bikeways (40 CFR 52.2041)—Modify

The Commonwealth has not submitted information showing how it proposes to modify this measure. EPA therefore is deferring action until additional information is submitted.

c. Commuter Carpool Matching (40 CFR 52.2043)—Modify

The Commonwealth has not submitted information showing how it proposes to modify the measure. EPA therefore is deferring action until additional information is submitted.

d. Pennsylvania-New Jersey Busways (40 CFR 52.2044)—Delete

Portions of the busway in Philadelphia on Broad Street and Vine Street have been implemented. Portions along 6th Street and Market Street and portions in New Jersey have not been implemented. Since the September 28, 1979 work program contains tasks to evaluate potential for establishment of busways, EPA will delete this requirement from the SIP.

e. Roosevelt Boulevard Busway between Grant Ave. and Hunting Park (40 CFR 52.2045)—Delete

This measure has not been implemented. The September 28, 1979 work program contains a task to evaluate the feasibility of establishing a busway on Roosevelt Boulevard. EPA will delete this requirement from the SIP.

f. Central Business District Bus and Trolley Ways and Parking Restrictions (40 CFR 52.2046)—Delete

Except for the Chestnut Street Transitway, this regulation has not been fully implemented. Since the September 28, 1979 work program contains tasks to evaluate potential for establishment of busways, EPA will delete this requirement from the SIP.

g. Exclusive Busways in Philadelphia Outside the CBD (40 CFR 52.2047)—Delete

This regulation has been implemented only along portions of Girard Avenue and Ogontz Avenue. Since several of the remaining portions are currently being studied by the City of Philadelphia and the September 28, 1979 work program contains tasks which will evaluate the feasibility of establishing additional busways, EPA will delete this requirement from the SIP.

h. Exclusive Busways for Philadelphia Suburbs and Outlying Areas (40 CFR 52.2048)—Delete

This measure has not been implemented. The September 28, 1979, work program contains tasks which will evaluate the feasibility of establishing additional busways. EPA will delete this measure.

i. Regulation for Limitation of Public Parking (40 CFR 52.2051)—Delete

Although this measure will have no application with respect to the Philadelphia area because of the removal of the above regulations, it is

applicable in the Pittsburgh area. Therefore, EPA will not delete this regulation at this time.

j. Employer Provision for Mass Transit Priority Incentives (40 CFR 52.2052)—Delete

This measure has not been implemented. The September 28, 1979, work program contains tasks which will reevaluate this measure. EPA will delete this measure.

k. Monitoring Transportation Trends (40 CFR 52.2053)—Delete

The monitoring and reporting requirement in the June, 1978, EPA—DOT Transportation—Air Quality Planning Guidelines are being implemented by DVRPC. EPA believes the new requirements are superior to those in this measure and will delete this measure from the SIP.

*Pittsburgh Area*

The July 24, 1979 Federal Register notice proposing the Pennsylvania SIP noted numerous deficiencies in the Pittsburgh Area Transportation Element. These deficiencies were corrected by the submittal of the "Planning Work Program, Transportation-Related Air Quality" by SPRPC on February 13, 1980, and supplementary information submitted on September 17, 1979. A discussion of the deficiencies and how they were satisfied follows:

1. Insufficient details on the process for analysis of alternatives. Although the specific details of the analysis are not included, a task early in the schedule for the work program is the development of an evaluation scheme for comparison of various packages of measures.

2. Lack of schedule for study of individual measures. The planning work program contains a detailed schedule of the air quality planning process. Although individual measures are not scheduled, the level of detail is sufficient for the measurement of progress.

3. Lack of a commitment to justify decisions not to adopt difficult but reasonably available control measures. SPRPC intends to give full consideration to all categories of transportation control strategies, and none have yet been rejected.

4. Lack of a public participation and consultation program consistent with EPA guidelines. The work program contains a detailed description of the public participation program containing 10 tasks.

5. Lack of an estimate of financial and manpower resources needed to carry out the transportation—air quality planning activities. The work program contains a project budget and a task budget listing estimated costs, and estimates of time required for each task.

6. Lack of detailed reporting procedures, a task in the public participation portion of the work program contains procedures and contents to be included in quarterly and annual reports.

7. Omission of all transportation—air quality planning activities in the adopted UPWP for the Pittsburgh area. The work program contains a resolution amending the UPWP to include all tasks necessary for transportation—air quality planning.

8. Insufficient information on assumptions used in calculating mobile source emission factors. On September 17, 1979, SPRPC submitted the requested documentation. EPA finds this information acceptable.

9. Inadequate commitments for two measures: (a) Coraopolis Joint Rail Bus Park-n-Ride Lot; (b) North Hills Park-n-Ride Lot. EPA noted in the July 24, 1979 proposal that there was no indication of action by the Pennsylvania Transit Assistance Authority. SPRPC submitted documentation to EPA which shows that required action was taken on November 21, 1978. EPA is satisfied with the commitments for these projects.

10. The plan failed to provide criteria and procedures for determining consistency/conformity of transportation projects, programs, and plans with the SIP. In the absence of specific federal guidance, EPA encourages each designated lead agency and appropriate metropolitan planning organization (MPO) where different from the lead agency, to develop and adopt such criteria and procedures. The work program contains a commitment adopted by the Board of SPRPC, to devise criteria and a process for determining consistency/conformity of transportation plans and programs with air quality objectives. This task will begin on receipt of guidance from USDOT and EPA.

Concerning the issue of target emission reductions for stationary and mobile sources, EPA accepts the combined commitment of SPRPC and the State to implement stationary source control measures, I/M, and transportation measures which result in the following target emission levels:

**Total HC Emissions—Tons Per Year**

| | 1982 | 1987 |
|---|---|---|
| Mobile | 63,655 | 24,715 |
| Other | 66,137 | 67,379 |
| Total | 129,792 | 102,094 |

EPA believes that the Pittsburgh Area Transportation Element meets the requirements for approval, and that the outstanding deficiencies have been corrected. EPA is therefore approving the plan for the Pittsburgh area.

*Allentown-Bethlehem-Easton, Harrisburg, Scranton, and Wilkes-Barre Areas*

In the July 24, 1979 Federal Register notice of proposed rulemaking, 44 FR 43306, a number of deficiencies were listed for the transportation elements of the Pennsylvania SIP for Allentown-Bethlehem-Easton (A–B–E), Harrisburg, Scranton, and Wilkes-Barre. Where possible, these deficiencies were corrected through subsequent submittals of additional information and work programs for transportation—air quality planning funded under Section 175 of the Clean Air Act.

Project programming process descriptions for measures committed to or expected to be implemented were lacking in the original submittals. The A–B–E, Harrisburg, and Wilkes-Barre agencies have committed to the preparation of these descriptions as work tasks in the Section 175 grant work programs. These descriptions will include the schedule for planning, programming, and implementation and identification of the responsible agencies. The lead agency for the Scranton area has submitted a project programming schedule in its letter to EPA of August 20, 1979.

Acceptable schedules for alternatives analysis, a deficiency in the SIP submittal, have been submitted for the A–B–E, Harrisburg, Scranton, and Wilkes-Barre areas, as part of their Section 175 grant applications and work programs.

Guidelines for transportation—air quality planning activities require the justification of the rejection of any reasonably available control measure. This justification requires adequate demonstration that a measure would be infeasible due to economic, environmental, social or other adverse impacts prior to rejection as a control measure. A commitment to include this justification was provided in the Wilkes-Barre submittal. No specific commitment was included in the Scranton and Harrisburg submittals, and five measures were rejected in the A–B–E submittal without a full justification. The commitment by the Scranton and Harrisburg lead agencies is still lacking; however, no measures have been rejected. On November 19, 1979, the Commonwealth submitted additional information from the A–B–E agency justifying the rejection of two

measures—road tolls and a rapid transit system. The other three measures—auto free zones, lower transit fares, and bicycling routes and storage facilities—have been reclassified for possible future study.

The additional details on financial resources for urban air quality planning as requested from the lead agencies in the proposal notice have been submitted as part of the Section 175 grant applications by all four agencies. EPA has recommended to UMTA that these grants be awarded; as of December 31, 1979, three grants had been awarded.

The UMTA grant process through which EPA Section 175 grants are being awarded requires submittal of quarterly progress reports on activities associated with the grants. These progress reports satisfy the EPA progress reporting requirements toward submittal of a 1982 SIP.

The impacts that might result from control measures were not identified in the Scranton submittal. However, these impacts which must be evaluated in the 1982 SIP revision were included for evaluation in the recently funded transportation—air quality work program.

The above deficiencies for the four areas discussed herein have been adequately addressed through the submittal of supplemental information or from information contained in the Section 175 grant applications and work programs. However, one deficiency noted in the July 24, 1979, notice has not been corrected. All four areas lacked criteria and procedures for determining consistency/conformity of transportation plans, programs, and projects with the SIP. In the absence of specific federal guidance, EPA encourages each designated lead agency and appropriate metropolitan planning organization (MPO) where different from the lead agency, to develop and adopt such criteria and procedures. At a minimum, however, each lead agency (and MPO), in response to Section 176(c) of the Act must affirm its (their) commitment not to approve any project, program, or plan which does not conform to the plan being approved (or conditionally approved) today. Therefore, EPA is conditionally approving the plans for Allentown-Bethlehem-Easton, Scranton, Wilkes-Barre, and Harrisburg provided that the Commonwealth submits to EPA commitments by each lead agency and MPO that no project, program, or plan will be approved that does not conform with the SIP. These commitments must be adopted by the designated lead agencies and the MPO's and be endorsed by the Commonwealth of Pennsylvania.

Elsewhere in today's Federal Register EPA is soliciting public comment on the acceptability of the proposed deadlines for remedy of this condition. If this condition is not met, the transportation element of the ozone plan for the A-B-E, Scranton, Wilkes-Barre, and Harrisburg areas will be subsequently disapproved.

General Comments

*Permit Program for New or Modified Sources*

In the July 24, 1979 notice, EPA raised two issues concerning Pennsylvania's "Special Permit Requirements for Sources Locating in or Significantly Impacting Non-attainment Areas." The first issue raised by EPA in the proposed rule concerning reactivated sources has been reevaluated. EPA has concluded that LAER requirements and compliance certification exemptions for reactivated sources will not significantly impede the attainment of NAAQS. One commenter questioned EPA's concern and cited potential technical and economic problems if the exemption were eliminated. Since there is no specific EPA requirement concerning reactivated sources, EPA has decided that this issue should not be considered a deficiency.

The second issue raised by EPA concerned the failure of the regulation to require special permit conditions for major CO sources locating in CO nonattainment areas. Special permit conditions must be required for major CO sources locating in a CO nonattainment area. Until this deficiency is corrected by submittal of a revised regulation to EPA, no permit may be issued to a major CO source locating in CO nonattainment areas.

An issue that has arisen since the July notice concerns enforceability of external emission offsets. Section V of the Emission Offset Interpretive Rule requires that all emissions reductions committed to must be enforceable by authorized State and/or local agencies and under the Clean Air Act. Internal offsets can be enforced at the Federal level through existing mechanisms in Pennsylvania, but external offsets would not presently be Federally enforceable. Therefore, the Commonwealth has agreed to submit external offsets to EPA as SIP revisions to satisfy this requirement.

In addition to these issues, a commenter identified that the special permit regulation was deficient in that it failed to subject major new sources of hydrocarbons locating in rural areas to special permit requirements. The special permit regulations fail to require LAER and compliance certification for major VOC sources locating in rural ozone nonattainment counties. The regulation does adequately address major VOC sources locating in 21 non-rural ozone nonattainment counties. Both LAER and compliance certification must be required for VOC sources locating in rural ozone nonattainment counties. Until this deficiency is corrected by submittal of a revised regulation to EPA, no permits may be issued to major VOC sources locating in rural ozone nonattainment counties.

Another commenter noted that the wording used in the Special Permit regulation regarding the demonstration of compliance is not as specific as the language in § 173(3) of the Clean Air Act. Pennsylvania's regulation requires a demonstration of compliance with applicable emission limitations for all major sources "owned or operated by the applicant," whereas the Act subjects sources owned or operated "by such person (or by any entity controlling, controlled by, or under common control with such person)" to the special permit requirements. EPA agrees that the Pennsylvania regulation is less stringent than that required by the Clean Air Act. EPA is conditionally approving the Commonwealth's Special Permit Requirements regulation pending revision of the regulation by the Commonwealth to correct this deficiency.

Elsewhere in today's Federal Register, EPA is soliciting public comments on the acceptability of the deadline for this condition. If this condition is not met, the regulation will be subsequently disapproved.

V. Public Comments on Proposal

This section includes the relevant comments EPA received on the proposal and EPA's response.

*Total Suspended Particulates*

There were five comments on the TSP portion of the SIP, all by one commenter.

*Comment:* The schedule proposed by Pennsylvania for the particulate study leaves insufficient time for implementation of new control measures before the 1982 attainment date.

*Response:* EPA agrees that Pennsylvania's schedule leaves little time for its SIP to be implemented and reviewed. EPA considered requiring Pennsylvania to submit a more expeditious schedule. EPA chose not to do so after Pennsylvania demonstrated that a more expeditious schedule was not consistent with the goal of developing technically adequate, economically feasible, and legally enforceable fugitive dust control

measures. This reasoning is discussed further in the TOTAL SUSPENDED PARTICULATES portion of the "SIP DEFICIENCIES AND REMEDIES" section of this notice.

*Comment:* "Because the emission reductions to be achieved under the proposed Pennsylvania plan will not take place, if at all, until the end of 1982, the plan does not contain the required demonstration, i.e., the reductions are not prompt, regular or sufficiently defined to support a judgement that attainment will be achieved. In fact, the anticipated emission reductions are still, at this point, purely hypothetical. They represent merely assumed control efficiencies for measures that have not yet been identified much less adopted."

*Response:* In a June 13, 1979, letter to EPA, Pennsylvania stated that the RFP curves imply a linear reduction in emissions between 1979 and 1983 and represent the most desirable situation. Pennsylvania further stated, however, that it was clear from the timetable in Appendix K of its June 12, 1979 submittal that the non-traditional source plan would not be implemented until mid-1982. Emission reductions during 1979, 1980, 1981, and the first part of 1982 will result from noncomplying sources that achieve compliance and emission offsets that may occur for new sources that locate in nonattainment areas; reduction in background concentration may also occur as a result of decreases in emissions from upwind sources that were not accounted for in the plan.

The plan indicates that non-traditional source emissions are a significant cause for nonattainment; therefore, DER's plan revision relies heavily on reduction in these emissions. According to DER the emission inventory upon which the RFP estimates are based represent the best information available at this time. DER admits the need to upgrade the emission estimates in Appendix K and expects to do so as part of its non-traditional fugitive source study. Based on the Commonwealth's commitment to revise its emission estimates and RFP curves, the Administrator finds these estimates acceptable.

*Comment:* The proposed 1987 deadline for attainment of the secondary ambient air quality standard for particulates does not meet the criteria in Sections 110(a)(2)(A) and 172(a)(1) which require Pennsylvania to demonstrate attainment of the secondary standard "as expeditiously as practicable." Further, the Administrator should condition approval of the SIP on a commitment to attain the secondary standard by 1982.

*Response:* Section 110(a)(2)(A) of the Act requires the specification of a reasonable time for attainment of the secondary standard. Section 172(a)(1) of the Act requires attainment of NAAQS as expeditiously as practicable. EPA believes that the commitments made by the Commonwealth to a schedule for a study satisfy these requirements. Pennsylvania states that during the final stages of its study, the "Department of Environmental Resources (DER) will select a strategy specific to each nonattainment area from among those strategies that are demonstrated to result in attainment of the NAAQS for the area by the appropriate date. In making this selection, DER will subject the strategies to economic analyses, institutional review, social analyses and public evaluation. At this point, DER will reevaluate the appropriateness of the date for attainment of the secondary NAAQS and revise it if necessary." Based on this commitment to reevaluate the date for attainment of the secondary standard when better knowledge is available to make such a decision, the Administrator finds this commitment to be acceptable.

*Comment:* The State has based the control strategy for different air quality control regions on different yearly emission inventories (i.e., 1977 for the Beaver and Monongahela Valleys, 1976 for the Sharon/Farrel, Altoona, and Williamsport areas, and 1975 for the remaining air basins.

*Response:* The EPA has discussed these inventories with Pennsylvania. Pennsylvania responded to EPA by letter on November 28, 1979. In the letter, Pennsylvania indicated that the studies on which the control strategies were based used latest available data. The Commonwealth also indicated that the further study of the fugitive dust problem and the final strategies that are selected will be based upon updated inventories. The EPA has concluded that the Commonwealth has based its studies on the latest available data and that as part of the Fugitive Particulate Study DER will provide an updated emissions inventory, thereby meeting the requirements of 172(b)(4).

*Comment:* The Pennsylvania plan's proposed sampling method for particulates in Chapter 139 would alter the sampling method to measure only those particulates entrained in the front half of the sampling train thereby ignoring organic compounds. This proposed revision of the stack test method would, in effect, raise the allowable emission limit for all point sources.

*Response:* Pennsylvania responded to this comment in a letter dated November 28, 1979. The test method, by ignoring soluble organic compounds, will ideally measure only those substances which exist in the ambient air as particulates. This is consistent with the revised EPA sampling method #5.

*Ozone and Carbon Monoxide*

The Department of Environmental Protection of the State of New Jersey made two relevant comments on Pennsylvania's SIP revision with respect to ozone. A third comment was submitted concerning asphalt emission solvent content.

*Comment:* New Jersey urged that the Pennsylvania SIP be disapproved on the grounds that Pennsylvania has failed to include appropriate strategies required to achieve attainment of NAAQS for ozone in that State, or to reduce its contribution to a nonattainment situation elsewhere.

*Response:* The Commonwealth of Pennsylvania has designated the entire State as a nonattainment area and has proposed to require the implementation of reasonably available control technology (RACT) statewide. The implementation of RACT on all major sources is expected to result in the attainment of NAAQS for ozone by December 31, 1982, in all areas except the five major urbanized areas, and by December 31, 1987 for those five areas with the implementation of RACT and I/M. EPA has determined that the Pennsylvania plan will achieve the NAAQS for ozone in Pennsylvania. Therefore, the agency has no basis for disapproving the Pennsylvania SIP as New Jersey urges. In addition, any transport of ozone and precursor concentrations to downwind receptors is minimized by the plan.

*Comment:* New Jersey also questioned the reason for requiring I/M programs only in major urbanized areas, since all upwind hydrocarbon sources contribute to the transport pollution which impacts downwind monitors.

*Response:* Section 172(b)(11) of the Clean Air Act Amendments of 1977 requires I/M programs only in those nonattainment areas for which an extension of the attainment date beyond 1982 is requested. Pennsylvania has made a commitment to establish I/M programs in the Allentown-Bethlehem-Easton, Philadelphia, Pittsburgh and Scranton, Wilkes-Barre urbanized areas which are the only areas which Pennsylvania has determined are unable to attain the ozone standard by December 31, 1982.

*Comment:* Another commenter, a nationwide manufacturer's trade association, recommended on the basis

of extended discussions with producers nationwide, that the State specifications on asphalt emulsion solvent content generally be regarded as RACT for a State and as representative of the current technology and not as an interim specification. The commenter's main point is that no general rule regarding solvent content of emulsified asphalt for the nation is possible because of varying conditions. The commenter also concludes that EPA has been using a figure of five percent as nationwide RACT for maximum solvent content in emulsified asphalt.

*Response:* EPA recognizes that varying conditions may require different solvent content asphalts. RACT for asphalt should be determined on a case-by-case basis in order to take varying conditions into account. Therefore, EPA has not set a nationwide standard for the solvent content of emulsified asphalt. However, EPA has accepted a seven percent maximum solvent content regulation where a State has chosen to submit an across-the-board regulation for emulsified asphalt, rather than develop case-by-case RACT. The intent of EPA guidance has been for States to specify in the regulations, and justify, those emulsions and/or applications where addition of solvent is necessary. Since RACT can be determined on a case-by-case basis, States are free to specify necessary solvent contents on the basis of application or asphalt grade. Where a State demonstrates that these are RACT, EPA will approve the regulations. The following maximum solvent contents for specific emulsified asphalt applications have appeared in EPA guidance and are based on American Society for Testing Materials, American Association of State Highway and Traffic Officials, and State specifications and on information recently received from the Asphalt Institute.

| Use: | Maximum solvent content (percent) |
|---|---|
| Seal coats in early spring or late fall | 3 |
| Chip seals when dusty or dirty aggregate is used | 3 |
| Mixing with open graded aggregate that is not well washed | 8 |
| Mixing with dense graded aggregate | 12 |

EPA wishes to emphasize that these are maximum solvent contents and if States are using emulsified asphalt with less solvent for these applications, they should continue to do so. These are only the maximum solvent contents which the Agency believes current technology supports. Many emulsified asphalt manufacturers are successfully using less solvent and achieving the same acceptable results. The chemistry of emulsified asphalt and the non-uniformity of the technology across the country prevents EPA from specifying anything more than upper limits on solvent content. Lower limits are certainly achievable in many States but must be determined on a case-by-case basis.

EPA has found in its contact with the emulsified asphalt industry that many people are extremely apprehensive about defining an emulsified asphalt as having no solvent. Should the exceptions which allow emulsions containing solvent ever be removed from the regulation, the industry might be unable to produce acceptable products for a number of applications. An acceptable regulatory approach, therefore, will be to allow the definition of emulsified asphalt to include solvents or oils as an option. The allowed solvent would be limited to the amounts specified above (or lesser amounts if this can be negotiated) based on the specific use. The definition should be worded in such a way to clearly indicate that these are the maximum solvent contents allowed and that they are allowed only for the specific applications or grades of emulsified asphalt. All other asphalt emulsions should not contain solvent. If States reject this approach, as an alternative, EPA will accept blanket-type regulations which allow a maximum solvent content of 7 percent.

*Transportation Element*

With respect to the transportation element of the SIP, there were several comments by the Federal Highway Administration (FHWA), the Urban Mass Transportation Administration (UMTA), and the Department of Housing and Urban Development (HUD), and one public comment. The public comment was in response to the plan for the metropolitan Philadelphia area.

*Public Comment:* The electrification of the Newtown rail line should not be included as part of the SIP because it is costly and the impacts have not been fully evaluated. It is recommended that the line be abandoned and replaced by a biking/hiking trail.

*Response:* EPA notes the extensive comments relating to the economic feasibility of the project, but believes that this project should remain in the SIP at this time. If further assessments result in a determination not to proceed with the project, Pennsylvania must submit a substitute measure(s) of equivalent or greater air quality benefit.

With respect to the Philadelphia area, UMTA has also commented that it has made no funding commitments for the Newtown Branch Electrification or the Extension of the Route 66 Trolley. Further, UMTA stated that the HC emission reductions attributed to the projects should be documented.

EPA believes that these projects should remain in the SIP. The State and local governments are required to submit substitute projects should federal funds not be made available. EPA agrees that the HC emission reductions should be documented, and expects to see such documentation in annual reports which must be submitted.

*Federal Agency Comments and Responses*

1. For the Pittsburgh area, UMTA noted that the East Busway project cannot be in operation until December 31, 1982 and that UMTA funding is not assured for the McKeesport Commuter Rail Park and Ride Lot. EPA accepts the clarification of the date of operation of the East Busway. EPA believes that the McKeesport Park and Ride Lot should remain in the Plan because the State and local governments are required to submit substitute projects should federal funds not be made available.

2. UMTA submitted a comment on the Lehigh-Northampton Counties' transportation element indicating that the Transportation Systems Management (TSM) studies listed in Table 1 of the transportation element were not included in the FY 1980 UPWP. Although these studies were not listed specifically, they could be included under the generalized study categories as listed in Appendix D, page 2, of the UPWP.

3. For the Harrisburg area's transportation element UMTA questioned the basis for emission reduction impacts of the carpool program, the lack of UMTA funding for FY 1978 and 1979 to Tri-County Regional Planning Commission (TCRPC), the lack of commitments on a fringe parking project, and the need for a schedule for alternatives analysis. The fringe lot is currently on the Annual Element of the Transportation Improvement Program (TIP). Additional commitments beyond the MPO's will be needed; if not forthcoming the Commonwealth is required to provide a substitute measure(s). The schedule for alternatives analysis is lacking in the transportation element, but has been included in the work program for the area's Section 175 transportation-air quality planning grant. EPA believes that the estimates of emission reduction impact are acceptable. Finally, EPA notes UMTA's comment on previous funding of TCRPC especially as it affects capabilities for future planning and implementation.

4. With regard to the Philadelphia and Pittsburgh areas, the Region III Office of the Federal Highway Administration expressed concern regarding the manner (rollback) in which required HC emission reductions were determined. FHWA further states that the computation of emissions should be based on a summer temperature and should be on a daily, not annual basis. FHWA expresses concern that the error in estimating motor vehicle emissions overshadows the effect of all transportation control measures except I/M. FHWA states its assumption that the existing transportation control plans for Pittsburgh and Philadelphia will be superceded by the revised plan submitted in 1979. Finally, FHWA states its expectation that additional stationary source control measures will be studied using an approach similar to that used for transportation planning. EPA has the following response to these comments:

a. EPA agrees with the problems associated with the use of rollback to estimate required HC emission reductions. However, EPA made a policy decision to accept rollback for 1979 plan submissions because of the tight deadline under which plans had to be developed. Philadelphia and Pittsburgh have demonstrated the need for an extension of the attainment date for ozone beyond 1982 and will be required to submit a complete attainment plan by July 1, 1982. EPA believes that the problems with estimating required HC emission reductions identified by FHWA will be rectified by 1982 and therefore finds the 1979 submission to be acceptable.

b. Pennsylvania used a summer temperature of 70.2° F for Pittsburgh to compute HC emissions from motor vehicles while it used an annual average of 55° F for Philadelphia to establish statewide consistency in calculating stationary source emissions. Both Pittsburgh and Philadelphia used simple factors to convert daily emissions to an annual basis. EPA recognizes the problems associated with this procedure, but given the lack of sensitivity of the rollback model, EPA finds it acceptable at this time. EPA also agrees that the potential errors of these procedures could overshadow the estimated impact of some transportation as well as some stationary source control measures. EPA believes that this problem is due to lack of accuracy of travel demand models, as well as air quality models and expects improvements in the models used for the 1982 plan. EPA, therefore, finds the emission calculation procedures used in the 1979 plan to be acceptable.

5. Approval of a new plan does not automatically delete provisions of the previous plan. Pennsylvania must request that specific provisions be deleted, provide justifications and provide for public comment.

6.a. EPA–DOT Transportation—Air Quality Planning Guidelines (June, 1978) require that packages of alternative transportation control measures be studied. The packages of transportation control measures must be combined with alternative stationary source control measures. EPA and U.S. DOT are funding the Philadelphia and Pittsburgh areas (through Section 175 funds) to perform this work. EPA is satisfied that the transportation air quality planning is being adequately coordinated with stationary source planning at this time. EPA will, however, closely monitor this process to ensure continuing coordination.

b. Concerning the Lackawanna plan, FHWA commented on the emission reduction estimates for the highway plan, the assumption that 75 percent of the bikeway system will be operational by 1982, the statement that only measures scheduled to be implemented by 1982 should be included in reduction estimates, and the belief that stationary and mobile source control measures should be considered together by the same decision makers rather than separately.

Again, EPA believes the reduction estimates are adequate. The 75 percent completion of the bikeway by 1982 may not be possible due to required commitments and planning involved in the process. However, this is not a capital intensive project (as it will use lanes on existing streets for the majority of its length), and therefore the timetable may be reasonable.

EPA concurs with the statement that only those measures which will have been implemented by 1982 should be included in estimating emission reductions for 1982 should be included in estimating emission reductions for 1982. The split between stationary and mobile source decisions results from the different jurisdictional responsibilities for the control of stationary and mobile sources. The stationary sources are regulated by the Pennsylvania Department of Environmental Resources where statewide consistency is desirable for fairness and for effective administration. Mobile source control is required only of urban ozone nonattainment areas with populations greater than 200,000, where measures appropriate to that particular area will be developed. The Agency encourages continued coordination by Pennsylvania to ensure that the most appropriate mix of stationary and mobile control measures are implemented.

c. FHWA comments on the Luzerne County transportation element included: (1) questioning whether or not TSM type measures are included in reduction estimates, (2) questioning procedures used to calculate effects of the carpool program and transit usage, (3) the existence of a discrepancy in maximum capacity reported for a fringe parking lot, and (4) questioning the summation of emissions reductions for various time intervals to obtain the total emission reductions for the target years.

Although these comments may be valid, EPA believes that the overall reduction estimation is small and reasonable. In accepting these estimates, EPA recognizes their potential error and will require more rigorous documentation for the 1982 SIP.

7. The National Highway Traffic Safety Administration submitted a recommendation through FHWA that the newly initiated vehicle emission inspection program be combined with Pennsylvania's current safety inspection program. The I/M program is the responsibility of the Pennsylvania DOT, and the type of program implemented will be determined by the Commonwealth.

*Permit Program for New or Modified Sources*

There were eight relevant comments by four commenters on the Special Permit Program. One comment concerning application of certain special permit conditions to major VOC sources in rural areas was addressed in the previous section, SIP DEFICIENCIES AND APPROVALS.

*Comment:* The permit regulations do not comply with § 110(a)(2)(K) of the Clean Air Act with regard to permit fees. The commenter believes that the permit fee system is essential to maintain efficient State resources to administer the new source review program effectively.

*Response:* Pennsylvania proposes to absorb increased responsibilities in the Special Permit regulations with existing resources and charge no fees. EPA has given top priority to SIP revisions which satisfy Part D requirements and intends to approve SIP revisions which substantially comply with Part D. EPA does not believe that programs for permit fees are necessary to satisfy Part D and that this kind of non-Part D requirement should be deferred until a later date.

*Comment:* The regulation contains no special permit requirements for major

sources of carbon monoxide even though several areas of the State have been designated as nonattainment for CO.

*Reponse:* This comment echoes a concern raised by EPA in the proposed rule. Until the Special Permit regulation is revised to include CO, no permit may be issued to major sources for CO located in nonattainment areas for that pollutant.

*Comment:* The wording used in the Special Permit regulation regarding the demonstration of compliance is not as specific as the language in § 173(3) of the Clean Air Act. Pennsylvania's regulation states that a permit applicant must demonstrate that all major sources "owned or operated by the applicant" in Pennsylvania are in compliance or on a schedule for compliance with applicable emission standards. Section 173(3) subjects sources owned or operated "by any entity controlling, controlled by, or under common control" with the applicant to special permit requirements. The commenter believes that certain sources described in § 173(3) may not be subject to the Pennsylvania special permit condition.

*Response:* EPA believes that this difference in language is significant and that the language of the Pennsylvania Special Permit regulation should be revised to agree with the Clean Air Act (§ 173(3)). This deficiency is discussed in the "SIP Deficiencies and Remedies" Section of this notice.

*Comment:* The regulation is more stringent than necessary to ensure expeditious attainment of standards.

*Response:* While this may be true, Section 116 of the Clean Air Act clearly prevents EPA from abridging a State's rights to establish requirements which are more stringent than Federal requirements.

*Comment:* Pennsylvania's new source review plan is more stringent than is required because it was prepared before EPA's regulations were invalidated by *Alabama Power Co. v. Costle,* No. 78–1006 (D.C. Cir June 18, 1979); EPA therefore should not approve this portion of the plan.

*Response:* Pennsylvania may submit a more stringent plan than federal law requires, Section 116 of the Clean Air Act; assuming that it has done so EPA must still approve the plan if it meets or exceeds the requirements of the Clean Air Act for nonattainment plans. EPA's nonattainment plan regulations were not before the court in *Alabama Power Co. v. Costle,* and accordingly are not invalidated. EPA is considering modifications of its nonattainment plan regulations, but will approve plans that conform to the regulations presently in effect. See 44 FR 51929 (1979). PSD regulations which apply to certain new or modified stationary sources in nonattainment areas have been stayed, 45 FR 7801 (1980), but Pennsylvania may submit a more stringent new-source review plan than EPA requires, see Section 116 of the Clean Air Act; EPA must approve any plan, including this one, which meets the minimum requirements of Section 110 and 172.

*Comment:* The nonattainment regulations adopted by Pennsylvania's Department of Environmental Resources were adopted without reasonable notice and hearing, because the regulations were amended after the hearing that was held. The commenter argues that the Pennsylvania Environmental Quality Board made significant revisions to the proposed rule after the public hearings conducted by the Commonwealth, thus requiring the Board to republish and afford the public further opportunity for comment prior to final adoption. The commenter argues that the Board improperly determined that further notice was not required since the revisions did not enlarge the purpose of the regulations. The changes in question, as characterized by the commenter, were: (1) imposing certain special permit requirements retroactively on modifications to existing sources at a facility which aggregate an amount equal to or greater than the specified level, (2) requiring inclusion of fugitive emissions in determining whether or not special permit requirements apply to a source, and (3) extending the special permit requirements to modifications of existing sources which do not result in any increases in emissions.

*Response:* Specific EPA guidance with respect to a State's notice and hearing requirements under Section 110(a)[1] is limited. However, if a State's procedures meet the standards of sufficient notice in federal rulemaking, the State procedures should be adequate. Pennsylvania's procedures meet the standards of sufficient notice, and the Commonwealth's Attorney General has determined that these procedures were followed in the process of developing and adopting these regulations. The Administrative Procedure Act, (APA) 5 U.S.C. § 553, requires notice and comment in administrative rulemaking. The thrust of the notice requirement is to alert the public to the issues before the Agency in order to allow for the opportunity for meaningful public comment. Pursuant to the APA, notice is sufficient so long as the substance of the proposed rule is presented; the precise rule itself need not be published. 5 U.S.C. § 553(b)(3), National Industries Traffic League v. U.S., 396 F. Supp. 456, 460 (1975). The administrative rule adopted need not be identical to the proposed rule (Chrysler Corporation v. Department of Transportation, 515 F. 2d 1053, 1061 (6th Cir. 1975)). Even substantial changes were not a basis for finding that parties had been denied sufficient notice so long as such changes were consistent with the original regulatory scheme and parties were warned that strategies might be modified in light of their suggestions. (South Terminal Corporation v. Environmental Protection Agency 504 F. 2d 646, 656–59 (1st Cir. 1974). *See,* Buckeye Cabletelevision, Inc. v. FCC, 387 F. 2d 220, 226 (1967); California Citizens Band Association v. U.S. 375 F. 2d 43, 47–49 (9th Cir.), *cert denied* 389 U.S. 844 (1967)).

Parties were on notice that a special permit system was contemplated, even though the precise parameters of the system were not final. The purpose of the special permits was clearly stated to allow construction in nonattainment areas so long as new emissions were specifically offset and further required control technology to achieve lowest achievable emission rates. To achieve these ends the proposed rule defined certain requirements which would subject new sources or modifications to special permit requirements. That conditions which would trigger the special permit regulations changed in response to comments from the public is only additional evidence of sufficient public notice.

*Comment:* There is no need for EPA's concern over exempting reactivated sources from LAER and certification requirements in the special permit conditions. The Clean Air Act and the Emission Offset Interpretative Ruling address only new and modified sources. They do not mention reactivated sources. Significant technical and economic problems may result if this exemption is eliminated.

*Response:* EPA has reevaluated its position and had concluded that the exemption will not significantly impede the attainment of NAAQS and, therefore, should not be considered a deficiency.

*National Comments*

EPA has received several comments applying to the SIP revisions of all States. These comments and EPA's responses can be found in EPA's notice of final rulemaking for Delaware's Part D SIP revision, 45 FR 14551 and in EPA's Rationale Document for this final rulemaking action.

## VI. EPA Actions

EPA conditionally approves Pennsylvania's plan to attain the total suspended particulate standards in all areas of the Commonwealth except in Allegheny County and in the Southeastern Pennsylvania Air Basin. As of December 31, 1979 no plan had been submitted for Allegheny County. For the Southeastern Pennsylvania Air Basin, an 18 month extension (until July 1, 1980) for submittal of a plan to attain the secondary standard is granted. The conditional approval is the result of the deficiency in the Special Permit regulation discussed elsewhere in this notice.

EPA grants the following ozone and carbon monoxide attainment date extensions for the following metropolitan areas:

Philadelphia: December 31, 1987 for ozone; June 30, 1983 for carbon monoxide.

Pittsburgh: December 31, 1987 for ozone; December 31, 1985 for carbon monoxide.

Allentown-Bethlehem-Easton, Scranton, and Wilkes-Barre: December 31, 1987 for ozone.

In the July 24, 1979 Notice of Proposed Rulemaking, EPA requested public comment on the deletion or modification of the below-listed sections making such actions meaningful and consistent with the plan upon which EPA is taking final action today. As a result of legislative, administrative, and judicial actions, the original SIP containing these various measures has been significantly altered. The table below lists the measures, the proposed actions, and the final actions being taken today. Descriptions of the specific modifications being made are contained in the "SIP DEFICIENCIES AND REMEDIES" Section of this notice and in Subpart NN.

**Changes to Pennsylvania SIP**

| 40 CFR section and title | Proposed action | Final action |
|---|---|---|
| 52.2040 Management of parking supply. | Delete | Delete. |
| 52.2041 Study and establishment of bikeways. | Modify | No action. |
| 52.2043 Commuter carpool matching. | Modify | No action. |
| 52.2044 Pennsylvania-New Jersey busways. | Delete | Delete. |
| 52.2045 Roosevelt Boulevard busway between Grant Ave. and Hunting Park. | Delete | Delete. |
| 52.2046 Central business district bus and trolley ways and parking restrictions. | Delete | Delete. |
| 52.2047 Exclusive busways in Philadelphia outside the CBD. | Delete | Delete. |
| 52.2048 Exclusive buslanes for Philadelphia suburbs and outlying areas. | Delete | Delete. |
| 52.2051 Regulations for limitation of public parking. | Delete | No action. |
| 52.2052 Employer's provision for mass transit priority incentives. | Delete | Delete. |
| 52.2053 Monitoring transportation trends. | Delete | Delete. |

EPA conditionally approves Pennsylvania's regulation entitled "Special Permit Requirements for Sources Locating in or Significantly Impacting Nonattainment Areas" as it applies to all major new sources of particulate matter, sulfur dioxide, and volatile organic compounds (VOC). The conditional approval is the result of a deficiency in the language of the regulations concerning the compliance demonstration for all major sources owned or operated by the applicant, as discussed in the "SIP DEFICIENCIES AND REMEDIES" section and below. This deficiency must be remedied by the submittal of revised regulations.

In addition, the Special Permit regulation does not address major new sources of VOC locating in rural counties or major new sources of carbon monoxide (CO) locating in or significantly impacting CO nonattainment areas. Until the Special Permit regulation is revised to adequately address these two types of situations, no permits may be issued to major VOC sources locating in rural nonattainment counties and to major CO sources locating in or significantly impacting CO nonattainment areas. The Commonwealth has indicated that these revisions will be made by December 31, 1980.

EPA is taking final action to approve conditionally certain elements of Pennsylvania's plan. The conditional approval requires the Commonwealth to submit additional materials by the deadlines proposed elsewhere in today's Federal Register. Although public comment is solicited on the deadlines, and the deadlines may be changed in light of comment, Pennsylvania remains bound to meet the proposed deadlines, unless they are changed.

EPA conditionally approves Pennsylvania's plan provided that the following requirements are met:

1. The exemption allowing the use of cutback asphalt as a tack coat is removed from the Pennsylvania and Allegheny County VOC regulations, and revised regulations are submitted to EPA.

2. The limit of the solvent content allowed in emulsified asphalt contained in Pennsylvania's and Allegheny County's VOC regulations is made consistent with EPA policy, and revised regulations are submitted to EPA.

3. Firm commitments to implement the Newton Branch electrification and Route 66 Trolley extension in the Philadelphia area are submitted to EPA as part of the transportation element of the SIP. If firm commitments are not submitted, the Commonwealth must submit substitute measures with equivalent reductions.

4. Commitments by each lead agency and MPO in the Allentown-Bethlehem-Easton, Scranton, Wilkes-Barre, and Harrisburg areas that no project, program, or plan will be approved that does not conform with the SIP; these commitments must be adopted by the designated lead agencies and MPOs, be endorsed by Pennsylvania and be submitted to EPA as part of the transportation element of the SIP.

5. The Special Permit Requirement regulations are revised to comply with § 173(3) of the Clean Air Act concerning compliance demonstrations for major sources owned or operated by the applicant. Revised regulations must be submitted.

The remaining sections of the Pennsylvania plan revision which have not been identified in the "EPA ACTION" and "SIP DEFICIENCIES AND REMEDIES" Sections as areas requiring further action are officially approved as revisions to the Pennsylvania State Implementation Plan.

EPA finds that good cause exists for making this action immediately effective. EPA has a responsibility to take final action on these revisions as soon as possible in order to lift growth restrictions in those areas for which the Commonwealth of Pennsylvania has submitted adequate plans in accordance with Part D requirements.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. §§ 7401-642)

Dated: April 30, 1980.
Douglas M. Costle,
*Administrator.*

## PART 52—APPROVAL AND PROMULGATION OF STATE IMPLEMENTATION PLANS APPROVAL OF THE REVISION OF THE PENNSYLVANIA STATE IMPLEMENTATION PLAN

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

### Subpart NN—Pennsylvania

1. In § 52.2020, paragraphs (c)(22) through (32) are added as follows:

**§ 52.2020 Identification of plan.**

* * * * *

(c) * * *

(22) The "1979 State Implementation Plan (SIP) Submission for the Attainment of the Photochemical Oxidant Standard in Pennsylvania" and "Regulations for Volatile Organic Compounds" amending Chapters 121, 129, and 139 of the Pennsylvania Code submitted on April 24, 1979, by the Governor.

(23) Transportation elements of the SIP for Philadelphia, Pittsburgh, Allentown-Bethlehem-Easton, and Scranton areas and commitment to implement vehicle inspection and maintenance in Lehigh, Northampton, Lackawanna, Luzerne Counties submitted on June 7, 1979, by the Governor.

(24) Transportation element of the SIP for the Wilkes-Barre area submitted on June 8, 1979, by the Secretary of the Pennsylvania Department of Environmental Resources.

(25) Total Suspended Particulate, State Implementation Plan for Pennsylvania, submitted on June 12, 1979, by the Secretary of the Pennsylvania Department of Environmental Resources.

(26) Special Permit Requirements for Sources Locating in or Significantly Impacting Nonattainment Areas and a revision of Sampling and Testing methods for total suspended particulate amending Chapters 121, 127, and 139 of the Pennsylvania Code submitted on June 12, 1979, by the Secretary of the Pennsylvania Department of Environmental Resources.

(27) Transportation element for the Harrisburg area submitted on June 13, 1979, by the Secretary of the Pennsylvania Department of Environmental Resources.

(28) Allegheny County Volatile Organic Compound Regulations amending Chapters I, II, and V of Allegheny County Regulations submitted on June 13, 1979, by the Secretary of the Pennsylvania Department of Environmental Resources.

(29) Documentation of the status of transportation/air quality measures in a letter of August 20, 1979 from the Lackawanna County Planning Commission.

(30) Information from the Southwestern Pennsylvania Regional Planning Commission of September 17, 1979 on the calculation of emission estimates and the status of certain transportation measures.

(31) Reclassification of several transportation measures in the transportation/air quality study for the Allentown-Bethlehem-Easton area, submitted by the Commonwealth on November 19, 1979.

(32) Substantiation of TSP planning and attainment schedules submitted by the Commonwealth on November 28, 1979.

2. The table in § 52.2021 is amended by changing the heading "Photochemical oxidants (hydrocarbons)" to "Ozone (Hydrocarbons)."

**§ 52.2021 [Amended]**

3. In § 52.2022 new paragraphs (c), (d), and (e) are added as follows:

**§ 52.2022 Extensions.**

* * * * *

(c) The Administrator hereby extends for 18 months, until July 1, 1980, the statutory timetable for submission of Pennsylvania's plan for attainment and maintenance of the secondary national ambient air quality standard for particulate matter in Pennsylvania's portion of the Metropolitan Philadelphia Interstate Air Quality Control Region.

(d) The Administrator hereby extends the attainment date for the national ambient air quality standard for ozone to December 31, 1987 for the following counties: Allegheny, Armstrong, Beaver, Butler, Washington, Westmoreland, Bucks, Chester, Delaware, Montgomery, Philadelphia, Lackawanna, Luzerne, Lehigh, and Northampton.

(e) The Administrator hereby extends the attainment dates for the national ambient air quality standards for carbon monoxide to June 30, 1983 for Philadelphia County and to December 31, 1985 for Allegheny County.

4. In § 52.2023 new paragraphs (e), (f), and (g) are added:

**§ 52.2023 Approval status.**

* * * * *

(e) With the exceptions set forth in this subpart, the Administrator approves Pennsylvania's plan for the attainment and maintenance of the national ambient air quality standards under Section 110 of the Clean Air Act. Furthermore, the Administrator finds that the plan satisfies all requirements of Part D, Title 1, of the Clean Air Act as amended in 1977, except as noted below.

(f) In addition, continued satisfaction of the requirements of Part D for the ozone portion of the SIP depends on the adoption and submittal of RACT requirements by July 1, 1980 for the sources covered by CTGs issued between January 1978 and January 1979 and adoption and submittal by each subsequent January of additional RACT requirements for sources covered by CTGs issued by the previous January.

(g) New source review permits issued pursuant to Section 173 of the Clean Air Act will not be deemed valid by EPA unless the provisions of Section V of the Emission Offset Interptive Rule, published on January 16, 1979, 44 FR 3274, are met.

5. Section 52.2034 is revised as follows:

**§ 52.2034 Attainment dates for national standards.**

The following table presents the latest dates by which the national standards are to be attained. These dates reflect the information presented in the Pennsylvania plan, except where noted.

| Air quality control region | Pollutant | | | | | | |
|---|---|---|---|---|---|---|---|
| | Particulate matter | | Sulfur oxides | | Nitrogen dioxide | Carbon monoxide | Ozone (hydro-Carbons) |
| | Primary | Secondary | Primary | Secondary | | | |
| Metropolitan Philadelphia Interstate: | | | | | | | |
| a. Philadelphia | a[1] | d[3] | c[1] | b[6] | b[5] | e[7] | g[1] |
| b. Remainder of AQCR (Pennsylvania portion). | a[1] | d[3] | a[1] | b[6] | b[5] | b[7] | g[1] |
| Northeast Pennsylvania Interstate: | | | | | | | |
| a. Allentown-Bethlehem-Easton Air Basin | c[1] | g[1] | a[4] | b[1] | b[5] | b[5] | g[5] |
| b. Reading Air Basin | a[1] | g[1] | a[4] | b[1] | b[5] | b[5] | c[5] |
| c. Scranton-Wilkes-Barre Air Basin | a[1] | g[1] | a[4] | b[1] | b[5] | b[5] | g[5] |
| d. Remainder of AQCR (Pennsylvania portion). | a[1] | b[1] | a[4] | b[1] | b[5] | b[5] | c[5] |
| South Central Pennsylvania Intrastate: | | | | | | | |
| a. Lancaster Air Basin | c[1] | g[1] | a[1] | b[1] | b[5] | b[5] | c[5] |
| b. Harrisburg Air Basin | c[1] | g[1] | a[1] | b[1] | b[5] | b[5] | c[5] |
| c. York Air Basin | c[1] | g[1] | a[1] | b[1] | b[5] | b[5] | c[5] |
| d. Remainder of AQCR | a[1] | b[1] | a[1] | b[1] | b[5] | b[5] | c[5] |
| Central Pennsylvania Intrastate: | | | | | | | |
| a. Johnstown Air Basin | c[1] | g[1] | a[5] | b[5] | b[5] | b[5] | c[5] |
| b. City of Williamsport | a[1] | g[1] | a[5] | b[5] | b[5] | b[5] | c[5] |
| c. City of Altoona | a[1] | g[1] | a[5] | b[5] | b[5] | b[5] | c[5] |
| d. Northumberland County | a[1] | b[1] | b[5] | h[5] | b[5] | b[5] | c[5] |

| Air quality control region | Pollutant | | | | | | |
|---|---|---|---|---|---|---|---|
| | Particulate matter | | Sulfur oxides | | Nitrogen dioxide | Carbon monoxide | Ozone (hydro-Carbons) |
| | Primary | Secondary | Primary | Secondary | | | |
| e. Snyder County | a[1] | b[1] | b[5] | h[5] | b[5] | b[5] | c[5] |
| g. Remainder of AQCR | a[1] | b[1] | a[5] | b[5] | b[5] | b[5] | c[5] |
| Southwest Pennsylvania Intrastate: | | | | | | | |
| a. Monongahela Valley | c[1] | g[3] | a[1] | b[3] | b[5] | b[5] | g[7] |
| b. Allegheny County | h[1] | h[3] | h[1] | h[3] | b[5] | /[6] | g[7] |
| c. Beaver Valley Air Basin | c[1] | g[3] | c[1] | c[3] | b[5] | b[5] | g[7] |
| d. Armstrong County | a[1] | b[3] | h[1] | h[3] | b[5] | b[5] | g[7] |
| e. Remainder of AQCR | a[1] | b[3] | a[1] | b[3] | b[5] | b[5] | g[7] |
| Northwest Pennsylvania Interstate: | | | | | | | |
| a. Erie Air Basin | c[1] | g[1] | a[5] | b[5] | b[5] | b[5] | c[5] |
| b. Mercer County | c[1] | g[1] | a[5] | b[5] | b[5] | b[5] | c[5] |
| c. Beaver Valley Air Basin | c[1] | g[1] | a[5] | b[5] | b[5] | b[5] | c[5] |
| d. Warren County | a[1] | b[1] | h[5] | h[5] | b[5] | b[5] | c[5] |
| e. Remainder of AQCR (Pennsylvania portion) | a[1] | b[1] | a[5] | b[5] | b[5] | b[5] | c[5] |

NOTE 1.—Dates or footnotes which are italicized are prescribed by the Administrator because the plan did not provide a specific date or the date provided was not acceptable.

a. Air quality levels presently below primary standards or area is unclassifiable
b. Air quality levels presently below secondary standards or area is unclassifiable
c. December 31, 1982
d. 18-month extension to submit plan granted
e. June 30, 1983
f. December 31, 1985
g. December 31, 1987
h. As of December 31, 1979 no plan with attainment dates received; attainment of primary standards cannot be later than December 31, 1982

NOTE 2.—Sources subject to plan requirements and attainment dates established under Section 110(a)(2)(A) of the Clean Air Act prior to the 1977 amendments to the Act remain obligated to comply with those requirements by the earlier deadlines. The earlier attainment dates are set out at 40 C.F.R. 52. 2034 (1978) and are represented by the following superscripts:

1. July 1975.
2. 5 years from plan approval or promulgation
3. 18-month extension granted
4. Air quality levels below primary standards
5. Air quality levels below secondary standards
6. July 31, 1975
7. May 31, 1976
8. May 31, 1977

6. Section 52.2037 is revised as follows:

**§ 52.2037 Control strategy: carbon monoxide and ozone (hydrocarbons).**

(a) *Part D—Conditional Approval*—The Pennsylvania plan for carbon monoxide and ozone is approved provided that the following conditions are satisfied:

(1) The exemption allowing the use of cutback asphalt as a tack coat is removed from Pennsylvania and Allegheny County regulations, and revised regulations are submitted to EPA.

(2) The limit of the solvent content allowed in emulsified asphalt contained in Pennsylvania's and Allegheny County's regulations is made consistent with EPA policy, and revised regulations are submitted to EPA.

(3) Firm commitments to implement the Newtown Branch electrification and Route 66 trolley extension in the Philadelphia area are submitted to EPA. If firm commitments are not submitted, the State must submit substitute measures with equivalent reductions.

(4) Commitments by each lead agency and MPO in the Allentown-Bethlehem-Easton, Scranton, Wilkes-Barre, and Harrisburg areas that no project, program, or plan will be approved that does not conform with the SIP; these commitments must be adopted by the designated lease agencies and MPOs, be endorsed by the Commonwealth, and be submitted to EPA.

**§§ 52.2040, 52.2044, 52.2045, 52.2046, 52.2047, 52.2048, and 52.2052 [Revoked]**

7. The following sections are revoked:

§ 52.2040 (Management of parking supply)
§ 52.2044 (Pennsylvania-New Jersey busways)
§ 52.2045 (Roosevelt Boulevard busway between Grant Avenue and Hunting Park)
§ 52.2046 (Central business district bus and trolley ways and parking restrictions)
§ 52.2047 (Exclusive busways in Philadelphia outside the CBD)
§ 52.2048 (Exclusive bus lanes for Philadelphia suburbs and outlying areas)
§ 52.2052 (Employer's provision for mass transit priority incentives)

8. Section 52.2055 is amended by the addition of paragraph (c) as follows:

**§ 52.2055 Review of new sources and modifications.**

* * * * *

(c) The Special Permit Requirement regulations are approved provided that the language of § 127.65(b) of the Pennsylvania regulations is revised to conform with § 173(3) of the Clean Air Act and submitted by the Secretary of the Pennsylvania Department of Environmental Resources. However, these regulations are not approved for permitting of applicable CO sources locating in CO nonattainment areas or for applicable hydrocarbon sources in rural ozone nonattainment areas.

9. Section 52.2059 is added as follows:

**§ 52.2059 Control strategy: particulate matter.**

(a) Pennsylvania has committed to undertake a comprehensive program to investigate non-traditional sources, industrial process fugitive particulate emissions, alternative control measures, and to develop and implement an effective control program to attain the primary and secondary NAAQS for particulates. The schedule for this study is as follows:

**Schedule for Investigating and Controlling Nontraditional Particulate Matter Emissions**

| Task | Completion date |
|---|---|
| Scheduled tasks: | |
| 1. Quantify nontraditional sources | June 1, 1980. |
| 2. Investigate control techniques | Apr. 1, 1982. |
| 3. Investigate source-receptor relationship | June 1, 1980. |
| Analysis and control strategy development: | |
| 1. Analyze Nonattainment Areas | July 1, 1981. |
| 2. Develop Control Strategies | Jan. 1, 1982. |
| 3. Develop, Adopt, Submit SIP | July 1, 1982. |
| 4. Implement SIP | begin—July 1, 1982. |

[FR Doc. 80-14236 Filed 5-19-80; 8:45 am]
BILLING CODE 6560-01-M

## OFFICE OF PERSONNEL MANAGEMENT

## 45 CFR Part 801

## Voting Rights Program; Appendix A: Louisiana

**AGENCY:** Office of Personnel Management.

**ACTION:** Final Rule.

**SUMMARY:** This Notice identifies the location of a new office for filing of applications or complaints under the Voting Rights Act of 1965, as amended.

**EFFECTIVE DATE:** December 5, 1979

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

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 3(a) of the Voting Rights Act of 1965, 42 U.S.C. § 1973a(a), the U.S. District Court for the Western District of Louisiana has authorized the appointment of Federal examiners by the United States Office of Personnel Management in accordance with Section 6 of the Voting Rights Act, 42 U.S.C. 1973d, to serve until further notice of the Court to enforce the guarantees of the Fourteenth and Fifteenth Amendments. OPM has determined that this is a non-

significant regulation for the purposes of E.O. 12044.

Office of Personnel Management.

Kathryn Anderson Fetzer,

*Asst. Issuance System Manager.*

Appendix A to 45 CFR 801 is amended as set out below to show under the heading "Dates, Times and places for filing," an additional place for filing in Louisiana:

Louisiana

Parish; Place for filing; Beginning date.

* * * * *

St. Landry; Opelousas—Chattau Motor Inn, 400 East Landry, the Bayou Room; December 5, 1979.

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

[FR Doc. 80-15345 Filed 5-19-80; 8:45 am]

BILLING CODE 6325-01-M

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 2

### Frequency Allocations and Radio Treaty Matters; General Rules and Regulations; Editorial Amendments Concerning Part 2 of the Rules and Regulations

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** Amendment of the Commission's Rules to bring up-to-date the List of Treaties and Other International Agreements, relating to telecommunications, which are in force with respect to the United States. These are editorial changes to add treaties and agreements which have entered into force since the last amendment and to delete those which have been superseded.

**EFFECTIVE DATE:** May 27, 1980.

**ADDRESSES:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Neva Bell Perry, Office of Chief Scientist (202-632-7055).

**SUPPLEMENTARY INFORMATION:**

In the matter of amendment of Part 2 of the Commission's rules and regulations to effect certain editorial changes therein; order.

Adopted: May 12, 1980.

Released: May 21, 1980.

1. The Commission has before it the desirability of making certain editorial changes in Part 2 of its Rules and Regulations.

2. The authority for the amendments is contained in sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and section 0.231(d) of the Commission's Rules. Because the amendments are editorial in nature, the prior notice and effective date provisions of 5 U.S.C. 53 do not apply.

3. It is ordered, effective May 27, 1980, That Part 2 of the Rules and Regulations is amended as set forth below.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303.)

Federal Communications Commission.

R. D. Lichtwardt,

*Executive Director.*

Appendix

In Subpart G §§ 2.601, 2.602 and 2.603 are revised to read as follows:

§ 2.601 General.

This subpart is corrected to May 27, 1980. The Commission does not distribute copies of these documents. Inquiry may be made to the U.S. Government Printing Office concerning availability for purchase.

§ 2.602 Citation abbreviations used in this subpart.

Trenwith—Treaties, Conventions, International Acts, Protocols, and Agreements between the United States of America and Other Powers, 1923–1937 (compiled under S. Res. No. 132, 75th Cong., 1st Sess.).

LNTS—League of Nations Treaty Series.

Stat.—United States Statutes at Large.

UST—United States Treaties and Other International Agreements.

TS—Treaty Series.

EAS—Executive Agreement Series.

TIAS—Treaties and Other International Acts Series.

Bevans—Treaties and Other International Agreements of the United States of America 1776–1949.

§ 2.603 Treaties and other international agreements relating to radio.

(a) The applicable treaties and other international agreements in force relating to radio and to which the United States of America is a party (other than reciprocal operating agreements for radio amateurs) are listed below:

| Date | Citations | Subject |
|---|---|---|
| 1925 | IV Trenwith 4248, 4250, and 4251; TS 724-A; 6 Bevans 22; 12 Bevans 451 | U.S.-United Kingdom (also for Canada and Newfoundland) Bilateral Arrangements providing for the Prevention of Interference by Ships off the Coasts of these Countries with Radio Broadcasting. Effected by exchange of notes September and October 1925. Entered into force Oct. 1, 1925. |
| 1928 and 1929 | 302 LNTS 143; TS 767-A; 6 Bevans 26 | U.S.-Canada Arrangement governing Radio Communications between Private Experimental Stations. Effected by exchange of notes at Washington Oct. 2 and Dec. 29, 1928, and Jan. 12, 1929. Entered into force Jan. 1, 1929. Continued by the arrangement contained in EAS 82. |
| 1929 | IV Trenwith 4787; TS 777-A; 2 Bevans 775 | U.S.-Canada (including Newfoundland) Arrangement relating to Assignment of High Frequencies on the North American Continent. Effected by exchange of notes at Ottawa Feb. 26 and 28, 1929. Entered into force Mar. 1, 1929. (Originally, Cuba was also a party to this arrangement, but by virtue of notice to the Canadian Government, it ceased to be a party effective Oct. 5, 1933.) |
| 1934 | 49 Stat. 3555; EAS 88; 10 Bevans 1103 | U.S.-Peru Arrangement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Lima Feb. 15, and May 23, 1934. Entered into force May 23, 1934. |
| 1934 | 48 Stat. 1578; EAS 82; 6 Bevans 25 | U.S.-Canada Arrangement relative to Radio Communications between Private Experimental Stations and between Amateur Stations. Continues the arrangement contained in TS 767-A. Effected by exchange of notes at Ottawa Apr. 23, and May 2 and 4, 1934. Entered into force May 4, 1934. |
| 1934 | 49 Stat. 3867; EAS 72; 6 Bevans 364 | U.S.-Chile Arrangement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Santiago Aug. 2 and 17, 1934. Entered into force Aug. 17, 1934. |
| 1937 | 53 Stat. 1576; TS 936; 3 Bevans 482 | Inter-American Radio Communications Convention between the United States and Other Powers. Signed at Havana Dec. 13, 1937. (First Inter-American Radio Conference.) Entered into force for the United States July 21, 1938, for Parts I, III and IV; Apr. 17, 1939 for Part II. Part II of the Convention (Inter-American Radio Office) terminated for all parties Dec. 20, 1958 (TIAS 4079). |
| 1938 | 54 Stat. 1675; TS 949; 3 Bevans 529 | Regional Radio Convention between the United States (in behalf of the Canal Zone) and Other Powers. Signed at Guatemala City Dec. 8, 1938. Entered into force Oct. 8, 1939. |
| 1939 | 53 Stat. 2157; EAS 143; 6 Bevans 148 | U.S.-Canada Arrangement governing the Use of Radio for Civil Aeronautical Services. Effected by exchange of notes at Washington Feb. 20, 1939. Entered into force Feb. 20, 1939. |
| 1946 | 60 Stat. 1896; TIAS 1527; 11 Bevans 1291 | U.S.-U.S.S.R. Agreement on Organization of Commercial Radio Teletype Communication Channels. Signed at Moscow May 24, 1946. Entered into force May 24, 1946. |
| 1947 | 61 Stat. (4) 3800; TIAS 1726; 6 Bevans 447 | U.S.-Canada Agreement providing for Frequency Modulation Broadcasting in Channels in the Radio Frequency Band 88-108 Mc/s. Effected by exchange of notes at Washington Jan. 8 and Oct. 15, 1947. Entered into force Oct. 15, 1947. |
| 1947 | 61 Stat. (4) 3416; TIAS 1676; 12 Bevans 956 | U.S.-U.N. Agreement relative to Headquarters of the United Nations. Signed at Lake Success June 26, 1947. Entered into force Nov. 21, 1947. Supplemented by the agreements contained in TIAS 5961 and TIAS 6750 signed Feb. 9, 1966, and Aug. 28, 1969, respectively |
| 1947 | 61 Stat. (3) 3131; TIAS 1652; 12 Bevans 824 | U.S.-United Kingdom Agreement regarding Standardization of Distance Measuring Equipment. Signed at Washington Oct. 13, 1947. Entered into force Oct. 13, 1947. |

| Date | Citations | Subject |
|---|---|---|
| 1948 | 9 UST 621; TIAS 4044; 4 Bevans 700 | Intergovernmental Maritime Consultative Organization (IMCO) Convention. Signed at Geneva Mar. 6, 1948. Entered into force Mar. 17, 1958. Modified by the amendments contained in TIAS 6285, TIAS 6490, and TIAS 8608, adopted by the IMCO Assembly Sept. 15, 1964, Sept. 28, 1965, and Oct. 17, 1974, respectively. |
| 1949 | 3 UST (3) 3064; TIAS 2489; 4 Bevans 851 | Inter-American Radio Agreement between the United States and Canada and Other American Republics. Signed at Washington July 9, 1949. (Fourth Inter-American Radio Conference.) Entered into force Apr. 13, 1952, subject to the provisions of Article 13. |
| 1949 | 3 UST (2) 2686; TIAS 2435; 4 Bevans 852 | London Telecommunications Agreement between the United States and Certain British Commonwealth Governments. Signed at London Aug. 12, 1949. Entered into force Feb. 24, 1950. Amended by the agreement contained in TIAS 2705 which was signed Oct. 1, 1952. |
| 1950 | 3 UST (2) 2672; TIAS 2433 | U.S.-Ecuador Arrangement regarding Radio Communications between Amateur Stations on Behalf of Third parties. effected by exchange of notes at Quito Mar. 16 and 17, 1950. Entered into force Mar. 17, 1950. |
| 1950 and 1951 | 2 UST (1) 683; TIAS 2223 | U.S.-Libena Arrangement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Monrovia Nov. 9, 1950, and Jan. 8, 9 and 10, 1951. Entered into force Jan. 11, 1951. |
| 1950 | 11 UST 413; TIAS 4460 | North American Regional Broadcasting Agreement (NARBA). Signed at Washington Nov. 15, 1950. Entered into force Apr. 19, 1960. Effective between United States, Canada, Cuba, Dominican Republic, and the United Kingdom of Great Britain and Northern Ireland for the Bahama Islands. Ratification on behalf of Jamaica pending. |
| 1951 | 3 UST (3) 3787; TIAS 2508 | U.S.-Canada Convention relating to the Operation by Citizens of Either Country of Certain Radio Equipment or Stations in the Other Country. Signed at Ottawa Feb. 8, 1951. Entered into force May 15, 1952. |
| 1951 and 1952 | 3 UST (3) 3892; TIAS 2520 | U.S.-Cuba Arrangement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Havana Sept. 17, 1951, and Feb. 27, 1952. Entered into force Feb. 27, 1952. |
| 1951 | 3 UST (2) 2860; TIAS 2459 | U.S.-Cuba Agreement concerning the Control of Electromagnetic Radiation. Effected by exchange of notes at Havana Dec. 10 and 18, 1951. Entered into force Dec. 18, 1951. |
| 1952 | 3 UST (3) 4443; TIAS 2594 | U.S.-Canada Agreement relating to the Assignment of Television Frequency Channels along United States-Canadian Border. Effected by exchange of notes at Ottawa Apr. 23 and June 23, 1952. Entered into force June 23, 1952. |
| 1952 | 3 UST (4) 5140; TIAS 2705 | London Revision (1952) of the London Telecommunications Agreement (1949) between the United States and Certain British Commonwealth Governments. Signed at London Oct. 1, 1952. Entered into force Oct. 1, 1952. This amends the agreement contained in TIAS 2435 signed Aug 12, 1949. |
| 1953 | 5 UST (3) 2840; TIAS 3138 | U.S.-Canada Understanding relating to the Sealing of Mobile Radio Transmitting Equipment. Effected by exchange of notes at Washington Mar. 9 and 17, 1953. Entered into force Mar. 17, 1953. |
| 1956 | 7 UST 2179; TIAS 3617 | U.S.-Panama Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Panama July 19 and Aug. 1, 1956. Entered into force Sept. 1, 1956. |
| 1956 | 7 UST 2839; TIAS 3665 | U.S.-Costa Rica Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Washington Aug. 13 and Oct. 19, 1956. Entered into force Oct. 19, 1956. |
| 1956 | 7 UST 3159; TIAS 3694 | U.S.-Nicaragua Agreement regarding Radio Communications between Amatuer Stations on Behalf of Third Parties. Effected by exchange of notes at Managua Oct. 8 and 16, 1956. Entered into force Oct. 16, 1956. |
| 1957 | 9 UST 1037; TIAS 4079 | Multilateral Declaration between the United States and Other Powers terminating Part II (Inter-American Radio Office) of the Inter-American Radio Communications Convention of Dec. 13, 1937 (TS-938). Signed at Washington Dec. 20, 1957. Entered into force December 20, 1957. Additionally, a Contract on the Exchange of Notifications of Radio Broadcasting Frequencies between the Pan American Union, the United States and Other Powers was signed at Washington Dec. 20, 1957. Entered into force Jan. 1, 1958. |
| 1958 | 9 UST 1091; TIAS 4089 | U.S.-Mexico Agreement regarding Allocation of Ultra High Frequency Channels to Land Border Television Stations. Effected by exchange of notes at Mexico July 16, 1958. Entered into force July 16, 1958. |
| 1959 | 10 UST 1449; TIAS 4295 | U.S.-Mexico Arrangement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Mexico July 31, 1959. Entered into force Aug. 30, 1959. |
| 1959 and 1960 | 11 UST 257; TIAS 4442 | U.S.-Honduras Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Tegucigalpa Oct. 26, 1959, and Feb. 17, 1960, and related note of Feb. 19, 1960. Entered into force Mar. 17, 1960. |
| 1959 | 10 UST 3019; TIAS 4394 | U.S.-Venezuela Arrangement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Caracas Nov. 12, 1959. Entered into force Dec. 12, 1959. |

| Date | Citations | Subject |
|---|---|---|
| 1959 | 12 UST 2377; TIAS 4893 | International Radio Regulations Annexed to the International Telecommunication Convention. Signed at Geneva Dec. 21, 1959. Entered into force with respect to the United States Oct. 23, 1961. Revised by the Partial Revisions of the Radio Regulations, Geneva, 1959, contained in TIAS 5603, TIAS 6332, TIAS 6590, TIAS 7436, and TIAS 8599 signed Nov. 8, 1963, Apr. 29, 1966, Nov. 3, 1967, July 17, 1971, and June 8, 1974, respectively |
| 1960 | 11 UST 1; TIAS 4399 | U.S.-Haiti Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Port-au-Prince Jan. 4 and 6, 1960. Entered into force Feb. 5, 1960. |
| 1960 | 11 UST 2229; TIAS 4596 | U.S.-Paraguay Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Ascuncion Aug. 31, and Oct. 6, 1960. Entered into force Nov. 5, 1960. |
| 1961 | 17 UST 1574; TIAS 6115 | U.S.-Uruguay Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Montevideo Sept. 12, 1961. Entered into force Sept. 26, 1966. |
| 1961 | 12 UST 1695; TIAS 4888 | U.S.-Bolivia Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at La Paz Oct. 23, 1961. Entered into force Nov 22, 1961. |
| 1962 | 13 UST 411; TIAS 5001 | U.S.-El Salvador Arrangement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at San Salvador Apr. 5, 1962. Entered into force May 5, 1962. |
| 1962 | 13 UST 997; TIAS 5043 | U.S.-Mexico Agreement relating to the Assignment of VHF Television Channels along United States-Mexican Border. Effected by exchange of notes at Mexico Apr. 18, 1962. Entered into force Apr. 18, 1962. Amended by the agreement contained in TIAS 8185, signed Aug. 20, 1975. |
| 1962 | 13 UST 2418; TIAS 5205 | U.S.-Canada Agreement relating to the Coordination and Use of Radio Frequencies above 30 Mc/s. Effected by exchange of notes at Ottawa Oct. 24, 1962. Entered into force Oct. 24, 1962. The technical annex to the agreement was revised by the agreement contained in TIAS 5833 signed June 16 and 24, 1965. |
| 1963 | 14 UST 817; TIAS 5360 | U.S.-Dominican Republic Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Santo Domingo Apr. 18 and 22, 1963. Entered into force May 22, 1963. |
| 1963 | 14 UST 825; TIAS 5362 | U.S.-U.S.S.R. Memorandum of Understanding regarding the Direct Communication Link, with Annex. Signed at Geneva June 20, 1963. Entered into force June 20, 1963. This understanding was supplemented and modified by the agreements contained in TIAS 7187 and 8059, signed Sept. 30, 1971, and Mar. 20 and Apr. 29, 1975, respectively. |
| 1963 | 15 UST 887; TIAS 5603 | Partial Revision of the Radio Regulations Geneva, 1959, Final Acts of the EARC to Allocate Frequency Bands for Space Radio Communication Purposes. Signed at Geneva Nov. 8, 1963. Entered into force Jan. 1, 1965. |
| 1963 | 14 UST 1754; TIAS 5483 | U.S.-Colombia Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Bogota Nov. 16 and 29, 1963. Entered into force Dec. 29, 1963. |
| 1964 | 18 UST 1299; TIAS 6285 | Amendments to Articles 17 and 18 of the IMCO Convention (TIAS 4044). Adopted by the IMCO Assembly at London Sept. 15, 1964. Entered into force Oct. 6, 1967. Modified by amendments contained in TIAS 8606, adopted by the IMCO Assembly Oct. 17, 1974. |
| 1965 | 16 UST 821; TIAS 5816 | U.S.-Brazil Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Washington June 1, 1965. Entered into force June 1, 1965. |
| 1965 | 16 UST 923; TIAS 5833 | U.S.-Canada Agreement regarding Coordination and Use of Radio Frequencies above 30 Mc/s Revising the Technical Annex to the Agreement of Oct. 24, 1962 (TIAS 5205). Effected by exchange of notes at Ottawa June 16 and 24, 1965. Entered into force June 24, 1965. |
| 1965 | 16 UST 883; TIAS 5827 | U.S.-Israel Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Washington July 7, 1965. Entered into force Aug. 6, 1965. |
| 1965 | 19 UST 4855; TIAS 6490 | Amendment to Article 28 of the IMCO Convention (TIAS 4044). Adopted by the IMCO Assembly at Paris Sept. 28, 1965. Entered into force Nov. 3, 1968. Modified by amendment contained in TIAS 8606, adopted by the IMCO Assembly Oct. 17, 1974. |
| 1966 | 17 UST 74; TIAS 5961 | U.S.-U.N. Agreement regarding Headquarters of the United Nations Supplementing the Agreement of June 26, 1947 (TIAS 1676). Signed at New York Feb. 9, 1966. Entered into force Feb. 9, 1966. Amended by the agreement contained in TIAS 6178 signed Dec. 8, 1966. |
| 1966 | 18 UST 2091; TIAS 6332 | Partial Revision of the Radio Regulations, Geneva, 1959, Final Acts of the EARC for the Preparation of a Revised Allotment Plan for the Aeronautical Mobile (R) Service. Signed at Geneva Apr. 29, 1966. Entered into force for the United States Aug. 23, 1967, except for the frequency allotment plan contained in Appendix 27 which entered into force Apr. 10, 1970. |

| Date | Citations | Subject |
|---|---|---|
| 1966 | 17 UST 2319; TIAS 6176 | U.S.-U.N. Agreement regarding Headquarters of the United Nations. Amending the Supplemental Agreement of Feb. 9, 1966 (TIAS 5961). Effected by exchange of notes at New York Dec. 8, 1966. Entered into force Dec. 8, 1966. |
| 1967 | 18 UST 365; TIAS 6244 | U.S.-Argentina Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Buenos Aires Mar. 31, 1967. Entered into force Apr. 30, 1967. |
| 1967 | 18 UST 1201; TIAS 6268 | U.S.-Canada Agreement relating to Pre-Sunrise Operation of Certain Standard (AM) Radio Broadcasting Stations. Effected by exchange of notes at Ottawa Mar. 31 and June 12, 1967. Entered into force June 12, 1967. Amended by the agreement contained in TIAS 6626 signed Apr. 18, 1968, and Jan. 31, 1969. |
| 1967 | 19 UST 6717; TIAS 6590 | Partial Revision of the Radio Regulations, 1959. Final Acts of the WARC to Deal with Matters relating to the Maritime Mobile Service. Signed at Geneva Nov. 3, 1967. Entered into force Apr. 1, 1969. |
| 1968 and 1969 | 20 UST 7; TIAS 6626 | U.S.-Canada Agreement relating to Pre-Sunrise Operation of Certain Standard (AM) Radio Broadcasting Stations Amending the Agreement of Mar. 31 and June 12, 1967 (TIAS 6268). Effected by exchange of notes at Ottawa Apr. 18, 1968, and Jan. 31, 1969. Entered into force Jan. 31, 1969. |
| 1968 | 21 UST 2776; TIAS 7021 | U.S.-Mexico Agreement concerning radio broadcasting in the standard band (535–1605 kHz), with annexes. Signed at Mexico Dec. 11, 1968. Entered into force Nov. 18, 1970. |
| 1968 | 21 UST 2934; TIAS 7021 | U.S.-Mexico Agreement concerning the operation of broadcasting stations in the standard broadcast band (535–1605 kHz) during a limited period prior to sunrise ("Pre-Sunrise") and after sunset ("Post-Sunset"), with annexes. Signed at Mexico Dec. 11, 1968. Entered into force Nov. 18, 1970. |
| 1969 | 20 UST 2810; TIAS 6750 | U.S.-U.N. Agreement regarding Headquarters of the United Nations Supplementing the Agreement of June 26, 1947, as Supplemented (TIAS 1676, 5961, 6176). Signed at New York Aug. 28, 1969. Entered into force Aug. 28, 1969. |
| 1969 | 21 UST 1744; TIAS 6931 | U.S.-Canada Agreement relating to the Operation of Radiotelephone Stations. Signed at Ottawa Nov. 19, 1969. Entered into force July 24, 1970. |
| 1970 | 21 UST 2089; TIAS 6955 | U.S.-NATO Agreement concerning North Atlantic Treaty Organization Satellite Communications Earth Terminal in the United States. Signed at Washington July 10 and at Mons, Belgium Aug. 20, 1970. Entered into force Aug. 20, 1970. |
| 1971 | 23 UST 1527; TIAS 7435 | Partial Revision of the Radio Regulations, 1959, Final Acts of the WARC for Space Telecommunications, with Annex. Signed at Geneva July 17, 1971. Entered into force January 1, 1973. |
| 1971 | 23 UST 3813; TIAS 7532 | Agreement relating to the International Telecommunications Satellite Organization (INTELSAT), with Annexes, and Operating Agreement. Done at Washington Aug. 20, 1971. Entered into force Feb. 12, 1973. |
| 1971 | 22 UST 2053; TIAS 7239 | U.S.-Trinidad & Tabago Arrangement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Port-of-Spain Oct. 26 and Nov. 18, 1971. Entered into force Dec. 18, 1971. |
| 1971 | 24 UST 1120; TIAS 7636 | U.S.-Guatemala Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Guatemala Oct. 21 and Nov. 19, 1971. Entered into force May 26, 1973. |
| 1971 | 22 UST 1598; TIAS 7187 | U.S.-U.S.S.R. Agreement on Measures to Improve the Direct Communications Link, with Annex. Signed at Washington Sept. 30, 1971. Entered into force Sept. 30, 1971. Amended by the agreement contained in TIAS 8059, signed Mar. 20 and April 29, 1975. |
| 1972 | 23 UST 906; TIAS 7355 | U.S.-Guyana Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Georgetown May 30 and June 6, 1972. Entered into force July 6, 1972. |
| 1972 | 23 UST 3492; TIAS 7508 | U.S.-Jordan Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Washington Nov. 13 and 30, 1972. Entered into force Dec. 30, 1972. |
| 1972 | 24 UST 1815; TIAS 7697 | U.S.-Mexico Agreement concerning Frequency Modulation Broadcasting in the 88 to 108 MHz Band, with Annexes and Related Notes. Signed at Washington Nov. 9, 1972. Entered into force August 9, 1973. Amended by the agreements contained in TIAS 9436, ....., ....., and ..... signed Mar. 20 and Nov. 9, 1978, Feb. 2 and Apr. 24, 1979, June 4 and Aug. 1, 1979, Oct. 2 and 11, 1979, and Sept. 5, 1979 and Jan. 23, 1980, respectively. |
| 1973 | 28 UST 3293; TIAS 8586 | Telegraph Regulations with appendices, annex and final protocol. Signed at Geneva April 11, 1973. Entered into force for the United States April 21, 1976. |
| 1973 | 28 UST 3293; TIAS 8586 | Telephone Regulations with appendices and final protocol. Signed at Geneva April 11, 1973. Entered into force for the United States April 21, 1976. |
| 1973 | 28 UST 2495; TIAS 8572 | International Telecommunication Convention with annexes and protocols. Signed at Malaga-Torremolinos Oct. 25, 1973. Entered into force for the United States April 7, 1976. |

| Date | Citations | Subject |
|---|---|---|
| 1973 | 25 UST 935; TIAS 7837 | U.S.-Canada Agreement for the Promotion of Safety on the Great Lakes by Means of Radio, with technical regulations. Signed at Ottawa Feb. 26, 1973, with exchange of notes at Washington May 6, 1974. Entered into force May 6, 1974. Amended by agreement contained in TIAS 9352, signed December 29, 1978. |
| 1974 | 25 UST 2478; TIAS 7929 | U.S.-Bahamas Agreement relating to pre-sunrise operation of certain standard broadcasting stations. Effected by exchange of notes at Nassau Jan. 30 and Sept. 4, 1974. Entered into force Sept. 4, 1974. |
| 1974 | —; TIAS 8599 | Partial Revision of the Radio Regulations, Geneva, 1959, as amended (TIAS 4895, 5603, 6332, 6590 and 7435) to establish a frequency allotment plan for high-frequency radiotelephone coast stations, with annexes and final protocol. Signed at Geneva June 8, 1974. Entered into force for the United States April 21, 1976. |
| 1974 | —; TIAS 8606 | Amendments to Articles 10, 16, 17, 18, 20, 29, 31 and 32 of the IMCO Convention (TIAS 4044). Adopted by the IMCO Assembly at London Oct. 17, 1974. Entered into force Apr. 1, 1978. |
| 1974 | — | International Convention for the Safety of Life at Sea and Annexed Regulations. Signed at London Nov. 1, 1974. Entered into force May 25, 1980. |
| 1975 | 26 UST 564; TIAS 8059 | U.S.-U.S.S.R. Agreement regarding the Direct Communications Link. Effected by exchange of notes at Moscow Mar. 20 and April 29, 1975. Entered into force April 29, 1975. |
| 1975 | 26 UST 2700; TIAS 8185 | U.S.-Mexico Agreement amending the Agreement of April 18, 1962 (TIAS 5043) relating to the Assignment and Use of Television Channels along the U.S.-Mexican Border. Effected by exchange of notes at Tlatelolco and Mexico Aug. 20, 1975. Entered into force Aug. 20, 1975. |
| 1976 | 28 UST 5019; TIAS 8608 | U.S.-ITU Special Arrangement Permitting Third Party Exchanges between the ITU Amateur Radio Station and Amateur Radio Stations under U.S. Jurisdiction. Effected by exchange of letters at Geneva and Washington April 28 and June 7, 1976. Entered into force June 7, 1976. |
| 1976 | 28 UST 2248; TIAS 8542 | U.S.-INTELSAT Agreement regarding Headquarters of INTELSAT. Effected by exchange of notes at Washington Nov. 22 and 24, 1976. Entered into force Nov. 24, 1976. |
| 1977 | —; TIAS 8838 | U.S.-Canada Interim Arrangement for the Coordination of U.S. Land Mobile Radio Stations Operating in the 806-890 MHz Frequency Band in the Vicinity of the Canadian-United States Border. Effected by exchange of notes at Ottawa and Washington Dec. 21, 1978 and Jan. 13, 1977. Entered into force Jan. 13, 1977. |
| 1977 | —; TIAS 8908 | U.S.-Jamaica Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Kingston Feb. 24 and May 12, 1977. Entered into force June 11, 1977. |
| 1977 | —; TIAS 8975 | U.S.-Ghana Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Accra Oct. 13 and 27, 1977. Entered into force Nov. 26, 1977. |
| 1978 | —; TIAS 9436 | U.S.-Mexico Agreement amending the Agreement concerning Frequency Modulation Broadcasting in the 88 to 108 MHz Band, as amended (TIAS 7697). Effected by exchange of notes at Tlatelolco and Mexico Mar. 20 and Nov. 9, 1978. Entered into force Nov. 9, 1978. And exchange of notes at Tlatelolco and Mexico Feb. 2 and April 24, 1979. Entered into force April 24, 1979. Further amended by TIAS ...., .... and .... signed June 4 and Aug. 1, 1979, Oct. 2 and 11, 1979, and Sept. 5, 1979, and Jan. 23, 1980, respectively. |
| 1978 | —; TIAS 9352 | Agreement amending the Agreement of Feb. 26, 1973 (TIAS 7837) for Promotion of Safety on the Great Lakes by Means of Radio, 1973. Effected by exchange of notes at Ottawa Dec. 29, 1978. Entered into force Dec. 29, 1978; effective Feb. 1, 1979. |
| 1979 | — | U.S.-Mexico Agreement amending the Agreement concerning Frequency Modulation Broadcasting in the 88 to 108 MHz Band, as amended (TIAS 7697 and 9436). Effected by exchange of notes at Mexico and Tlatelolco June 4 and Aug. 1, 1979. Entered into force Aug. 1, 1979. Further amended by TIAS . . and . . . signed Oct. 2 and 11, 1979, and Sept. 5, 1979 and Jan. 23, 1980, respectively. |
| 1979 | — | U.S.-Mexico Agreement amending the Agreement concerning Frequency Modulation Broadcasting in the 88 to 108 MHz Band, as amended (TIAS 7697 and 9436). Effected by exchange of notes at Mexico and Tlatelolco Oct. 2 and 11, 1979. Further amended by TIAS . . . . signed Sept. 5, 1979 and Jan. 23, 1980. |
| 1980 | — | U.S.-Mexico Agreement amending the Agreement concerning Frequency Modulation Broadcasting in the 88 to 108 MHz Band, as amended (TIAS 7697 and 9436). Effected by exchange of notes at Mexico Sept. 5, 1979 and Jan. 23, 1980. Entered into force Jan. 23, 1980. |

(b) The applicable agreements in force between the United States and another country relating to the reciprocal granting of authorizations to permit licensed amateur radio operators of either country to operate their stations in the other country are as follows:

| Date | Citations | Subject |
|---|---|---|
| 1964 | 15 UST 1787; TIAS 5649 | U.S.-Costa Rica Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at San Jose Aug. 17 and 24, 1964. Entered into force Aug. 24, 1964. |
| 1965 | 16 UST 93; TIAS 5766 | U.S.-Dominican Republic Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Santo Domingo Jan. 28 and Feb. 2, 1965. Entered into force Feb. 2, 1965. |
| 1965 | 16 UST 165; TIAS 5777 | U.S.-Bolivia Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at La Paz Mar. 16, 1965. Entered into force Apr. 15, 1965. |
| 1965 | 16 UST 181; TIAS 5779 | U.S.-Ecuador Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Quito Mar. 26, 1965. Entered into force Mar. 26, 1965. |
| 1965 | 16 UST 817; TIAS 5815 | U.S.-Portugal Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Lisbon May 17 and 26, 1965. Entered into force May 26, 1965. |
| 1965 | 16 UST 869; TIAS 5824 | U.S.-Belgium Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Brussels June 15 and 18, 1965. Entered into force June 18, 1965. |
| 1965 | 16 UST 973; TIAS 5836 | U.S.-Australia Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Canberra June 25, 1965. Entered into force June 25, 1965. |
| 1965 | 16 UST 1160; TIAS 5860 | U.S.-Peru Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Lima June 28 and Aug. 11, 1965. Entered into force Aug. 11, 1965. |
| 1965 | 16 UST 1746; TIAS 5900 | U.S.-Luxembourg Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Luxembourg July 7 and 29, 1965. Entered into force July 29, 1965. |
| 1965 | 16 UST 1131; TIAS 5856 | U.S.-Sierra Leone Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Freetown Aug. 14 and 16, 1965. Entered into force Aug. 16, 1965. |
| 1965 | 16 UST 1742; TIAS 5899 | U.S.-Colombia Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Bogota Oct. 19 and 28, 1965. Entered into force Nov. 28, 1965. |
| 1965 | 16 UST 2047; TIAS 5941 | U.S.-United Kingdom Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at London Nov. 26, 1965. Entered into force Nov. 26, 1965. Supplemented by the amendment contained in TIAS 6800 which was signed Dec. 11, 1969. |
| 1966 | 17 UST 328; TIAS 5978 | U.S.-Paraguay Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Asuncion Mar. 18, 1966. Entered into force Mar. 18, 1966. |
| 1966 | 17 UST 719; TIAS 6022 | U.S.-France Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Paris May 5, 1966, with related notes of June 29 and July 6, 1966. Entered into force July 1, 1966. Modified by the amendment contained in TIAS 6711 which was signed Oct. 3, 1969. |
| 1966 | 17 UST 813; TIAS 6038 | U.S.-India Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at New Delhi May 16 and 25, 1966. Entered into force May 25, 1966. |
| 1966 | 17 UST 760; TIAS 6028 | U.S.-Israel Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Washington June 15, 1966. Entered into force June 15, 1966. |
| 1966 | 17 UST 2426; TIAS 6189 | U.S.-Netherlands Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at The Hague June 22, 1966. Entered into force Dec. 21, 1966. (Extended to Netherlands Antilles.) |
| 1966 | 17 UST 1120; TIAS 6068 | U.S.-Federal Republic of Germany Arrangement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Bonn June 23 and 30, 1966. Entered into force June 30, 1966. |
| 1966 | 17 UST 1039; TIAS 6061 | U.S.-Kuwait Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Kuwait July 19 and 24, 1966. Entered into Force July 19, 1966. |
| 1966 | 17 UST 1560; TIAS 6112 | U.S.-Nicaragua Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Managua Sept. 3 and 20, 1966. Entered into force Sept. 20, 1966. |
| 1966 | 17 UST 2215; TIAS 6159 | U.S.-Panama Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Panama Nov. 16, 1966. Entered into force Nov. 16, 1966. |
| 1966 and 1967 | 18 UST 525; TIAS 6259 | U.S.-Honduras Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Tegucigalpa Dec. 29, 1966, Jan. 24 and Apr. 17, 1967. Entered into force Apr. 17, 1967. |
| 1967 | 18 UST 554; TIAS 6264 | U.S.-Switzerland Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Bern Jan. 12 and May 16, 1967. Entered into force May 16, 1967. |

| Date | Citations | Subject |
|---|---|---|
| 1967 | 18 UST 543; TIAS 6261 | U.S.-Trinidad and Tobago Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at St. Ann's and Port of Spain Jan. 14 and Mar. 16, 1967. Entered into force Mar. 16, 1967. |
| 1967 | 18 UST 361; TIAS 6243 | U.S.-Argentina Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Buenos Aires Mar. 31, 1967. Entered into force Apr. 30, 1967. |
| 1967 | 18 UST 1661; TIAS 6309 | U.S.-El Salvador Agreement regarding Alien Amateur Radio Operators. Effected By exchange of notes at San Salvador May 24 and June 5, 1967. Entered into force June 5, 1967. |
| 1967 | 18 UST 1241; TIAS 6273 | U.S.-Norway Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Oslo May 27 and June 1, 1967. Entered into force June 1, 1967. |
| 1967 | 18 UST 1272; TIAS 6281 | U.S.-New Zealand Agreement regarding Alien Amateur Radio Operators. Effected by exchange of noters at Wellington June 21, 1967. Entered into force June 21, 1967. |
| 1967 | 18 UST 2499; TIAS 6348 | U.S.-Venezuela Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Caracas Sept. 18, 1967. Entered into force Oct. 3, 1967. |
| 1967 | 18 UST 2878; TIAS 6378 | U.S.-Austria Agreement regarding Alien Amateur Radio Operators. Done at Vienna Nov. 21, 1967. Entered into force Dec. 21, 1967. |
| 1967 | 18 UST 2882; TIAS 6380 | U.S.-Chile Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Washington Nov. 30, 1967. Entered into force Dec. 30, 1967. |
| 1967 | 20 UST 2883; TIAS 6766 | U.S.-Guatemala Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Guatemala Nov. 30 and Dec. 11, 1967. Entered into force Oct. 2, 1969. |
| 1967 | 18 UST 3153; TIAS 6406 | U.S.-Finland Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Helsinki Dec. 15 and 27, 1967. Entered into force Dec. 27, 1967. |
| 1968 | 19 UST 7852; TIAS 6622 | U.S.-Monaco Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Nice and Paris Mar. 29, and Oct. 16, 1968. Entered into force Dec. 1, 1968. |
| 1968 | 19 UST 4892; TIAS 6494 | U.S.-Guyana Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Georgetown May 6 and 13, 1968. Entered into force May 13, 1968. |
| 1968 | 19 UST 5994; TIAS 6553 | U.S.-Barbados Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Bridgetown Sept. 10 and 12, 1968. Entered into force Sept. 12, 1968. |
| 1968 | 19 UST 6057; TIAS 6566 | U.S.-Ireland Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Dublin Oct. 10, 1968. Entered into force Oct. 10, 1968. |
| 1968 | 20 UST 490; TIAS 6654 | U.S.-Indonesia Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Djakarta Dec. 10, 1968. Entered into force Dec. 10, 1968. |
| 1969 | 20 UST 773; TIAS 6690 | U.S.-Sweden Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Stockholm May 27 and June 2, 1969. Entered into force June 2, 1969. |
| 1969 | 20 UST 2398; TIAS 6711 | U.S.-France Agreement regarding Alien Amateur Radio Operators amending the Agreement of May 5, 1965 (TIAS 6022). Effected by exchange of notes at Paris Oct. 3, 1969. Entered into force Oct. 3, 1969. |
| 1969 | 20 UST 4089; TIAS 6800 | U.S.-United Kingdom Agreement regarding Alien Amateur Radio Operators. Supplementing the Agreement of Nov. 26, 1965 (TIAS 5941). Effected by exchange of notes at London Dec. 11, 1969. Entered into force Dec. 11, 1969. |
| 1970 | 21 UST 1960; TIAS 6936 | U.S.-Brazil Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Rio de Janeiro and Brasilia Jan. 26, June 19, and July 30, 1970. Entered into force June 19, 1970. |
| 1971 | 22 UST 694; TIAS 7127 | U.S.-Jamaica Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Kingston March 4 and April 28, 1971. Entered into force April 28, 1971. |
| 1971 | 22 UST 701; TIAS 7129 | U.S.-Uruguay Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Montevideo May 28, 1971. Entered into force May 28, 1971. |
| 1972 | 23 UST 1334; TIAS 7417 | U.S.-Fiji Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Suva and Washington July 10 and Aug. 14, 1972. Entered into force Aug. 14, 1972. |
| 1973 | 24 UST 2156; TIAS 7730 | U.S.-Denmark Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Copenhagen Oct. 11, 1973. Entered into force Oct. 11, 1973 |
| 1974 and 1977 | ——; TIAS 8892 | U.S.-Liberia Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Monrovia Mar. 20, 1974 and July 22, 1977. Entered into force July 22, 1977. |
| 1976 | 27 UST 3985; TIAS 8415 | U.S.-Philippines Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Manila Oct. 25, 1976. Entered into force Oct. 25, 1976. |
| 1978 | ——; TIAS 9260 | U.S.-Iceland Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Reykjavik April 26, 1978. Entered into force April 26, 1978. |
| 1978 | ——; TIAS 9272 | U.S.-Greece Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Athens June 20 and July 5, 1978. Entered into force July 5, 1978. |

| Date | Citations | Subject |
|---|---|---|
| 1978 | —— TIAS 9314 | U.S.-Sunnam Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Paramaribo Oct. 3 and 12, 1978. Entered into force Oct. 12, 1978. |
| 1979 | —— TIAS 9425 | U.S.-Jordan Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Amman Feb. 6 and Mar. 11, 1979. Entered into force Mar. 11, 1979. |
| 1979 | —— TIAS 9456 | US-Haiti Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Port au Prince Apr. 17 and May 17, 1979. Entered into force May 17, 1979. |
| 1979 | —— | US-Spain Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Madrid Dec. 11 and 21, 1979. Entered into force Dec. 21, 1979. |

(c) With respect to its relations with several countries, the United States is bound by certain superseded treaties and agreements because some of the contracting countries other than the United States did not become a party to subsequent treaties and agreements. These include the following:

| Date | Citations | Subject |
|---|---|---|
| 1912 | 38 Stat. 1672; TS 581; 1 Bevans 683. | International Radiotelegraph Convention. Signed at London July 5, 1912. Entered into force July 1, 1913. Superseded by the International Radiotelegraph Convention and General Regulations, Washington, 1927 (TS 767). |
| 1927 | 45 Stat. 2760; TS 767; 2 Bevans 683. | International Radiotelegraph Convention and General Regulations. Signed at Washington Nov. 25, 1927. Entered into force Jan. 1, 1929. Superseded by the International Telecommunication Convention and General Radio Regulations, Madrid, 1932 (TS 867). |
| 1932 | 49 Stat. 2391; TS 867; 3 Bevans 65. | International Telecommunication Convention. Signed at Madrid Dec. 9, 1932. Entered into force for the United States June 12, 1934. Superseded by the International Telecommunication Convention, Atlantic City, 1947 (TIAS 1902). |
| 1937 | 54 Stat. 2514; EAS 200; 3 Bevans 480. | Inter-American Arrangement concerning Radiocommunications and Annex. Signed at Havana Dec. 13, 1937. (First Inter-American Radio Conference.) Entered into force for the United States July 18, 1938. This arrangement was replaced by the Inter-American Agreement concerning Radiocommunications, Santiago, 1940 (EAS 231). |
| 1940 | 55 Stat. 1482; EAS 231; 3 Bevans 611. | Inter-American Radiocommunications Agreement between the United States, Canada and Other American Republics. Signed at Santiago Jan. 26, 1940. (Second Inter-American Radio Conference.) Entered into force with respect to the United States Feb. 25, 1942. Replaced by the Inter-American Radio Agreement, Washington, 1949 (TIAS 2489). |
| 1947 | 63 Stat. (2) 1399; TIAS 1901; 4 Bevans 570. | International Telecommunication Convention and Radio Regulations. Signed at Atlantic City Oct. 2, 1947. Entered into force Jan. 1, 1949. The Convention was superseded by the International Telecommunication Convention, Buenos Aires, 1952 (TIAS 3266). The Radio Regulations were superseded by the International Radio Regulations, Geneva, 1959 (TIAS 4893). |
| 1949 | 2 UST (1) 17; TIAS 2175; 4 Bevans 852. | Telegraph Regulations (Paris Revision, 1949) Annexed to the International Telecommunication Convention. Signed at Paris August 5, 1949. Entered into force with respect to the United States Sept. 26, 1950. Superseded by the Telegraph Regulations, Geneva Revision, 1958 (TIAS 4390). |
| 1952 | 6 UST 1213; TIAS 3266 | International Telecommunication Convention. Signed at Buenos Aires Dec. 22, 1952. Entered into force with respect to the United States June 27, 1955. Superseded by the International Telecommunication Convention, Geneva, 1959 (TIAS 4892). |
| 1958 | 10 UST 2423 | Telegraph Regulations (Geneva Revision, 1958) Annexed to the International Telecommunication Convention. Signed at Geneva Nov. 29, 1958. Entered into force Jan. 1, 1960. Superseded by the Telegraph Regulations, Geneva, 1973. |
| 1959 | 12 UST 1761; TIAS 4892 | International Telecommunication Convention. Signed at Geneva Dec. 21, 1959. Entered into force with respect to the United States Oct. 23, 1961. Superseded by the International Telecommunication Convention, Montreux, 1965 (TIAS 6267). |
| 1960 | 16 UST 185; TIAS 5780 | International Convention for the Safety of Life at Sea and Annexed Regulations. Signed at London June 17, 1960. Entered into force May 26, 1965. Corrections to certain annexes contained in TIAS 6284 signed Feb. 15, 1966. Superseded by the International Convention for the Safety of Life at Sea and Annexed Regulations, London, 1974. |
| 1965 | 18 UST 575; TIAS 6267 | International Telecommunication Convention. Signed at Montreux Nov. 12, 1965. Entered into force with respect to the United States May 29, 1967. Superseded by the International Telecommunication Convention, Malaga-Torremolinos, 1973. |

(d) There are certain treaties and agreements primarily concerned with matters other than the use of radio but which affect the work of the Federal Communications Commission insofar as they involve communications. Among the most important of these are the following which are available from the Secretary General, International Civil Aviation Organization (ICAO), P.O. Box 400, Succursale: Place

de l'Aviation Internationale, 1000 Sherbrooke Street West, Montreal H3A 2R2, Canada:

| Date | Citations | Subject |
|---|---|---|
| 1944 | 61 Stat. (2) 1180; TIAS 1591; 3 Bevans 944. | International Civil Aviation Convention. Signed at Chicago Dec. 7, 1944. Entered into force Apr. 4, 1947. Amended by the protocols contained in TIAS 3756, 5170, 8162, 7616, and 8092. |
| 1954 | 8 UST 179; TIAS 3756 | Protocol Amending the International Civil Aviation Convention (TIAS 1591). Done at Montreal June 14, 1954. Entered into force Dec. 12, 1956. |
| 1961 | 13 UST 2105; TIAS 5170 | Protocol Amending the International Civil Aviation Convention (TIAS 1591). Done at Montreal June 21, 1961. Entered into force July 17, 1962. |
| 1962 | 26 UST 2374; TIAS 8162 | Protocol Amending the International Civil Aviation Convention (TIAS 1591). Done at Rome Sept. 7, 1962. Entered into force Sept. 11, 1975. |
| 1968 | 19 UST 7693; TIAS 6605 | Protocol on the Authentic Trilingual Text of the Convention on International Civil Aviation (TIAS 1591). Done at Buenos Aires Sept. 24, 1968. Entered into force Oct. 24, 1968. |
| 1969 | 20 UST 718; TIAS 6681 | Proces-Verbal Rectification to the Protocol of Sept. 24, 1968, on the Authentic Text of the Convention on International Civil Aviation (Chicago, 1944). Done at Washington April 8, 1969. Entered into force April 8, 1969. |
| 1971 | 24 UST 1019; TIAS 7616 | Protocol Amending the International Civil Aviation Convention (TIAS 1591). Done at New York March 12, 1971. Entered into force Jan. 16, 1973. |
| 1971 | 26 UST 1061; TIAS 8092 | Protocol Amending Article 56 of the International Civil Aviation Convention (TIAS 1591). Done at Vienna July 7, 1971. Entered into force Dec. 19, 1974. |

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BILLING CODE 6712-01-M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 652

### Atlantic Surf Clam and Ocean Quahog Fisheries; Adjustment in Atlantic Surf Clam Quarterly Quota and Allowable Atlantic Surf Clam Fishing Time.

**AGENCY:** National Oceanic and Atmospheric Adminsitration/ Commerce.

**ACTION:** Notice of adjustment in Atlantic surf clam quarterly quota; Notice of adjustment in allowable fishing time for Atlantic surf clam.

**SUMMARY:** This notice increases the allowable fishing time form 36 hours to 48 hours per week for fishing vessels harvesting Atlantic surf clams within the United States fishery conservation zone (FCZ). It is currently estimated that the harvest of surf clams during the first quarter of 1980 fell short more than 5,000 bushels for the specified quarterly quota. The shortfall will ble added to the quarterly quota for the second quarter of 1980. The increase in fishing time is intended to allow the fisherman harvesting Atlantic surf clams to harvest the full adjusted quarterly allocation of surf clams for the second quarter of 1980.

**EFFECTIVE DATE:** May 18, 1980, through June 27, 1980.

**FURTHER INFORMATION CONTACT:** Allen E. Peterson, Jr., Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Massachusetts, 01930; Telephone (617) 281-3600.

**SUPPLEMENTARY INFORMATION:** The regulations implementing the Surf Clam Fishery Management Plan (FMP) for the Atlantic surf clam and ocean quahog fisheries prepared by the Mid-Atlantic Fishery Management Council (Council) provide for adjustment of quarterly quotas for Atlantic surf clams and increasing the allowable Atlantic surf clam fishing time.

Under paragraph Section 652.21(a)(1), if the actual catch of surf clams in the mid-Atlantic area in any quarter falls more than 5,000 bushels short of the specified quarterly quota, the Regional Director shall add the amount of the shortfall to the next succeeding quarterly quota, and publish a notice of the action in the Federal Register.

The harvest of surf clams during the first quarter of 1980 fell short of the adjusted quarterly allocation by 70,000 bushels. This shortfall is added to the quarterly quota for the second quarter of 1980. With the addition, the allocation for the second quarter is 570,000 bushels.

Section 652.22 (a)(5) allows the Regional Director to increase the number of hours per week during which fishing for surf clams is permitted to facillitate the harvest of the full quarterly allocation if he determines that the quarterly allocation will not be harvested at the then-current level of fishing effort, and that the catch rate has not diminished as a result of a decline in abundance of stocks of surfs clams.

Although the provision of a make-up period for fishing time lost due to bad weather during the first quarter of 1980 afforded relatively free opportunity to harvest surf clams, a number of factors combined to reduce the actual rate of harvest. These included the closure or slowdown of some processing plants due to market conditions, and the diversion of considerable processing effort away from surf clams to ocean quahogs. These factors, which are expected to continue throughout the next few months, will contribute to continued low rates of harvest unless fishing time is increased.

In evaluating an increase in allowable fishing time, the Regional Director consulted with members of the Surf Clam Committee of the Mid-Atlantic Fishery Management Council, together with individuals involved in the surf clam industry. A number of those in the industry were reluctant to increase fishing time because of fears that such an increase might result in greater surf clam landings than the market can accept. However, others have requested that the greatest amount of flexibility in terms of fishing time be allowed, provided that the possibility of exceeding the quota or forcing a closure of the fishery is minimized. The Council and its Surf Clam Committee advised the Regional Director to increase allowable fishing time as needed to ensure the harvest of the full quarterly allocation.

The Regional Director has determined that the quarterly allocation of surf clams will not be harvested with the current 36 hour fishing week. Further, there is no evidence that the catch rate may have diminished as a result of a decline in abundance of stocks of surf clams. The Regional Director has decided to increase allowable fishing time as required, to ensure full harvest of the full quarterly allocation. Therefore, effective May 18, 1980, the allowable fishing time for surf clams in the mid-Atlantic area will increase to 48 hours per week until June 27, 1980.

(16 U.S.C. 1801 *et seq.*)

Signed at Washington, D.C., this the 16th day of May 1980.

Winfred H. Meibohm,

*Executive Director, National Marine Fisheries Service.*

[FR Doc. 80-15617 Filed 5-19-80; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 674

## Alaska Salmon Fishery

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

**ACTION:** Emergency regulations.

**SUMMARY:** The North Pacific Fishery Management Council has adopted, and the Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration has, with one exception, approved certain amendments to the fishery management plan (FMP) for the High Seas Salmon Fishery off the Coast of Alaska. These amendments must become effective at the beginning of the fishing season for sound conservation reasons. Procedures under Section 305(e) of the Fishery Conservation and Management Act of 1976 (FCMA) are invoked so that these regulations are implemented in a timely manner.

**EFFECTIVE DATE:** These regulations are effective on May 15, 1980, and remain in effect until June 29, 1980 unless sooner amended or revoked.

**FOR FURTHER INFORMATION CONTACT:** Mr. Harry L. Rietze, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, Telephone: 907 586-7221.

**SUPPLEMENTARY INFORMATION:** On May 18, 1978 the National Marine Fisheries Service published interim emergency regulations implementing the approved portion of the Fishery Management Plan (FMP) for the Alaska salmon fishery. The FMP was published in its entirety in the Federal Register on June 8, 1979 (44 FR 33250). The emergency regulations were reimplemented on July 11, 1979, (44 FR 40519), were amended once on July 17, 1979 (44 FR 41467), and were published as final regulations on September 6, 1979 (44 FR 51988).

These amendments are designed to promote conservation of the ocean salmon resource while allowing utilization of those stocks for food production and to bring the regulations in the fishery conservation zone (FCZ) into conformity with the regulations promulgated by the State of Alaska for the salmon troll fishery in State waters.

These amendments will:

(1) Allow entry into the troll fishery in the FCZ (a) to hand trollers; and (b) those holders of valid State of Alaska entry permits for the power troll fishery as of May 15, 1979, or a valid Federal permit;

(2) Provide for transfer of State permits under State law with review and oversight by the Department of Commerce;

(3) Require that all troll caught chinook or coho salmon be landed with heads on;

(4) Restrict trollers to no more than four lines in the area south of the latitude of Cape Spencer, and no more than six lines north of that line;

(5) Permit no more than six operational gurdies aboard any licensed salmon trolling vessel and

(6) Prohibit possession of salmon in any area where the taking of that species is prohibited.

It has been determined that controlling the catch is necessary for the future well being of the stocks in this fishery. The amendments are designed to control expansion of fishing effort in the fishery off Alaska. Reduction of fishing effort on depleted wild chinook stocks would be desirable, but until further data is available to identify those stocks on the fishing grounds, this mixed stock fishery will continue to take some of them. Some reduction of effort is expected from these amendments since it will reduce effort by individual boats who in the past have fished six or more lines in the FCZ but will now be restricted to four lines south of the latitude of Cape Spencer and six lines north of that line.

Closures by field announcement are possible if individual stocks of fish show signs of being overfished.

The amendments require that all chinook and coho salmon must be landed with the heads attached. In 1979 the regulations required that all finclipped salmon must be landed with heads on. This regulation was designed to insure recovery of coded wire tags implanted in the nose of those finclipped fish. It was found during the season that many of the trollers who freeze their catch were removing the heads of all fish, including those with clipped fins, thus losing the coded wire tag (CWT) and the information it contained from the data base for the management of the fishery. The requirement to land all chinook and coho with heads on will cause some further handling of those frozen fish since the heads must be removed and the fish reglazed after landing and checking for tags. In addition, it will somewhat reduce the carrying capacity of the individual vessels since fish with heads on take up more space than headed fish. However, the importance of the tagging program, dependent on the recovery of those tags, makes it necessary to impose this restriction.

The amendments prohibit the possession of any species aboard a vessel while fishing in an area closed to the taking of that species. This amendment is designed to permit closure of areas to the taking of a species but still allowing the fishery to continue for other species. Permitting possession of species prohibited to be taken in that area would make the closure unenforceable.

State of Alaska regulations have prohibited the use of more than four lines per vessel in state waters for many years. There has been no limit on the number of lines that could be used in the FCZ. The amendment restricts individual vessels to no more than four lines in the FCZ south of the latitude of Cape Spencer and no more than six lines north of that line. That amendment will reduce the fishing effort to some extent but still allow six lines in the offshore waters of the Fairweather Grounds north of Cape Spencer where more gear is needed to fish successfully on those extensive grounds. It will also tend to enable more accurate measurement of catch per unit of effort (CPUE).

All Pacific salmon fisheries are seasonal, but the off-shore troll fishery, which is conducted for the most part on feeding, growing, fish could, with varying degrees of success, be conducted year around, in sharp contrast to the inshore net fisheries which are conducted on migrating salmon. The inshore fisheries are discrete. The homing salmon have sorted themselves out by stock and stream, or system, by the time they enter most net fisheries. This is not the case in the off-shore troll fishery. Several year classes and stocks are intermingled and are taken indiscriminately in that fishery. This is why tag recovery, catch statistics, gear size, and restrictions are so important in this fishery. Taking these matters into account, the Assistant Administrator finds and determines that an emergency exists in this fishery which requires that appropriate emergency regulations be promulgated under Sec. 305(e) of the Act.

The Assistant Administrator also finds and determines for the reasons mentioned above that advance notice of proposed rule-making would be impractical and contrary to the public interest.

Signed at Washington, D.C. this 14th day of May, 1980

Winfred H. Meibohm,

*Executive Director, National Marine Fisheries Service.*

(16 U.S.C. 1801 *et seq.*)

50 CFR Part 674 is amended as follows:

§ 674.4 [Amended]

1. Amend § 674.4(a)(5) by changing "1980" to "1981".

2. Amend § 674.21 *Catch Limitations* by revising § 674.21(a) (1) and (2) and § 674.21(c) to read as follows:

§ 674.21 Catch Limitations.

(a) *Size Restriction*—(1) *Minimum size limit*—(i) *Chinook Salmon.* Only chinook salmon 28 inches or more in length may be retained.

(ii) *Other Salmon.* There is no minimum size limit for sockeye, coho, pink or chum salmon.

(2) *Method of Measurement.* For purposes of paragraph (1) (i) of this subsection, a chinook salmon is measured in a straight line passing over the pectoral fin, from the tip of the snout to the tip of the tail in its natural open position (see figure 1).

* * * * *

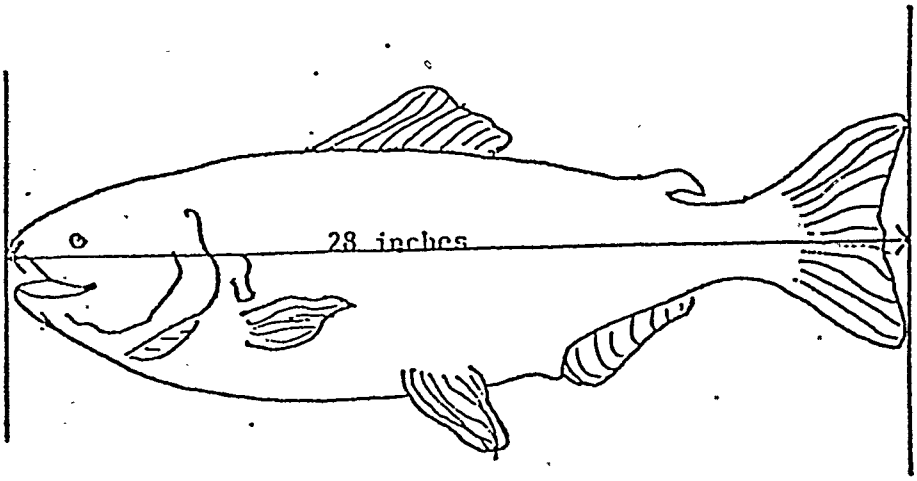
(c) *Landing Requirements.* All chinook or coho salmon taken in the management area must be landed with heads on.

3. Add § 674.21(d) to read as follows:

(d) *Possession Prohibited.* The possession or retention of species of salmon in the management area or portion thereof which has been closed to the taking of such species of salmon, by vessels engaged in commercial fishing is prohibited.

§ 674.24 [Amended]

4. Change figure 1 of § 674.24 to appear as follows:




Amend § 674.24(a)(2) by adding subparagraphs (ii) and (iii) as follows:

(a) * * *

(2) * * *

(ii) Vessels engaged in commercial fishing for salmon may not fish more than four lines south of a line beginning at the intersection of the inner boundary of the FCZ and the latitude of Cape Spencer at 58°12'08" N. lat., thence west along said latitude of 138°00' W. long., thence south along said longitude to 58°00' N. lat., thence west along said latitude to the intersection of the outer boundary of the FCZ and 58°00' N. lat. North of the line described above, such vessels may not fish than more than six lines. All vessels engaged in commercial fishing for salmon must not have more than six gurdies mounted and in operational condition.

(iii) Commercial fishing with hand troll gear is permitted in the East area, subject to all other applicable provisions of this Part.

[FR Doc. 80-15323 Filed 5-19-80; 8:45 am]

BILLING CODE 3510-22-M

# Proposed Rules

Federal Register
Vol. 45, No. 99
Tuesday, May 20, 1980

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

## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 351

### Reduction in Force

**AGENCY:** Office of Personnel Management.

**ACTION:** Proposed rulemaking.

**SUMMARY:** These regulations would clarify what factors determine whether an employee receiving military retired pay is considered a preference eligible employee for reduction in force purposes. These regulations would also clarify what periods of active military service are considered in determining the reduction in force retention standing of an employee receiving military retired pay.

These changes are being proposed in response to questions raised by agencies asking how to correctly determine the reduction in force retention standing of employees receiving military retired pay.

**COMMENT DATE:** Written comments will be considered if received no later than July 21, 1980.

**ADDRESS:** Send or deliver written comments to Associate Director, Staffing Services, Office of Personnel Management, 1900 E Street, N.W., Room 6526, Washington, D.C. 20415.

**FOR FURTHER INFORMATION CONTACT:** Theodore R. Dow or Thomas A. Glennon, (202) 632-4422.

**SUPPLEMENTARY INFORMATION:**

#### Explanation of Proposed Regulations

OPM proposed to make the following specific changes in Part 351:

(1) Section 351.501(h) is added. Section 351.501(h) (1), (2), and (3) provide that an employee who is a retired member of a military service is considered a preference eligible employee for reduction in force purposes only if he or she meets at least one of the following conditions:

(i) The employee's military retirement pay is based upon an injury or disease received in the line of duty as a direct result of armed conflict; or

(ii) The employee is credited with less than 20 years of full-time active military service; or

(iii) The employee has been continuously employed since December 1, 1964, in a position covered by Part 351, without a break in service of more than 30 days.

(2) Section 351.503(c) is added. Section 351.503(c) (1) and (2) provide that any employee who is a retired member of a military service is entitled to credit all of his or her military service performed during a period of war toward the service credit used in the determination of the employee's reduction in force retention standing. The same employee is entitled to credit his or her total length of military service toward the determination of his or her reduction in force retention standing only if the employee meets one of the conditions covered in § 351.501(h) (1), (2) or (3).

These proposed regulations do not represent a change of OPM's present policies. Instead, § 351.501(h) is derived from U.S.C. 3501(a), and § 351.503(c) is derived from 5 U.S.C. 3502(a).

OPM has determined that this is a significant regulation for the purposes of E.O. 12044.

Office of Personnel Management.
Kathryn Anderson Fetzer,
*Assistant Issuance System Manager.*

Accordingly, OPM proposes to amend Part 351 as follows:

(1) In § 351.501, paragraph (h) is added, to read as follows:

**§ 351.501 Tenure groups and subgroups—competitive service.**

* * * * *

(h) A retired member of a uniformed service is considered a preference eligible under this part only if he or she meets at least one of the conditions in the following paragraphs (b) (1), (2), or (3):

(1) The employee's military retirement is based on disability that either:

(i) Resulted from injury or disease received in the line of duty as a direct result of armed conflict; or

(ii) Was caused by an instrumentality of war incurred in the line of duty during a period of war as defined by sections 101 and 301 of title 38, United States Code.

(2) The employee's military service does not include 20 or more years of full-time active service, regardless of when performed. However, this total does not include periods of active duty for training.

(3) The employee has been employed continously since November 30, 1964, in a position covered by this Part without a break in service of more than 30 days.

(2) In § 351.503, paragraph (c) is added, to read as follows:

**§ 351.503 Length of service.**

* * * * *

(c) An employee who is a retired member of a uniformed service is entitled to credit under this part for:

(1) The length of time in active service in the armed forces during a war, or in a campaign or expedition for which a campaign badge has been authorized; or

(2) The total length of time in active services in the armed forces if the employee meets one of the conditions included under § 351.501(h) of this title.

(5 U.S.C. 1302, 3501, 3502)

[FR Doc. 80-15344 Filed 5-19-80; 8:45 am]
BILLING CODE 6325-01-M

## DEPARTMENT OF AGRICULTURE

### Foreign Agricultural Service

### 7 CFR Part 6

### Section 22 Import Quotas; Certain Dairy Products

**AGENCY:** Foreign Agricultural Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** It is proposed to amend Import Regulation 1 which governs the administration of an import licensing system for certain dairy products subject to quota under the authority of Section 22 of the Agricultural Adjustment Act of 1933, as amended. The amendments proposed are necessary (1) to eliminate certain inconsistencies between Presidential Proclamation 4708 (December 11, 1979) and the regulation in its present form and (2) to provide authority to grant nonhistorical licenses to certain persons who did not receive quota shares for Other cheese, NSPF, from Canada as a result of the confusion surrounding the elimination of the "pricebreak" system.

**DATE:** In order to assure consideration, written comments on this proposed rule must be received by June 20, 1980.

**ADDRESS:** Comments should be addressed to: Dairy, Livestock and Poultry Division, CP, Foreign Agriculture Service, Room 6616 South Building, Department of Agricultural, Washington, DC 20250.

Copies of all written comments received will be available for examination by interested persons in Room 6624 of the South Agricultural Building (14th and Independence Ave., Washington, DC) during regular business hours (8:30—5:00 weekdays).

**FOR FURTHER INFORMATION CONTACT:** Carol M. Harvey, Head, Dairy and Import Group, Dairy, Livestock and Poultry Division, CP, FAS, Room 6624, South Building, Department of Agriculture, Washington, DC 20250 (202) 447–5270. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from Carol M. Harvey.

**SUPPLEMENTARY INFORMATION:** This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified "not significant". Rolland E. Anderson, Director, Dairy, Livestock and Poultry Division, FAS, has determined that an emergency situation exists which warrants less than a 60-day comment period on this proposed action. This situation exists because under the present rule, which applies to certain dairy products imported after January 1, 1980, several U.S. importers who were able to import quota free "pricebreak" cheese from Canada have been unable to continue to do so as a result of the elimination of the "pricebreak" system. As a consequence, these importers have been unable to continue their traditional importations during the first four months of 1980. This proposed rule is designed to minimize the hardship created by the cessation of these imports by promptly allocating quota shares to all such importers who, pursuant to the changes discussed below, can demonstrate eligibility.

## Discussion of Proposed Changes

Participation In "Other" Country Category Under Presidential Proclamation 4708 (December 11, 1979).

which affects all licensed and unlicensed diary products under quota, a country which is not listed in part 3 of the Appendix to the Tariff Schedules of the United States as having a specifically assigned quota share for a particular article is said to be an "Other" country for purposes of participating in the specific quota share for a particular article assigned to "Other" countries. Revision 7 of Import Regulation 1 (44 FR 75594), which enunciates only the quota shares under license assigned to specific countries, does not follow the Proclamation concerning participation in the "Other" country category. Specifically, § 6.21(t) defines the term "Other countries", the equivalent of the term "Other" used in the Proclamation, to mean countries other than those "listed as having separate quotas in Appendix 1 or Appendix 2." A country specifically listed in the Proclamation as having a quota share not subject to the licensing provisions of Import Regulation I, does not appear in Appendix 1 or Appendix 2 as a country with a specifically assigned quota share for a particular article. The effect of the definition in § 6.21(t), however, is to make it appear that a country not entitled to participate in the "Other" country category listed in the Proclamation, because such country has a specifically assigned quota share, may nevertheless participate under Import Regulation 1 in the "Other countries" category.

This problem has indeed arisen with respect to Canada and its participation in the "Other countries" category in Group III(a) of Appendix 1. Specifically, some have suggested that since Canada is not listed as country with a quota share in Group III(a) Appendix 1 (TSUS Item 950.08A), which is subject to license, it may participate in the "Other countries" quota share assigned to that item. However, since the Proclamation does list Canada as having a quota share for TSUS 950.08A, it should not be entitled to so participate even though it is not listed with respect to that item in either Appendix 1 or Appendix 2. The absence of Canada from Group III(a) Appendix 1 of Import Regulation 1 is attributable to the fact that Canada's share is not subject to license, not to the fact that Canada has no specifically assigned quota share. The proposed amendment should make it explicitly clear that Canada cannot participate in the "Other countries" category in Group III(a) Appendix 1.

## Allocation of Nonhistorical Quota Share to Traditional Importers of Other Cheese, NSPF, From Canada

The proposal to add a new paragraph (5) to § 6.26(b) is needed in order to ameliorate, where possible within the available quota, inequities arising as a result of the elimination of the "pricebreak" system. Specifically, prior to the establishment of the new quotas and the elimination of the pricebreak system, several U.S. importers were importing rather substantial quantities of Other cheese, NSPF, from Canada, above the pricebreak and, thus, were not subject to quota or the licensing system. However, Canada received no new NSPF quota in the Multilateral Trade Negotiations. Canada's NSPF quota, now reflected in Appendix 1, was previously allocated in the form of a few large nonhistorical licenses. However, since NSPF could be imported above the pricebreak, there was little interest in utilization of the quota, and thus, the quota went largely unused. With the elimination of the pricebreak, all of the Other cheese, NSPF, which had been entering quota free was placed under quota and made subject to the licensing provisions of Import Regulation I. This meant, effectively, that any importer of NSPF cheese from Canada would have had to apply for nonhistorical license during the fall 1979 application period pursuant to Revision 7 of Import Regulation I (December 20, 1979). Since many of the traditional importers of this cheese had never had to obtain a license in order to import NSPF cheese from Canada, some of them were totally unfamiliar with the licensing system and were unaware of the need to obtain a license to import items subject to quota limiations. Thus, in most instances, the period for making application for a license to import Other cheese, NSPF, from Canada, placed under quota by the elimination of the pricebreak system, elapsed without these importers actually requesting appropriate licenses.

The proposed rule will allow the licensing authority to grant traditional importers nonhistorical licenses for 1980 if they either submitted Customs form 7501 and 7505 or an application for a historical quota share for an article in Group V of Appendix 1. In doing so, these importers will be treated, in all respects, as having made formal application in accordance with § 6.25(b) (2) and (4). The shares allocated to these traditional importers shall not result in a diminution of the amount already allocated to the other licensees for 1980.

## Proposed Rule

In consideration of the foregoing, it is proposed to amend Part 6, Subpart — Section 22 Import Quotas of 7 CFR as follows:

### § 6.21 [Amended]

1. Section 6.21(t) is amended by deleting the words "Appendix 1 or Appendix 2" and inserting in lieu thereof the words "part 3 of the Appendix to the Tariff Schedules of the United States."

§ 6.26 [Amended]

2. Section § 6.26(b) is amended by adding a new paragraph (5) to read as follows:

* * * * *

(5) Notwithstanding any other provision of this regulation, a person who is not eligible for a historial license in excess of one percent of the total quota for an article in Group V of Appendix 1 from a country which has a Group V quota in Appendix 1, but has no such quota in Appendix 2, will be eligible to obtain a nonhistorical license to enter a quota share of such article, if such person (i) submits to the licensing authority (a) documents required under paragraph (b)(2) (i) and (ii) of § 6.25, and (b) documents indicating the importation of 10,000 pounds or more of such article free of quota during the period July 1, 1978 through June 30, 1979, and (ii) had either submitted previously (a) Customs forms 7501 and 7505, as requested by the Department on August 16, 1979 (44 FR 47969), or (b) an application for a historical quota share for an article in Group V of Appendix 1: *Provided, That,* the allocation of such nonhistorical quota shares will not reduce the size of the nonhistorical quota shares previously allocated for 1980.

(Sec. 3, Pub. L. 80-897, 62 Stat. 1248, as amended (7 U.S.C. 624); Secs. 701, 703, Pub. L. 96-39, 93 Stat. 268, 272 (A. U.S.C. 1202 note); Part 3 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202)).

Signed this 15th day of May, 1980.

Thomas R. Hughes,

*Administrator, Foreign Agricultural Service.*

[FR Doc. 80-15464 Filed 5-19-80; 8:45 am]

BILLING CODE 3410-10-M

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## 7 CFR Part 6

## Section 22 Import Quotas; Certain Dairy Products

**AGENCY:** Foreign Agricultural Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** It is proposed to amend Import Regulation 1 which governs the administration of an import licensing system for certain dairy products subject to quota under the authority of section 22 of the Agricultural Adjustment Act of 1933, as amended. The proposed amendments are designed to more fully effectuate the original intent of the Department with respect to those persons who should be precluded from obtaining a license as a result of close relationship to another person eligible for a license, as well as those persons who should be entitled to receive certain matching supplementary license shares notwithstanding actual affiliation or association with another person eligible for a license.

**DATE:** In order to assure consideration, written comments on this proposed rule must be received by July 21, 1980.

**ADDRESS:** Comments should be addressed to: Dairy, Livestock and Poultry Division, CP, Foreign Agricultural Service, Room 6616 South Building, Department of Agricuture, Washington, DC 20250. Copies of all written comments received will be available for examination by interested persons in Room 6624 of the South Building, USDA, 14th and Independence Ave., NW, Washigton, DC, during regular business hours (8:30—5:00 weekdays).

**FOR FURTHER INFORMATION CONTACT:** Carol M. Harvey, Head, Dairy and Import Group, Dairy, Livestock and Poultry Division, CP, Foreign Agricultural Service, Room 6624, South Building, Department of Agriculture, Washington, DC 20250. Telephone (202) 447-5270. Actions of this kind were anticipated under the provisions of 7 CFR Part 6—Subpart Section 22 Import Quotas, and were specifically considered in the Final Impact Statement prepared for that action. Thus, the Final Impact Statement describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from Carol M. Harvey.

**SUPPLEMENTARY INFORMATION:** This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified as "not significant".

This proposed rule is designed to do two things: First, remove from § 6.25(b)(2)(i)(C), the reference to "officer, member, partner" and "employee", leaving only "affiliate" and "associate". Second, add some language to § 6.26(c)(1) to make it clear that licensees eligible for historical quota shares for items in Appendix 2 will be eligible for matching supplementary shares even though such licensees may be affiliated or associated.

With respect to the first, it should be noted that the basic purpose for the certification required by § 6.25(b)(2) is to assure the licensing authority that the person making the certification has not entered into an ownership or other relationship with another licensee which permits either of the persons involved to use the other's license. This purpose can be adequately satisfied, even after this proposed change is made, since the terms "affiliate" and "associates" will be left in § 6.25 (b)(2)(i)(C). Furthermore, the change will serve to permit the continuance of managerial relationships which have grown up over the years between various licensees. These relationships are typified by employer-employee roles which exist simply to permit one possessing greater business acumen to manage the business of another. These relationships do not exist for the purpose of having one licensee control the license of another. The objective is the utilization of managerial expertise. Therefore, licensees who are presently forced, because they are officers, members, partners, or employees of another licensee, to choose between continuing in their managerial capacity or continuing to obtain a license, will be allowed to function in both capacities so long as the relationship does not amount to affiliation or association.

With respect to the second proposed change, it should be noted that the discussion of "Eligibility" in the Supplementary Information section of the proposed rule for revision 7 of Import Regulation 1, published on October 3, 1979 (44 FR 56943), indicated that the allocation rules found in § 6.26(c) would, in effect, make it possible for new licensees eligible to receive historical quota shares for items in Appendix 2 to apply for and receive, if available, matching supplementary license shares for each Appendix 2 historical license share. After the final rule went into effect, however, it was discovered that the reference in § 6.26(c)(1) to affiliates and associates operated to make affiliated or associated licensees who received new historical licenses for the same cheese article from the same country ineligible to receive more than one matching Appendix 2 supplementary share for that article between them. Given the fact that affiliation or association does not prevent the receipt of historical licenses, it should not operate to prevent the receipt of matching supplementary shares. This proposed addition will correct the rule so as to permit certain licensees with historical quota shares to receive matching supplementary shares in 1981 even though such licensees may be associated or affiliated.

### Proposed Rule

In consideration of the foregoing, it is proposed to amend Part 6, Subpart—Section 22 Import Quotas of 7 CFR as follows:

§ 625 [Amended]

1. Section 6.25(b)(2)(i)(C) is amended by deleting the words "officer, member, partner," and ", or employee".

§ 6.26 [Amended]

2. Section 6.26(c)(1) is amended by inserting at the beginning of the first sentence the words "Except in cases involving persons with historical eligibility who are seeking matching supplementary shares authorized under paragraph (c)(1)(ii) of § 6.25".

(Sec. 3, Pub. L. 80-897, 62 Stat. 1248, as amended (7 U.S.C. 624); Secs. 701, 703, Pub. L. 96-39, 93 Stat. 268, 272 (19 U.S.C. 1202 note); Part 3 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202))

Signed this 15th of May, 1980.

Thomas R. Hughes,

*Administrator, Foreign Agricultural Service.*

[FR Doc. 80-15462 Filed 5-19-80; 8:45 am]

BILLING CODE 3410-10-M

## Agricultural Marketing Service

## 7 CFR Parts 915 and 944

## Avocados Grown in South Florida and Imported Avocados; Proposed Grade and Maturity Requirements

*Correction*

In FR Doc. 80-13654 appearing on page 29843 in the issue of Tuesday, May 6, 1980, make the following corrections:

(1) In the seventh line of the "Summary" paragraph, "May 9" should have read "May 19".

(2) In Table I, for the Donnie variety, the third column should have read "16 oz, 3 5/16 in", and the fifth column should have read "14 oz, 3 4/16 in".

(3) Also in Table I, for the Booth 8 variety, the date in column 2 should have read "Sept. 8, 1980".

BILLING CODE 1505-01-M

## DEPARTMENT OF ENERGY

## Economic Regulatory Administration

## 10 CFR Part 211

[Docket No. ERA-R-80-09]

## Alaska North Slope Crude Oil Entitlements

**AGENCY:** Economic Regulatory Administration, Department of Energy.

**ACTION:** Notice of Change of Hearing Date.

**SUMMARY:** On May 8, 1980, the Economic Regulatory Administration of the Department of Energy issued a Notice of Proposed Rulemaking (45 FR 31682, May 13, 1980) which proposed alternative amendments to the Mandatory Petroleum Allocation Regulations modifying the treatment of Alaska North Slope (ANS) crude oil under the entitlements program, 10 CFR 211.67. Two public hearings were announced in the Notice, one to be held in Seattle, Washington, and the other in Washington, D.C.

The date for the hearing in Seattle was scheduled for June 3, 1980. However, in order to accommodate parties who would like to attend the public hearing on our recently proposed Crude Oil Supplier/Purchaser rule amendments, also scheduled for June 3, 1980 in San Francisco, notice is hereby given that the Seattle hearing date on the Alaska North Slope Crude Oil Entitlements amendments is changed to June 2, 1980. The hearing will be held at the same location in Seattle as specified in the Notice of Proposed Rulemaking.

**DATE:** Seattle, Wash. hearing will be held June 2, 1980.

**FOR FURTHER INFORMATION CONTACT:**

Robert Gillette (Hearing Procedures), Economic Regulatory Administration, Room 2214-B, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653-3757.

William Funk or Christopher M. Was (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-6736 or 252-6744.

Issued in Washington, D.C., May 14, 1980.

F. Scott Bush,

*Assistant Administrator, Regulations and Emergency Planning, Economic Regulatory Administration.*

[FR Doc. 80-15460 Filed 5-19-80; 8:45 am]

BILLING CODE 6450-01-M

## Office of Conservation and Solar Energy

## 10 CFR Part 456

[Docket No. CAS-RM-79-101]

## Residential Conservation Service Program

**AGENCY:** Department of Energy.

**ACTION:** Notice of comments filed subsequent to the formal closing of the comment period and notice of opportunity for the filing of rebuttal comments.

**SUMMARY:** On December 13, 1979, the Department of Energy (DOE) issued a notice of proposed rulemaking implementing certain provisions of the Residential Conservation Service Program (44 FR 75956, December 21, 1979). DOE hereby gives notice of the comments which were received after the close of the comment period and provides seven days from publication of this notice for the filing of rebuttal comments. Copies of these comments are available for public inspection in the DOE Reading Room, Room GA-152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

**DATES:** Written comments must be received by May 27, 1980 to ensure their consideration.

**ADDRESS:** Comments should be addressed to: Joanne Bakos, Office of Conservation and Solar Energy, Department of Energy, Room 1F-085, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

**FOR FURTHER INFORMATION CONTACT:**

James R. Tanck, Director, Residential Conservation Service Program Office of Conservation and Solar Energy, Department of Energy, Room GH-068, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252-9161.

Susan Caplan, Office of General Counsel, Department of Energy, Room 1E-258, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252-9513.

**SUPPLEMENTARY INFORMATION:** The following is a list of the comments received after the close of the comment period on the rulemarking proposed by the Department of Energy on December 13, 1979 regarding the residential Conservation Service Program.

1. Wisconsin Power & Light Co.
2. Aerolite Foam Insulation
3. Johnson Control, Inc.
4. Smith Bros., Inc. Insulation
5. American Wind Energy Assoc.
6. Gruman Energy Systems, Inc.
7. United States Gypsum Co.
8. Shore Homes, Inc.
9. F. Kinderski
10. Nichols Construction
11. Acro Foam Industries
12. Insulation Contractors of Illinois
13. Celsius Insulation Resources, Inc.
14. Thermal Products, Inc.
15. Southwestern Electric Power Co.
16. Pridemark Solartherm Corp.
17. Robert S. Landing
18. Canyon Research Co.
19. New York State Energy Office
20. All Comfort Insulation
21. Thermo Insulation Products & Systems
22. Clay Home Improvements
23. State of Wisconsin
24. California Energy Commission
25. Power Towers, Inc.
26. AAA Aerolite Foam Insulation
27. J&C Insulation Co., Inc.
28. Automatic Damper Manufacturers Association
29. U.S. Consumer Products Safety Commission
30. Consolidated Edison Company of New York, Inc.
31. Minnesota Energy Agency

32. South Jersey Siding & Building
33. Master Sheet Metal, Furnace & Roofers Association
34. National Bureau of Standards
35. University of Washington
36. Rochester Gas & Electric Corp.
37. Stephen L. Neal, U.S. Congress
38. Clairborne Pell, United States Senate
39. Salt River Project
40. Public Service Co. of N.C., Inc.
41. Energy Masters Corp.
42. Rapco Insulation of Tidewater
43. S&S Gasket Co., Inc.

Issued in Washington, D.C., on May 14, 1980.

Maxine Savitz,

*Deputy Assistant Secretary, Conservation and Solar Energy.*

[FR Doc. 80-15401 Filed 5-19-80; 8:45 am]

BILLING CODE 6450-01-M

## FEDERAL RESERVE SYSTEM

## 12 CFR Part 226

**[Reg. Z; Docket No. R-0295]**

## Truth in Lending; Increased Tolerance for Annual Percentage Rates in Irregular Mortgage Transactions

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Proposed rule.

**SUMMARY:** The Board seeks comment on a proposed amendment to Regulation Z that would increase the tolerance for accuracy in disclosing the annual percentage rate in irregular mortgage transactions. If adopted, the more generous tolerance would be available only until April 1, 1981; after that date, the annual percentage rates for those transactions would have to meet the general standard of accuracy. The proposed amendment follows the recommendation in the Conference Report on the recent Truth in Lending Simplification and Reform Act, and is intended to insulate certain creditors from civil liability temporarily while they acquire the calculation tools necessary to determine rates more accurately.

**DATE:** Comments must be received on or before June 20, 1980.

**ADDRESS:** Comments may be mailed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or delivered to Room B-2223, 20th and Constitution Avenue, N.W., Washington, D.C., between 8:45 a.m. and 5:15 p.m. Comments may also be inspected at Room B-1122 between 8:45 a.m. and 5:15 p.m. The comments should refer to docket number R-0295.

**FOR FURTHER INFORMATION CONTACTS:** Ellen Maland, Senior Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, (202-452-3867).

**SUPPLEMENTARY INFORMATION:** The Truth in Lending Simplification and Reform Act (Title VI of Public Law 96-221, the Depository Institutions Deregulation and Monetary Control Act of 1980) was signed into law by the President on March 31, 1980. Although the simplification act does not become fully effective until April 1, 1982, it requires the Board to adopt implementing regulations no later than April 1, 1981. The Board recently proposed for comment a completely revised version of Regulation Z (45 FR 29702, May 5, 1980) to implement the statutory amendments. The proposal discussed in this notice, although occasioned by the new act, is a special matter that the Board believes merits prompt and separate consideration.

The Conference Report on the Truth in Lending Simplification and Reform Act recommends that the Board consider a temporary relaxation of the rules for accuracy of annual percentage rates in irregular mortgage transactions. It suggests:

> That, for a period of one year from the date of enactment of the restitution provision [March 31 1980], the Federal Reserve Board may allow a tolerance increased by one quarter of one percentage point for calculation of the APR on irregular mortgage transactions. However, the tolerance shall be no greater than one half of one percent between the disclosed rate and the actual rate.
>
> An irregular mortgage transaction is a loan secured by real estate for which the APR cannot be calculated using Volume I of the Federal Reserve System's Truth in Lending, Regulation Z, Annual Percentage Rate Tables.
>
> (H.R. Rep. No. 96-842, 96th Cong., 2nd Sess. 81 (1980).)

The general standard of accuracy for an annual percentage rate under Regulation Z is ⅛ of a percentage point; that is, the disclosed rate must be within ⅛ of percentage point above or below the actual rate. The increased tolerance suggested in the Conference Report for lenders making complex mortgage loans is intended to give them time to acquire the calculation tools needed to determine accurate annual percentage rates. The effect of the special rule would be to insulate those lenders from civil liability for errors within the tolerance limits for a limited time.

The Board is therefore proposing for comment an amendment to the annual percentage rate provisions of Regulation Z to provide a greater tolerance for irregular mortgage transactions until April 1, 1981. The proposal allows for a tolerance of ½ of a percentage point, thus permitting disclosure of an annual percentage rate for such a transaction to be considered accurate under the regulation as long as it is within ½ of one percentage point above or below the actual rate. The maximum tolerance mentioned in the Conference Report is being proposed, but the Board specifically solicits comment on whether a smaller tolerance would be appropriate. If adopted, the tolerance for irregular mortgage transactions would be in lieu of, not in addition to, the general ⅛ percentage point tolerance.

Irregular mortgage transactions are defined in the proposal as those involving multiple advances or irregular payment schedules (other than an irregular first period or an irregular first or last payment amount). The annual percentage rate for those types of transactions cannot be determined by use of Volume I of the Board's APR tables, which is designed for regular transactions. The category of irregular mortgage transactions includes, for example, construction financing involving multiple advances, loans with government or private mortgage insurance premiums that vary during the loan term, graduated payment and step-rate mortgages, and mortgages involving required deposit balances.

The proposal would add a new paragraph to § 226.5 of Regulation Z, as that section was amended in January 1980.

The Board solicits comment on the following questions, as well as on any other aspect of the proposal:

—Is an increased tolerance needed by mortgage lenders?

—Is the size of the proposed tolerance (½ of one percentage point) appropriate or should it be smaller? Should the tolerance be expressed as a percent of the actual rate or, as stated in the proposal, as a fraction of a percentage point?

—Is the definition of an irregular mortgage transaction an appropriate one?

The comment period for this proposal is only 30 days rather than the normal 60 days. The Board has decided that a shorter comment period is advisable in order to expedite consideration of the matter since any special tolerance would expire on April 1, 1981, under the amended act.

In consideration of the foregoing and pursuant to the authority granted in § 105 of the Truth in Lending Act (15 U.S.C. 1604, as amended), the Board proposes to amend Regulation Z (12 CFR 226) by adding a new paragraph (d) to § 226.5, to read as follows:

§ 226.5 Determination of annual percentage rate.

* * * * *

(d) *Special rule for irregular mortgage transactions.* Notwithstanding any other provision in this section, the annual percentage rate in an irregular mortgage transaction shall be considered accurate if it is not more than ½ of 1 percentage point above or below the annual percentage rate determined in accordance with either the actuarial method or the United States Rule method. For the purpose of this paragraph, an irregular mortgage transaction is a real property transaction involving one or more of the following features: multiple advances, irregular payment periods (other than an irregular first period, as defined in footnote 5c), and irregular payment amounts (other than irregular first and last payment amounts). This paragraph shall cease to be effective on April 1, 1981, after which date the general standard of accuracy in paragraph (b) of this section will apply.

By order of the Board of Governors, May 14, 1980.

Theodore E. Allison,

*Secretary of the Board.*

[FR Doc. 80-15361 Filed 5-19-80; 8:45 am]

BILLING CODE 6210-01-M

## SMALL BUSINESS ADMINISTRATION

### 13 CFR Part 121

### Small Business Size Standards; Change in Location and Time for Hearing on Proposed Small Business Size Standards in Atlanta, Georgia

**AGENCY:** Small Business Administration.

**ACTION:** Notice of Change in Location and Time of Public Hearing in Altanta, Georgia.

**SUMMARY:** On April 8, 1980, SBA published in the Federal Register (45 FR 23704) a notice of public hearings concerning its size standards. Because of the unusually great interest shown, the location and time for the Atlanta, Georgia, hearing is changed from 1375 Peachtree Street, Small Business Administration, 9:30 a.m. to L. D. Strom Auditorium, Richard Russell Federal Building, 75 Spring Street, S.W., Atlanta, Georgia 30303, at 9:00 a.m., May 29, 1980.

**DATE:** The hearing will be held on the same date as originally scheduled—May 29, 1980.

**FOR FURTHER INFORMATION CONTACT:** Dave Coker, Small Business Administration, 1375 Peachtree Street, Atlanta, Georgia 30309, (404) 881-4950.

Dated: May 14, 1980.

A. Vernon Weaver,

*Administrator.*

[FR Doc. 80-15317 Filed 5-19-80; 8:45 am]

BILLING CODE 8025-01-M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 15 CFR Part 936

### The Looe Key Marine Sanctuary

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

**ACTION:** Proposed rule.

**SUMMARY:** The National Oceanic and Atmospheric Administration proposes the designation by the Secretary of Commerce of the Looe Key Marine Sanctuary 6.7 nmi southwest of Big Pine Key, Florida. Presidential approval of the designation is required. After designation, the Secretary of Commerce must promulgate necessary and reasonable regulations to control activity within the sanctuary. These proposed regulations define permissible activities within the Sanctuary, the procedures by which persons may obtain permits for prohibited activities, and the penalties for committing prohibited acts without a permit.

**DATE:** Comments due July 21, 1980.

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

**FOR FURTHER INFORMATION CONTACT:** Dr. Nancy Foster, Deputy Director, Sanctuary Programs Office, Office of Coastal Zone Management, NOAA, 3300 Whitehaven Street, N.W., Washington, D.C. 20235, (202) 634-4236.

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

The Office of Coastal Zone Management proposes to designate a 5.32 square nautical mile (sq nmi) marine sanctuary 6.7 miles southwest of Big Pine Key in the lower Florida Keys. It is one of the most diverse and biologically productive coral reef communities in the entire Florida Reef tract, supporting representatives of West Indian biota, including an array of tropical fish and invertebrates.

In 1977 the Florida Keys Citizens Coalition (an association of 21 public groups including the Izaak Walton League and Florida Keys Audubon) recommended the Looe Key area as a marine sanctuary. In January of 1978 NOAA held a public workshop on the proposal at Big Pine Key in the Florida Keys. The Florida Audubon Society, the Sierra Club, Miami Chapter, the Izaak Walton League, Florida Chapter, the Florida Keys Citizens Coalition and the Upper Keys Citizens Association testified on behalf of the proposal. The Newfound Harbor Marine Institute spoke in support of a core area where only non-consumptive uses would be permitted The Lower Keys Chapter of the Organized Fishermen of Florida (OFF) testified that their members were opposed to any regulation of fishing which would reduce their income and local residents in the nearby Keys expressed concern that the sanctuary would only attract more tourists to the area which, in turn, would further deplete and damage renewable resources.

Following the workshop, the South Atlantic and Gulf of Mexico Fishery Management Councils requested that NOAA delay further steps until the Councils' joint coral reef fishery management plan (FMP) was completed. NOAA agreed to the delay. Extensive consultation with both Councils culminating in the signing of Memoranda of Understanding on consultation procedures, resulted in revised council recommendations that NOAA proceed with the evaluation of Looe Key as a marine sanctuary candidate. Based on consultation with other Federal agencies, State agencies, the Gulf and South Atlantic Regional Fishery Management Councils, and local interest groups, NOAA prepared a draft environmental impact statement (DEIS) which is being published concurrently with these regulations (A copy can be obtained in writing to the contact identified above.).

The DEIS describes the impacts of the marine sanctuary proposal including its

ability to focus on this particularly valuable marine area and to provide comprehensive planning. It discusses marine sanctuary management including research and monitoring of the conditions of the site and the resources to assure long-term protection and maximum safe use and enjoyment and the educational element of the program to increase public awareness of the value of the resources. The rationale for designation and for the proposed regulatory system as well as alternative approaches, both regulatory and nonregulatory, are more fully set forth in the DEIS.

OCZM will receive public comments on the proposal, hold public hearings in Big Pine Key, Key West and Miami, and prepare a final EIS and regulations which incorporate and respond to the comments received. Only after final consultation with Federal agencies, and with Presidential approval, can the Secretary designate the sanctuary and promulgate regulations.

NOAA's General Marine Sanctuary Regulations (15 CFR Part 922, 44 FR 44831, July 31, 1979) provide that the regulatory system for a marine sanctuary will be established by two documents, a Designation document and the regulations issued pursuant to Section 302(f) of the Act. The Designation will serve as a constitution for the Sanctuary, establishing among other things the purposes of the Sanctuary, the types of activities that may be subject to regulation within it, and the extent to which other regulatory programs will continue to be effective.

As proposed, the Looe Key Marine Sanctuary Designation document would provide as follows:

**Draft Designation Document**
**Designation of the Looe Key Marine Sanctuary**

*Preamble*

Under the authority of the Marine Protection, Research and Sanctuaries Act of 1972, Pub.L. 92-523, (the Act) the waters at Looe Key are hereby designated a Marine Sanctuary for the purposes of protecting this unique and fragile ecological and recreational resource, stimulating marine research on coral reef dynamics and enhancing public awareness of this reef system.

Article 1. Effect of Designation

Within the area designated as the Looe Key Marine Sanctuary (the Sanctuary), described in Article 2, the Act authorizes the promulgation of such regulations as are reasonable and necessary to protect the values of the Sanctuary. Article 4 of the Designation lists those activities which may require regulation but the listing of any activity does not by itself prohibit or restrict it. Restrictions or prohibitions may be accomplished only through regulation and additional activities may be regulated only by amending Article 4.

Article 2. Description of the Area

The Sanctuary consists of a 5.32 square nautical mile (sq nmi) area of the waters located off the coast of Florida 6.7 nmi (12.5 km) southwest of Big Pine Key in the lower Florida keys. The precise boundaries are defined by regulation.

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

The sanctuary area is one of the most diverse and biologically productive living coral reef communities in the Florida Reef Tract, supporting representatives of West Indian biota, including an array of tropical fish species and a well defined classic "spur and groove" reef system. The Sanctuary will provide recreational experiences and scientific research opportunities and generally will have special value as an ecological, recreational, esthetic and educational resource.

Article 4. Scope of Regulation

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

a. Coral collecting.
b. Vessel operations.
c. Spearfishing.
d. Wire trap fishing.
e. Lobster potting.
f. Bottom trawling and specimen dredging.
g. Discharge or depositing any substance or object.
h. Dredging or alteration of or construction on the seabed.
i. Removing or otherwise harming cultural or historical resources.

Section 2. *Consistency with International Law.* The regulations governing the activities listed in Section 1 of this Article will apply to foreign flag vessels and persons not citizens of the United States only to the extent consistent with recognized principles of international law including treaties and international agreements to which the United States is signatory.

Section 3. *Emergency Regulations.* Where essential to prevent immediate, serious and irreversible damage to the ecosystem of the area, activities other than those listed in Section 1 may be regulated within the limits of the Act on an emergency basis for an interim period not to exceed 120 days, during which an appropriate amendment of this Article would be proposed in accordance with the procedures specified in Article 6.

Article 5. Relation to Other Regulatory Programs

Section 1. *Fishing.* The regulation of fishing is not authorized under Article 4 except with respect to the removal or deliberate damage of coral (paragraph (a)), and the use of certain techniques and trawling (paragraphs (c)-(f)). In addition, fishing vessels may be regulated with respect to discharges (paragraph (g)) and anchoring (paragraph (b)). All regulatory programs pertaining to fishing, including particularly Fishery Management Plans promulgated under the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801 *et seq.* shall remain in effect and all permits, licenses and other authorizations issued pursuant thereto shall be valid within the Sanctuary unless authorizing any acitvity prohibited by any regulation implementing Article 4.

Section 2. *Defense Activities.* The regulation of those activities listed in Article 4 shall not prohibit any activity conducted by the Department of Defense that is essential for national defense or because of emergency. Such activities shall be conducted consistently with all regulations to the maximum extent practicable.

Section 3. *Other Programs.* All applicable regulatory programs shall remain in effect and all permits, licenses and other authorizations issued pursuant thereto shall be valid, within the Sanctuary unless authorizing any activity prohibited by any regulation implementing Article 4. The Sanctuary regulations shall set forth any necessary certification procedures.

Article 6. Alterations to this Designation

This Designation can be altered only in accordance with the same procedures by which it has been made, including public hearings, consultation with interested Federal and State agencies and the appropriate Regional Fishery Management Councils and approval by the President of the United States.

[End of Designation]

Only those activities listed in Article 4 are subject to regulation in the Sanctuary. Before any additional activities may be regulated, the Designation most be amended through

the entire designation procedure including public hearing and approval by the President. Bottom trawling and specimen dredging and seabed alteration and construction activities are listed in Article 4 because of the potential for damage. However, no addditional regulation of these activities is proposed at this time.

The primary purpose of the proposed regulations is to protect and to preserve the coral reef ecosystem, including many reef dwelling organisms. Accordingly, all activities which would directly destroy or injure corals or other distinctive marine features are prohibited. Such activities include handling, picking or collecting (§ 937.6(a)(1)), anchoring in such a way as to injure coral (§ 937.6(a)(2)), and using harmful fishing methods (§ 937.6(a)(3)). Also activities damaging cultural or historical artifacts in the area including the wreck of the *H.M.S. Looe* are prohibited (§ 937.6(a)(4)). Finally polluting activities which could damage the natural values of the area are prohibited (§ 937.6(a)(5)) as is tampering with markers (§ 937.6(a)(6)).

Except with respect to the removal or deliberate damage of coral, anchoring, the use of certain fishing methods, and discharges, fishing activities are not subject to regulation and remain the responsibility of the Regional Fishery Management Council(s) (see article 5, section 1 of the Designation).

Public Review and Comment

NOAA invites public review and comment on these proposed regulations. Written comments should be submitted to: Director, Sanctuary Programs Office, Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, N.W., Washington, D.C. 20235, on or before July 15, 1980.

Donald W. Fowler,

*Action Deputy Assistant Administrator for Coastal Zone Management.*

Accordingly, Part 937 is proposed to be added as follows:

## PART 937—THE LOOE KEY MARINE SANCTUARY REGULATIONS

Sec.

937.1 Authority.
937.2 Purpose.
937.3 Boundaries.
937.4 Definitions.
937.5 Allowed Activities.
937.6 Activities Prohibited Without a Permit.
937.7 Penalties for Commission of Prohibited Acts.
937.8 Permit Procedures and Criteria.
937.9 Certification of Other Permits
937.10 Appeals of Administrative Action.

Authority: Sections 302(f) and (g), and 303 of Title III of the Marine Protection, Research and Sanctuaries Act of 1972, 16 U.S.C. 1431–1434.

### § 937.1 Authority.

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

### § 937.2 Purpose.

The purpose of designating the Sanctuary is to protect the coral reef ecosystem and other natural resources of the waters at Looe Key and to ensure the continued availability of the area for public educational purposes and as an ecological, research and recreational resource. This area supports a particularly rich and diverse marine biota, including an array of West Indian species. The area is easily accessible to the lower Florida Keys and is widely used by boaters, charter boat operators, dive boats, recreational divers and fishermen, Consequently, both present and potential levels of use may result in harm to Looe Key in the absence of long term planning, research, monitoring and adequate protection.

### § 937.2 Boundaries.

The Sanctuary consists of an area of 5.32 square nautical miles of high sea waters off the coast of the lower Florida Keys, 6.7 nautical miles (12.5 km) southwest of Big Pine Key. The area includes the waters overlaying a section of the submerged Florida Reef tract at Looe Key. The coordinates are as follow:

24° 34' 9" N 81° 26' W
24° 33' 34" N 81° 26' W
24° 34' 9" N 81° 23' W
24° 32' 12" N 81° 23' W

### § 937.4 Definitions.

(a) "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration.

(b) "Assistant Administrator" means the Assistant Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration.

(c) "Person" means any private individual, partnership, corporation, or other entity; or any officer, employee, agent, department, agency or instrumentality of the Federal government, or any State or local unit of the government.

(d) "Tropical fish" means fish of minimal sport and food value, usually brightly colored, often used for aquaria purposes and which lives in a direct interrelationship with the corals.

### § 937.5 Allowed Activities.

All activities except those specifically prohibited by § 937.6 may be carried on in the Sanctuary subject to all prohibitions, restrictions and conditions imposed by any other authority.

### § 937.6 Activities Prohibited Without a Permit.

(a) Unless permitted by the Assistant Administrator in accordance with § 937.8, or as may be necessary for the national defense, in accordance with Article 5, section 2 of the Designation, or to respond to an emergency threatening life, property or the environment, the following activities are prohibited within the Sanctuary. All prohibitions must be applied consistently with international law.

(1) *Removing or damaging distinctive natural features.*

(A) No person shall break, cut or similarly damage, or take or remove any coral or bottom formation, any marine invertebrate or any marine plant. Divers are prohibited from handling coral or standing on coral formations.

(B) No person shall take, except incidentally to allowed fishing activities, any tropical fish.

(C) There shall be a rebuttable presumption that any items listed in this paragraph found in the possession of a person within the Sanctuary have been collected or removed from within the Sanctuary.

(2) *Operation of watercraft.*

All watercraft shall be operated in accordance with Federal rules and regulations that would apply if there were no sanctuary. The following constraints also shall be imposed:

(A) No person shall place any rope, chain, or anchor in such a way as to injure any coral or other bottom formation anywhere within the Sanctuary. Anchors shall be dropped on sand flats off the reefs and placed so as not to drift into the coral formations. When anchoring dive boats, the first diver down shall inspect the anchor to ensure that it is placed off the corals and will not shift in such a way as to damage corals. No further diving is permitted until the anchor is placed in accordance with these requirements.

(B) Watercraft must use mooring buoys, stations or anchoring areas when such facilities and areas have been designated and are available.

(C) Watercraft shall not be operated in such a manner as to strike or otherwise cause damage to the natural features of the Sanctuary.

(D) No watercraft shall be operated at greater than 4 mile per hour or in such a manner to create a wake within 100 yards of recreational, sightseeing or fishing boats, with the exception of law enforcement officials while in the performance of their duties.

(E) All watercraft from which diving operations are being conducted shall fly in a conspicuous manner, the red and white "divers down" flag.

(3) *Using Harmful Fishing Methods.*

(A) No person shall use or place wire fish traps within the sanctuary.

(B) No person shall place lobster traps within the Fore Reef area of the sanctuary as defined by Loran "C" points 1,2,3,4. The coordinates follow:

NW 7980-W-13973.7, 7980-Y-43532.7
SW 7980-W-13975.4, 7980-Y-43532.4
NE 7980-W-13975.0, 7980-Y-43530.1
SE 7980-W-13975.4, 7980-Y-43527.7

(C) No person shall use pole spears, Hawaiian slings, rubber-powered arbaletes, pneumatic and spring loaded guns or similar devices known as spearguns within the sanctuary.

(D) No person shall use poisons, electric charges, explosives or similar methods within the sanctuary.

(4) *Removing or damaging historical or cultural resources.*

No person shall remove, damage or tamper with any historical or cultural resource, including cargo, pertaining to submerged wrecks.

(5) *Discharges.*

No person shall deposit or discharge any materials or substances of any kind except:

(A) Fish or parts and chumming materials.

(B) Non-polluted cooling water from vessels.

(C) Effluents from marine sanitation devices.

(6) *Markers.*

No person shall mark, deface or damage in any way or displace, remove or tamper with any signs, notices, or placards, whether temporary or permanent, or any monuments, stakes, posts or other boundary markers installed by the managers or markers placed for the purpose of lobster pot fishing.

(b) All activities currently carried out by the Department of Defense within the Sanctuary are essential for the national defense and, therefore, not subject to these prohibitions. The exemption of additional activities having significant impacts shall be determined in consultation between the Assistant Administrator and the Department of Defense.

(c) The prohibitions in this section are not based on any claim of territoriality and will be applied to foreign persons and vessels only in accordance with principles of international law, including treaties, conventions and other international agreements to which the United States is signatory.

**§ 937.7 Penalties for Commission of Prohibited Acts.**

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

**§ 937.8 Permit Procedures and Criteria.**

(a) Any person in possession of a valid permit issued by the Assistant Administrator in accordance with this section may conduct any activity in the Sanctuary including marine specimen collection and any other activity specifically prohibited under section 937.6 provided that any permit allowing the damaging, taking or removal of coral or historical or cultural resources shall be granted only if the activity involved furthers educational or scientific purposes or is related to salvage or recovery operations.

(b) Permit applications shall be addressed to the Assistant Administrator for Coastal Zone Management, ATTN: Sanctuary Programs Office, Division of Operations and Enforcement, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, N.W., Washington, D.C. 20235. An application shall provide sufficient information to enable the Assistant Administrator to make the determination called for in paragraph (c) below and shall include a description of all activities proposed, the equipment, methods, and personnel (particularly describing relevant experience) involved, and a timetable for completion of the proposed activity. Copies of all other required licenses or permits shall be attached.

(c) In considering whether to grant a permit the Assistant Administrator shall evaluate such matters as (1) the general professional and financial responsibility of the applicant; (2) the appropriateness of the methods envisioned to the purpose(s) of the activity; (3) the extent to which the conduct of any permitted activity may diminish or enhance the value of the Sanctuary as a source of recreation, educational or scientific information; (4) the end value of the activity and (5) such other matters as deemed appropriate.

(d) In considering any application submitted pursuant to this Section, the Assistant Administrator shall seek the view of the Fishery Management Councils and may seek and consider the views of any person or entity, within or outside of the Federal Government, and may hold a public hearing, as deemed appropriate.

(e) The Assistant Administrator, may, in his or her discretion grant a permit which has been applied for pursuant to this Section, in whole or in part, and subject to such condition(s) as deemed appropriate. The Assistant Administrator or a designated representative may observe any permitted activity and/or require the submission of one or more reports of the status or progress of such activity. Any information obtained shall be made available to the public.

(f) The permit granted under paragraph (e) may not be transferred.

(g) The Assistant Administrator may amend, suspend or revoke a permit granted pursuant to this Section, in whole or in part, temporarily or indefinitely, if the permit holder (the Holder) has acted in violation of the terms of the permit or of the applicable regulations. Any such action shall be set forth in writing to the Holder, and shall set forth the reason(s) for the action taken. The Holder may appeal the action as provided for in § 937.10.

**§ 937.9 Certification of Other Permits.**

All permits, licenses and other authorizations issued pursuant to any other authority are hereby certified and shall remain valid if they do not authorize any activity prohibited by § 937.6. Any interested person may request that the Assistant Administrator offer an opinion on whether an activity is prohibited by these regulations.

**§ 937.10 Appeals for Administrative Action.**

(a) Any interested person (the Appellant) may appeal the granting, denial, or conditioning of any permit under § 937.8 to the Administrator of NOAA. In order to be considered by the Administrator, such appeal shall be in writing, shall state the action(s) appealed and the reason(s) therefore and must be submitted within 30 days of the action(s) by the Assistant Administrator. The Appellant may request an informal hearing on the appeal.

(b) Upon receipt of an appeal authorized by this Section, the Administrator shall notify the permit

applicant, if other than the Appellant, and may request such additional information and in such form as will allow action upon the appeal. Upon receipt of sufficient information, the Administrator shall decide the appeal in accordance with the criteria set in § 937.8(c) as appropriate, based upon information relative to the application on file at OCZM and any additional information, the summary record kept of any hearing and the Hearing Officer's recommended decision, if any, as provided in paragraph (c) and such other considerations as deemed appropriate. The Administrator shall notify all interested persons of the decision, and the reason(s) therefore, in writing, normally within 30 days of the receipt of sufficient information, unless additional time is needed for hearing.

(c) If a hearing is requested or if the Administrator determines one is appropriate, the Administrator may grant an informal hearing before a Hearing Officer designated for that purpose after first giving notice of the time, place, and subject matter of the hearing in the Federal Register. Such hearing shall normally be held no later than 30 days following publication of the notice in the Federal Register unless the Hearing Officer extends the time for reasons deemed equitable. The Appellant, the Applicant (if different) and, at the discretion of the Hearing Officer, other interested persons, may appear personally or by counsel at the hearing and submit such material and present such arguments as determined appropriate by the Hearing Officer. Within 30 days of the last day of the hearing, the Hearing Officer shall recommend in writing a decision to the Administrator.

(d) The Administrator may adopt the Hearing Officer's recommended decision, in whole or in part, or may reject or modify it. In any event, the Administrator shall notify interested persons of the decision, and reason(s) therefore in writing within 30 days of receipt of the recommended decision of the Hearing Officer. The Administrator's action shall constitute final action for the Agency for the purposes of the Administrative Procedure Act.

(e) Any time limit prescribed in this Section may be extended for a period not to exceed 30 days by the Administrator for good cause, either upon his or her own motion or upon written request from the Appellant or Applicant stating the reason(s) therefore.

[FR Doc. 80-15523 Filed 5-19-80; 8:45 am]
BILLING CODE 3510-08-M

15 CFR Part 936

## Designation of Looe Key, Fla., as a Marine Sanctuary; Availability of Funds for Public Participation

**AGENCY:** Office of Coastal Zone Management (OCZM), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

**ACTION:** Public hearings and availability of funds for public participation.

**SUMMARY:** Pursuant to Title III of the Marine Protection, Research and Sanctuaries Act of 1972, 16 U.S.C. 1431–1434, OCZM is considering the designation of certain waters known as Looe Key, Florida as a marine sanctuary. A draft environmental impact statement (DEIS) discussing this proposal was published in May 1980 (45 FR 32414) NOAA will hold public hearings in Miami on June 17, and Key West and Big Pine Key on June 18, 1980 to receive comments on the proposal and on the DEIS.

In order to promote a full and fair determination of the issues involved, OCZM is making available $5,000 to compensate persons eligible under the criteria set forth in NOAA regulations (15 CFR Part 904) for their participation in this proceeding.

**DATES:** Comments on the DEIS will be accepted until July 15, 1980.

Closing date for the receipt of applications for compensation is June 6, 1980.

Public hearings will be held on:

June 17, 1980, at 7:00 p.m.—Miami, Fla.

June 18, 1980, at 1:00 p.m.—Key West, Fla.

June 18, 1980, at 7:00 p.m.—Big Pine Key, Fla.

**ADDRESSES:** Comments on the DEIS and applications for compensation should be sent to Director, Sanctuary Programs Office, Office of Coastal Zone Management, NOAA, 3300 Whitehaven Street, N.W., Washington, D.C. 20235.

Public hearings will be held at the following addresses:

Miami, Fla.—University of Miami, Rosenstiel School of Marine and Atmospheric Sciences, Doherty Auditorium, 4600 Rickenbacker Causeway.

Key West, Fla.—Key West High School Auditorium, 2100 Flager Avenue.

Big Pine Key, Fla.—Big Pine Key Youth Center, Driftwood Street.

**FOR FURTHER INFORMATION CONTACT:** JoAnn Chandler, Director, Sanctuary Programs Office, Office of Coastal Zone Management, 3300 Whitehaven Street, N.W., Washington, D.C. 20235, 202/634-4236.

**SUPPLEMENTARY INFORMATION:** History of Proposal: In 1977, NOAA received a recommendation to designate Looe Key as a marine sanctuary. In January 1978, NOAA held a public workshop on the proposal at Big Pine Key, Florida. Since then NOAA has been consulting with other Federal agencies, the Gulf and South Atlantic Fishery Management Councils, State and local governments and officials and interest groups. Based on this input, NOAA proposed a DEIS on which comment is solicited. NOAA will hold public hearings in Miami on June 17, and Key West and Big Pine Key on June 18, 1980 to receive comments on the proposal and on the DEIS.

Issues Involved: The basis issues which will be analyzed by the DEIS and considered at the public hearings are:

What conservation, recreational, ecological, and esthetic resources are found in the general area under consideration?

Is designation of a marine sanctuary necessary to protect and manage these resources?

What size should a marine sanctuary be?

What regulatory and other measures should be taken within a sanctuary to ensure protection and proper management?

### Available Fund

A total fund of $5,000 is available to compensate eligible applicants. This fund may be distributed among one or more applicants, or, at the discretion of the Administrator, not distributed at all.

### Eligible Persons

In accordance with the criteria of 15 CFR 904.3 persons who represent an interest the presentation of which can reasonably be expected to contribute substantially to a fair determination of the issues described above may be eligible for compensation from these funds. In determining eligibility and the amount of compensation, the Administrator may take into account:

(a) Whether the interest will be adequately represented otherwise;

(b) The need to encourage participation by segments of the public who may have little economic incentive to participate;

(c) The importance of the representation to a fair balance of interests;

(d) The number and complexity of the issues presented;

(e) The importance of public participation; and

(f) The applicant's resources available for participation.

**Eligible Costs**

The Administrator may compensate eligible persons for some or all of the reasonable costs incurred in participation including:

(1) Salaries for participants or employees of participants;

(2) Fees for consultants, experts, contractual services, and attorneys;

(3) Travel and travel related costs such as lodging, meals, tipping, telephone calls, etc.; and

(4) Document reproduction, postage, etc.

Procedures for applying: Applications must be filed with the Director, Sanctuary Programs Office, Office of Coastal Zone Management, NOAA, no later than June 6, 1980, and shall contain the information required by and be filed in accordance with NOAA's financial participation regulations, 43 FR 17806 (April 26, 1978).

Dated: May 15, 1980.

Donald W. Fowler,

*Acting Deputy, Assistant Administrator Coastal Zone Management.*

[FR Doc. 80-15524 Filed 5-19-80; 8:45 am]

BILLING CODE 3510-08-M

## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Parts 239 and 249

[Release Nos. 33-6211; 34-16796; 35-21562; IC-11164; File No. S7-824]

### Ratio of Earnings to Fixed Charges

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Extension of time for comment.

**SUMMARY:** The Securities and Exchange Commission announced today that it has extended, by one month, the date by which comments on the concept release dealing with the ratio of earnings to fixed charges (issued on March 7, 1980, and published in the Federal Register of March 14, 1980) must be submitted. The Commission has received requests that the comment period be extended and believes that the one month extension will be beneficial because it will result in the receipt of additional useful comments.

**DATE:** Comments must be received on or before June 15, 1980.

**ADDRESSES:** All communications on the matters discussed in this release should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comments should refer to File S7-824 and will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. 20549.

**FOR FURTHER INFORMATION CONTACT:** Rita Gunter, Office of the Chief Accountant (202-272-2133), Securities and Exchange Commission, Washington, D.C. 20549.

**SUPPLEMENTARY INFORMATION:** The release entitled "Ratio of Earnings to Fixed Charges" (Securities Act Release No. 6196 [45 FR 16498]) was originally issued for comment on March 7, 1980, with comments due on or before May 15, 1980. In view of the requests received by the Commission for additional time in which to comment and in order to receive the benefit of the comments of the greatest number of interested persons, the Commission has extended the comment period by one month, until June 15, 1980.

By the Commission.

George A. Fitzsimmons,

*Secretary.*

May 9, 1980.

[FR Doc. 80-15429 Filed 5-19-80; 8:45 am]

BILLING CODE 8010-01-M

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

### 21 CFR Part 355

[Docket No. 80N-0042]

### Anticaries Drug Products for Over-the-Counter Human Use Establishment of a Mongraph; Notice of Proposed Rulemaking

*Correction*

In FR Doc. 80-9334, published at page 20666, on Friday, March 28, 1980 make the following corrections:

1. On page 20667, in the first column, in the first full paragraph, under the list of names, the fifth name "Joy B. Pleinm, Ph.D." should be corrected to read "Joy B. Plein, Ph.D.";

2. On page 20667, in the second column, in the first full paragraph, in the third line, "served and . . ." should be corrected to read "served as . . .";

3. On page 20669, in the second column, under paragraph 2, the eleventh listed item "Caroxymethylcellulose" should be corrected to read "Carboxymethylcellulose";

4. On page 20669, in the third column, in the eighth line, "Spice Stannous pyrophosphate" should be split and made into two lines to read "Spice" on line eight, and "Stannous pyrophosphate" on the line between the existing lines eight and nine;

5. On page 20673, in the third column, under "References" under paragraph (8), "Schwinsberger, R.A." should be corrected to read "Schweinsberger, R.A.";

6. On page 20677, in the first column, under paragraph 3, *"Floride dentifrices."* should be corrected to read *"Fluoride dentifrices.";*

7. On page 20677, in the first column, under paragraph 3, *Fluoride dentifrices:*

a. In the fourteenth line "flouoride." should be corrected to read "fluoride.";

b. In the seventeenth line "flouride-containing" should be corrected to read "fluoride-containing";

8. On page 20690, in the first column, in the third full paragraph, in the fourth line "the Panel finds on evidence" should be corrected to read "the Panel finds no evidence";

9. On page 20690, in the first column, in paragraph c., in the third line, "0.24mL" should be corrected to read "0.25mL";

10. On page 20690, in the second column, in the eighth paragraph, in the first line "FDA has determined that his" should be corrected to read "FDA has determined that this";

11. On page 20690, in the third column, under Subpart B, under § 355.10(b)(2) "Sodium flouride 0 05-percent" should be corrected to read "Sodium fluoride 0.05-percent".

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of the Secretary

### 24 CFR Part 570

[R-80-813]

### Application for Discretionary Awards for Technical Assistance

**AGENCY:** Department of Housing and Urban Development.

**ACTION:** Notice of transmittal of proposed rule to Congress under Section 7(o) of the Department of HUD Act.

**SUMMARY:** Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the Federal Register. This notice lists and summarizes for public information a proposed rule which the Secretary is submitting to Congress for such review.

This proposed rule would define the policy and procedures for HUD awards of technical assistance in planning, developing and administering local Comunity Development Block Grant

Programs and Urban Development Action Grant Programs.

**FOR FURTHER INFORMATION CONTACT:** Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, SW., Washington, D.C. 20410 (202) 755-6207.

**SUPPLEMENTARY INFORMATION:** Concurrently with issuance of this notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

24 CFR Part 570—Application for Discretionary Awards for Technical Assistance

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), Section 324 of the Housing and Community Development Amendments of 1978).

Issued at Washington, D.C., May 15, 1980.

Moon Landrieu,

*Secretary, Department of Housing and Urban Development.*

[FR Doc. 80-15322 Filed 5-19-80; 8:45 am]

BILLING CODE 4210-01-M

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## 24 CFR Part 865

[R-80-812]

## PHA-Owned Projects—Project Management Conversion From Fuel Oil to Other Fuels in Public Housing Projects

**AGENCY:** Department of Housing and Urban Development.

**ACTION:** Notice of transmittal of interim rule to Congress under Section 7(o) of the Department of HUD Act.

**SUMMARY:** Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the Federal Register. This Notice lists and summarizes for public information an interim rule which the Secretary is submitting to Congress for such review.

This interim rule would implement a $25,000,000 set-aside for the conversion of PHA-owned heating equipment from fuel oil to other fuels in order to reduce the operating costs of Public Housing projects.

**FOR FURTHER INFORMATION CONTACT:** Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755-6207.

**SUPPLEMENTARY INFORMATION:** Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

24 CFR Part 865—PHA-Owned Projects—Project Management Conversion from Fuel Oil to Other Fuels in Public Housing Projects

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), Section 324 of the Housing and Community Development Amendments of 1978)

Issued at Washington, D C., May 14, 1980.

Moon Landrieu,

*Secretary, Department of Housing and Urban Development.*

[FR Doc. 80-15321 Filed 5-19-80; 8:45 am]

BILLING CODE 4210-01-M

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## DEPARTMENT OF THE TREASURY

## Bureau of Alcohol, Tobacco and Firearms

## 27 CFR Parts 178 and 181

[Notice No. 344]

## Suspension Procedure for Firearms Licenses and Explosives Licenses or Permits

**AGENCY:** Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** The Bureau of Alcohol, Tobacco and Firearms is considering amending the regulations in 27 CFR Parts 178 and 181 to provide for suspension procedures for firearms licenses and explosives licenses or permits. Presently, except for criminal penalties, the regulations only provide for denial or revocation proceedings against a licensee or permittee. ATF wishes to gather information by inviting comments from the public and industry as to whether our regulations should be amended to provide for license or permit suspension where the statutory criteria for denial or revocation have been met. ATF also desires comments on the feasibility and desirability of establishing minimum and maximum periods of suspension.

**DATE:** Comments must be received on or before July 21, 1980.

**ADDRESS:** Comments must be submitted in duplicate to Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, D.C. 20044.

**FOR FURTHER INFORMATION CONTACT:** Norman P. Blake, Research and Regulations Branch, 202—566-7626.

**SUPPLEMENTARY INFORMATION:**

### Background

Title I of the Gun Control Act of 1968, 18 U.S.C. Chapter 44, and Title XI of the Organized Crime Control Act of 1970, 18 U.S.C. Chapter 40, and their implementing regulations allow for the denial or revocation of firearms licenses and explosives licenses or permits, and further provide an administrative review channel. Denial of a renewal application and revocation are severe sanctions which require the licensee or permittee to cease operations. However, licensees and permittees may commit some violations of law which would require action by the Bureau but not serious enough to warrant denial or revocation. In such cases, ATF is seeking to provide more flexibility in the application of administrative sanctions and is considering an amendment of 27 CFR Parts 178 and 181 to provide for the suspension of licenses and permits for less serious violations.

### Public Participation

To assist ATF in identifying the best course of action, comments from the public and industry are requested on the following questions:

(a) Is it desirable to amend the firearms and explosives regulations to provide for the suspension of licenses and permits where the statutory criteria for revocation are met?

(b) Should proposed regulations establish minimum and maximum periods of a suspension?

(c) For what degree of violations should the Bureau consider suspension proceedings?

(d) Are there any other considerations which should be taken into account before proposing regulations to provide for a suspension procedure for firearms licenses and explosives licenses or permits?

All comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for further ATF action. Copies of this notice and comments received will be available for public inspection during normal business hours at the following location:

ATF Reading Room, Room 5207, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C.

### Drafting Information

The principal author of this document is Norman Blake, Research and Regulations Branch, Bureau of Alcohol,

Tobacco and Firearms. However, personnel from other offices of the Bureau and the Treasury Department participated in developing the regulations in matters of substance and style.

Authority

This advance notice of proposed rulemaking is issued under the authority of 18 U.S.C. 847 and 18 U.S.C. 926.

Signed: March 26, 1980.

Miles N. Keathley,

*Director.*

Approved: April 28, 1980.

Richard J. Davis,

*Assistant Secretary, Enforcement and Operations.*

[FR Doc. 80-15324 Filed 5-19-80; 8:45 am]

BILLING CODE 4810-31-M

## DEPARTMENT OF JUSTICE

### Office of Justice Assistance, Research, and Statistics

### 28 CFR Part 42

### Nondiscrimination in Federally Assisted Programs

**AGENCY:** Office of Justice Assistance, Research, and Statistics (OJARS), Law Enforcement Assistance Administration (LEAA), National Institute of Justice (NIJ), Bureau of Justice Statistics (BJS), Justice.

**ACTION:** Proposed rules.

**SUMMARY:** OJARS is seeking comment on two proposed amendments to its Nondiscrimination Regulations. Section 42.203(b)(8) would specifically prohibit a recipient of financial assistance under the Justice System Improvement Act (JSIA) or Juvenile Justice (JJ) Act from depriving any person of his or her constitutional rights on the basis of race, color, religion, national origin, or sex. Section 42.204(b) would prohibit certain awards of assistance under the JSIA or the JJ Act until the applicant's Equal Employment Opportunity Program (EEOP) has been approved by OJARS.

**DATE:** Comments may be submitted July 21, 1980.

**ADDRESS:** Send comments to David I. Tevelin, Department of Justice, OJARS, 633 Indiana Avenue, NW., Washington, D.C. 20531.

**FOR FURTHER INFORMATION CONTACT:** Thomas J. Madden, General Counsel, OJARS or David I. Tevelin, Attorney-Advisor, OJARS, Office of General Counsel, (202) 724-6235.

**SUPPLEMENTARY INFORMATION:** On April 30, 1980, OJARS published final Nondiscrimination Regulations in the Federal Register (44 FR 28704). Sections 42.203(b)(8) and 42.204(b) were published as "reserved" so that the agency could separate the two rules it wished to propose for public comment from the remainder of the rules published as final. New § 42.203(b)(8) would prohibit a recipient from subjecting "any individual to physical abuse or summary punishment," or denying "any individual the rights guaranteed by the Constitution to all persons," on the basis of his or her race, color, religion, national origin, or sex.

Although this conduct has been prohibited by section 815(c) of the JSIA, and its predecessor, section 518(c) of the Crime Control Act, since 1973, OJARS wishes to expressly emphasize in its regulations that such activity by recipients of JSIA or JJ Act assistance is a violation of the statute governing their use of funds granted by LEAA, NIJ, or BJS. OJARS will continue to investigate complaints of official abuse filed by aggrieved individuals in the same manner LEAA investigated those complaints under the Crime Control Act. In cases where the agency believes that a suit by the Attorney General would be the best method of ending the conduct, it will request him to sue the recipient pursuant to 28 CFR 42.215(a) (previously 42.217(a)). The agency expects that its request would grant the Attorney General a basis for his standing to sue in addition to the one granted him by section 815(c)(3) of the JSIA (previously section 518(C)(3)) of the Crime Control Act, 42 U.S.C. 3766(c)(3)). See *U.S. v. County of Hawaii*, 473 F. Supp. 261 (D. Haw. 1979).

The other section on which the agency would like comment is new section 42.204(b). This amendment would require certain applicants for grants of $500,000 or more under the JSIA, or JJ Act, to send a copy of their Equal Employment Opportunity Program (EEOP) (if required to prepare one under 28 CFR 42.301, *et seq.*) to OJARS at the same time they submit their applications. No application for $500,000 or more would be approved until OJARS approved the applicant's EEOP.

This section is intended to formalize and broaden LEAA's past policy regarding discretionary grants for $500,000 or more. OJARS expects that this procedure will greatly assist its efforts to assure recipients' compliance with section 815(c), and that it will be able to identify and resolve problems that might otherwise cause it to suspend or terminate the project for civil rights reasons later in the grant period.

Accordingly, OJARS proposes to amend 28 CFR Part 42 by adding §§ 42.203(b)(8) and 42.204(b) to read as follows: Section 42.203(a) is published for clarity.

**§ 42.203. Discrimination prohibited.**

(a) No person in any State shall on the ground of race, color, religion, national origin, or sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or denied employment in connection with any program or activity funded in whole or in part with funds made available under the JSIA or the Juvenile Justice Act.

(b) A recipient may not, directly or through contractual or other arrangements, on the grounds set forth in paragraph (a) of this section:

* * * * *

(8) Subject any individual to physical abuse or summary punishment, or deny any individual the rights guaranteed by the Constitution to all persons;

* * * * *

**§ 42.204 Applicant's Obligations.**

* * * * *

(b) Every unit of State or local government and every agency of such unit that applies for a grant of $500,000 or more under the JSIA or the Juvenile Justice Act, must submit a copy of its current Equal Employment Opportunity Program (if required to develop one under 28 CFR 42.301, *et seq.*) to OJARS at the same time it submits its grant application. No application for $500,000 or more will be approved until OJARS has approved the applicant's EEOP.

* * * * *

Henry S. Dogin,

*Acting Director, Office of Justice Assistance, Research, and Statistics.*

[FR Doc. 80-15428 Filed 5-19-80; 8:45 am]

BILLING CODE 4410-18-M

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

### 29 CFR Part 1903

**[Docket No. W-001]**

### Obtaining Warrants on an Ex Parte Basis and Prior To Attempting Entry; Proposed Rulemaking

**AGENCY:** Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

**ACTION:** Proposed Rulemaking.

**SUMMARY:** This notice proposes to amend 29 CFR 1903.4 through notice and comment rulemaking in order to confirm the authority of the Secretary of Labor to seek inspection warrants on an *ex*

*parte* basis, that is without notice to the employer to be inspected. In addition, the Secretary would be authorized to obtain warrants prior to attempting voluntary entry of an employer's premises.

**DATES:** Comments on this proposed rule must be postmarked by July 21, 1980.

**ADDRESS:** Comments are to be sent to: Docket Officer, Docket No. W–001, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–6212, Washington, D.C. 20210.

**FOR FURTHER INFORMATION CONTACT:** Thomas Holzman, Room S–4004, 200 Constitution Ave. NW., Washington, D.C. 20210, Telephone (202) 523–6646.

**SUPPLEMENTARY INFORMATION:**

I. Background

*A. History of 29 CFR 1903.4 and its interpretation*

1. *Promulgation of 29 CFR 1903.4.* The Occupational Safety and Health Act of 1970 (29 U.S.C. 651 *et seq.*) (the Act) was enacted "to assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources." In order to carry out these purposes, section 8(a) of the Act specifically authorizes the Secretary of Labor, upon presenting appropriate credentials to the owner, operator, or agent in charge.

(1) to enter without delay and at reasonable times any factory, plant, establishment, construction site, or other area, workplace or environment where work is performed by an employee of an employer; and (2) to inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any such employer, owner, operator, agent or employee.

The Act was passed on December 29, 1970 and became effective on April 28, 1971. One week later, the Secretary proposed, pursuant to his rulemaking authority under Section 8(g)(2) of the Act, to add a new Part 1903 to Title 29 of the Code of Federal Regulations whose purpose was "to provide procedures and policies for the inspection, investigation * * * provisions of the Act." 36 FR 8376 *et seq.* Included among these "procedures and policies" was a provision (proposed § 1903.11) detailing the Secretary's instructions to his Compliance Officers, Area Directors, Regional Administrators and Regional Solicitors to "promptly seek appropriate compulsory process" upon encountering a refusal by an employer to permit inspection. 36 FR 8376.

After receiving comments on the proposal, the objection to inspection provision (renumbered § 1903.4) was adopted with only minor changes and made effective immediately upon its publication in the Federal Register on September 4, 1971. 36 FR 17850, 17851. Specifically, § 1903.4 provided:

Upon refusal to permit a Compliance Safety and Health Officer, in the exercise of his official duties, to enter without delay and at reasonable times any place of employment or any place therein, to inspect, to review records, or to question any employer, owner, operator, agent, or employee, in accordance with § 1903.3, or to permit a representative of employees to accompany the Compliance Safety and Health Officer during the physical inspection of any workplace in accordance with § 1903.8, the Compliance Safety and Health Officer shall terminate the inspection or confine the inspection to other areas, conditions, structures, machines, apparatus, devices, equipment, materials, records, or interviews concerning which no objection is raised. The Compliance Safety and Health Officer shall endeavor to ascertain the reason for such refusal, and he shall immediately report the refusal, and the reason therefor to the Area Director. The Area Director shall immediately consult with the Assistant Regional Solicitor, who shall promptly take appropriate action, including compulsory process, if necessary.

In sum, in those cases in which an employer refused to permit the Secretary's agents to inspect his establishment, 29 CFR 1903.4 instructed them to obtain "compulsory process" in order to secure entry.

2. *The Secretary's interpretation of 29 CFR 1903.4.* Shortly after Part 1903 was adopted, the Secretary issued his first OSHA Compliance Operations Manual (COM), a manual of guidelines to assure effective and uniform implementation of the Act. Department of Labor, OSHA Compliance Operations Manual (January 1972). Included in this manual was a section entitled "Refusal to Permit Inspection-Warrants." That section, which *inter alia* interpreted § 1903.4, contained two paragraphs concerning the *ex parte* nature of the warrants [emphasis supplied]:

* * * * *

(f) In cases where a refusal is to be expected from the past performance of the employer, or where the employer has given indication prior to the commencement of the investigation of his intention to bar entry or limit or interfere with the investigation, *a warrant should be obtained before the inspection is attempted.* Cases of this nature should also be referred through the Area Director to the appropriate Regional Solicitor and the Regional Administrator alerted.

* * * * *

(i) When the CSHO receives a warrant authorizing his inspection of designated premises, he will give the conduct of such an investigation first priority. The inspection will be commenced within 24 hours of receipt of the warrant, and any conflict with this requirement will have to be cleared with the Regional Solicitor's office. Except in unusual circumstances which are cleared with the Regional Solicitor's office, *there shall be no advance warning to the employer of the fact either that a warrant has been secured or that inspection will take place pursuant to the warrant.* The CSHO shall serve a copy of the warrant on the employer, and make a separate notation as to the time and place and the name and capacity of the individual served with a warrant. Each warrant will have a space for return of service entry by the CSHO, which will require that the CSHO enter the exact dates on which inspection was made pursuant to the warrant. As soon as the inspection has been completed, the CSHO will complete this return on the original warrant indicating the dates when inspection was made, sign and foward that original warrant to the Regional Solicitor's office. This original warrant must then be filed in court, so care should be taken not to mutilate or incorrectly complete the warrant.

On July 1, 1974, OSHA replaced the COM with the Field Operations Manual (FOM). Department of Labor, OSHA Field Operations Manual (July, 1974). Paragraphs (f) and (i) of the FOM again were the only ones concerning the *ex parte* nature of warrants and were identical to their predecessor paragraphs (f) and (i) of the COM.

Since that time the FOM has continually been updated and revised. In January 1976, paragraph (f), concerning prerefusal warrants, was deleted, and the word "warrant" was replaced by the more inclusive term "compulsory process". The prohibition against advance notice formerly embodied in paragraph (i), although redesignated paragraph (8) and reworded slightly, was retained. In relevant part it provided "there shall be no advance notice to the employer concerning compulsory process or pending inspection." Despite other changes to the FOM, the identical advance notice prohibition appeared in every subsequent version.

3. *The litigation strategy of the Secretary in Marshall v. Barlow's, Inc., 436 U.S. 307 (1978).* Section 8(a) on its face authorizes warrantless workplace inspections and from the Act's inception, the Secretary took the position that he was entitled to conduct inspections without resort to compulsory process. However, a small number of employers refused entry to agency officials who did not obtain a warrant or other court order permitting an inspection. The Secretary, recognizing that the issue of whether section 8(a) constitutionally authorizes warrantless nonconsensual inspections

ultimately would be litigated in the courts, began in 1976 to take steps to preserve his position on the question. To this end, many OSHA officials started seeking orders compelling entry—orders which issued after an adversary hearing upon no showing of probable cause other than an allegation of inspection authority under section 8(a)—rather than *ex parte* warrants. This practice was consistent with the COM and FOM which have always allowed for departure from the instruction that employers are not to be warned in advance of the securing of a warrant or the pendency of an inspection in cases approved by the Regional Solicitor. The practice, however, was by no means uniform and depended to some extent on the practice of the local federal district courts and on the urgency of the need to conduct the inspection. In many areas of the country, the agency offices continued to procure *ex parte* warrants rather than adversary process. Indeed, since the Act became effective, OSHA has obtained process both *ex parte* and after an adversary hearing.

The Secretary's submissions in *Barlow's* indicate that he considered "compulsory process" to include *ex parte* warrants. In both his Jurisdictional Statement and his Brief, the Secretary stated that "routinely obtaining *ex parte* warrants before attempting an inspection" was one alternative available to him. Similarly at oral argument the Solicitor General explained that "the search warrant, of course, is *ex parte*" and that "[h]ad an application been made for a search warrant, * * * [a showing of reasonable legislative or administrative standards for selection] would have been made to the magistrate, *ex parte* * * *."

4. *The 1978 amendment to 29 CFR 1903.4.* In November 1978, a district court, relying on *Barlow's dictum* that 29 CFR 1903.4 "apparently anticipated" that notice would be provided to the employer before process was obtained, and reading the Secretary's submissions to the Supreme Court to support that *dictum,* entered a preliminary injunction prohibiting the Secretary from obtaining *ex parte* warrants. *Cerro Metal Products* v. *Marshall,* 476 F. Supp. 869 (E.D. Pa. 1979), *aff'd.,* Nos. 79-1760, 1761, 1762, 1763 (3rd Cir., April 26, 1980). Because of the questions raised as to the meaning of 29 CFR 1903.4 and in order to clarify misconceptions, in December 1978 the Secretary amended 1903.4 in pertinent part by defining the term "compulsory process" to mean "the institution of any appropriate action, including *ex parte* application for an inspection warrant or its equivalent." 29 CFR 1903.4(d); 43 FR 59839. He explained:

> In originally promulgating this regulation, the agency had intended the phrase "compulsory process" to include appropriate action necessary to compel entry to a workplace. Indeed, agency representatives routinely sought and received *ex parte* warrants as one of the means for securing entry to workplaces before the *Barlow's* decision. However, since a question has been raised as to the meaning of the regulation, and in order to remove any doubt on this important matter, the regulation is being amended to make explicit that the Secretary is authorized to obtain *ex parte* warrants or their equivalent.

*Ibid.* He also explained that "[g]eneral notice of proposed rulemaking, public participation therein and delay in effective date are not required by 5 U.S.C. 553, since this section is an interpretive rule, general statement of policy and rule of agency procedures and practice." *Ibid.* The amendment also made clear that compulsory process may be sought in advance of an inspection under appropriate circumstances and that process may be obtained by the Area Director or his designee. 29 CFR 1903.4 (b) and (c); 43 FR 59839.

5. *Judicial decisions concerning the meaning of 29 CFR 1903.4 and the validity of the December 1978 amendment.* As just noted, the district court in *Cerro Metals* entered a preliminary injunction prohibiting the Secretary from obtaining *ex parte* warrants. In March 1979, the Court refused to dissolve its preliminary injunction, holding the December 1978 amendment invalid for failure to use notice and comment rulemaking. On April 26, 1980, a panel of the U.S. Court of Appeals for the Third Circuit upheld the district court's decision. During the interim period, the Tenth Circuit, *Marshall* v. *W and W Steel Co., Inc.,* 604 F.2d 1322 (1979), and the vast majority of district courts rejected challenges to the Secretary's authority under 29 CFR 1903.4 to obtain *ex parte* warrants. And the Secretary routinely received warrants *ex parte* from magistrates and district courts. Two district courts in Texas have agreed with the *Cerro* decision.

While the Secretary disagrees with the *Cerro* decision and in no way concedes that it is correct, he is, of course, as a result unable to obtain *ex parte* warrants within the Third Circuit's jurisdiction (or in two districts in Texas). In order to rectify that situation and to remove all doubt concerning his authority to secure warrants *ex parte* and prior to requesting entry, he has proposed to repromulgate the December 1978 amendments to 29 CFR 1903.4 after notice and comment rulemaking. In addition to satisfying the Third Circuit's legal requirement for establishing *ex parte* authority, the procedure will provide the public with an opportunity to comment on whether or not *ex parte* warrants are appropriate under the Act. Finally, although the agency is providing notice and inviting comment on the issue of *ex parte* warrants, the agency will, during this rulemaking, consistent with its previously announced interpretation, continue to seek *ex parte* warrrants in jurisdictions where no contrary ruling has been announced.

*B. Authority for obtaining warrants ex parte*

Warrants are, of course, typically granted *ex parte,* and, in the area of criminal law, are "Necessarily *ex parte*" to prevent destruction or removal of evidence. *Franks* v. *Delaware,* 438 U.S. 154, 169 (1978). The Supreme Court in *Barlow's* (and the Tenth Circuit in *W and W Steel*) have held that OSHA warrants could be obtained *ex parte* without violating an employer's Fourth Amendment rights. 436 U.S. at 320 (warrant may issue "with or without notice"). Even those courts which have held that the Secretary does not have the authority under 29 CFR 1903.4 to seek *ex parte* warrants have conceded that *ex parte* warrants are proper under the Fourth Amendment. *See, Cerro Metal Products* v. *Marshall, supra,* 467 F. Supp, at 882-83. In addition, the Supreme Court's decision in *Heller* v. *U.S.,* 413 U.S. 483 (1973) and the Tenth Circuit's decision in *Matter of Carlson,* 580 F.2d 1365, 1373-74 (10th Cir. 1978) make clear that the Fifth Amendment does not prohibit *ex parte* warrants as a violation of due process.

Specific rulemaking authority for the proposed amendment is found in the Act in section 8(g)(2) which authorizes the Secretary to "prescribe such rules and regulations as he may deem necessary to carry out [his] responsibilities under this Act, including rules and regulations dealing with the inspection of an employer's establishment." The Supreme Court in the *Barlow's* decision described this provision as a grant of "broad authority" to the Secretary, 436 U.S. at 317, n. 12, and even courts which have questioned his power to seek *ex parte* warrants under the current version of 29 CFR 1903.4 have conceded that the Secretary could obtain the power through rulemaking. *Cerro Metal Products* v. *Marshall, supra,* slip op. at 36.

*C. Reasons for obtaining warrants ex parte as opposed to adversary warrants*

1. *Surprise.* As the Supreme Court noted, the Act regulates "a myriad of details amenable to speedy alteration and disguise." *Marshall* v. *Barlow's Inc., supra,* 436 U.S. at 316. The *ex parte* warrant, particularly if obtained before attempting entry, is more effective than adversary process in preserving the surprise element. Of course, it is true that if voluntary entry is first attempted, the employer will have some notice that an inspection will take place. However, if the warrant is obtained *ex parte* instead of after an adversary hearing the employer will not know what alleged violations or parts of the facility will be the focus of the inspection. It will not be able to present to the agency what courts have referred to in a related context as "sanitized areas." *Marshall* v. *Chromalloy American Corp.,* 589 F.2d 1335, 1343 (7th Cir. 1979), *cert. denied,* 100 S.Ct. 174. Surprise as to these items of information is particularly crucial where the Secretary seeks to perform only a limited inspection of a particular machine or area of a worksite.

The Secretary realizes that achieving abatement of hazards is the fundamental salutary aim of the Act and that when hazards are brought to the attention of an employer at an adversary hearing, abatement may sometimes result. However, it has been the Secretary's experience that the alleged voluntary compliance which occurs following an adversary warrant proceeding in many cases does not fully or permanently abate the underlying hazard. Surprise is thus necessary, not because the Secretary seeks to discover unimportant or transitory violations, but rather, in order to examine working conditions as they exist without the benefit of special alteration or precautions. Moreover, where the Secretary cites an employer for a violation and that citation becomes a final order, compliance is enhanced because an employer whose workplace reveals the same hazard in a future inspection is subject to much higher penalties since the violation may be characterized as repeated, willfull, or a failure to abate. *See* 29 U.S.C. 666 (a), (d).

2. *Delay and consumption of enforcement energies.* Obtaining warrants after an adversary hearing both delays the Secretary's entry onto the worksite and drains scarce enforcement resources. While at the time of *Barlow's,* the number of refusals of entry without a warrant was extremely limited, this number has increased and the challenges to warrants have become more sophisticated. Thus, for example, in the *Cerro* cas, after a preliminary injunction was entered, the Secretary applied for a warrant and notified the employer. After much litigation and a 55-day delay, the Secretary was finally able to begin an inspection. Even in routine cases, our experience indicates adversary process is likely to consume several days trial time and issuance of the warrant may be further delayed thereafter. As one court has expressed the problem in a related context, with adversary process "simple warrant requests would be turned into full-blown hearings" and overwhelm the Secretary's limited legal and investigative staff. *Marshll* v. *Chromalloy American Corp., supra,* 589 F.2d at 1342. It is also important to recognize the tremendous burden such hearings place on the Courts. In addition, the hearings tend to focus on an issue which is not appropriately before the court in the warrant context: whether alleged violations of the Act set forth in the warrant application *actually* existed (as opposed to whether the agency had probable cause to believe they did). That level of proof is not required, however, even in the more stringent criminal law context and is inconsistent with the *Barlow's* Court's eschewing of criminal law probable cause standards.

3. *The Structure of the Act.* As noted above, other warrants both civil and criminal are typically *ex parte,* especially where surprise and undelayed searches are necessary. *See Franks* v. *Delaware, supra,* 438 U.S. at 169. Indeed, the Consumer Product Safety Commission, after recent rulemaking proceedings, concluded that it should have the authority to obtain warrants *ex parte.* 44 Fed. Reg. 34923 *et seq.* OSHA believes that *ex parte* warrants are necessary not only for the reasons just stated, but also because the statutory scheme mandates them. Section 8(a) directs the Secretary to "enter without delay" onto an employer's worksite. One court has concluded that the words "without delay" were added by Congress in order "to preserve the element of surprise deemed essential to inspection" which would be lost in an adversary proceeding. *Marshall* v. *Shellcast,* 592 F.2d 1369, 1371–72 and n.5 (5th Cir. 1979); *Marshall* v. *Gibson's Products, Inc. of Plano,* 584 F.2d 668, 672–73 and n.6 (5th Cir., 1978), *citing* 116 Cong. Rec. 38709 (1970). The Fifth Circuit concluded that "Congress, desiring an enforcement scheme based on surprise and undelayed searches, would very much prefer immediate execution of duly issued *ex parte* warrants to the litigation-laden delays "[resulting from any procedure that provides notice to employers]." *Marshall* v. *Shellcast Corp., supra,* 592 F.2d at 1372. The statutory emphasis on surprise inspections in also apparent from section 17(f) which provides criminal penalties for unauthorized giving of advance notice of an inspection. Thus, OSHA believes that the statutory scheme mandates that inspection warrants be obtained *ex parte,* and that the agency have the authority to do so.

For these reasons OSHA proposes to issue a legislative rule which will confirm the agency's authority to obtain warrants *ex parte.* The rights of employers are amply protected by the interposition of a neutral judicial officer who determines whether the Secretary has established sufficient basis for the inspection and by the availability to the employer of subsequent review of this determination.

*D. Reasons for obtaining warrants prior to attempting entry*

Many of the reasons for obtaining warrants *ex parte* after an employee refuses to permit an inspection apply to obtaining them prior to attempting entry. However, several additional considerations militate in favor of permitting the Secretary to secure warrants before an inspection. First, in many instances, an employer's past practice will either explicitly or implicitly put the Secretary on notice that a warrantless inspection will not be allowed and that the attempt to perform one will be futile and a waste of time. Second, in some cases, an inspection will be scheduled far from the local office. In those cases the compliance officer may desire to procure a warrant prior to leaving to conduct the inspection in order to avoid, in case of refusal, the expenditure of time and resources to return to the office, obtain a warrant, and return to the worksite.

**II. Summary and Explanation of the Proposed Regulation**

*Section 1903.4(a).* This provision is exactly the same as the former § 1903.4 and authorizes the Secretary of Labor to obtain "complusory process" in those cases where an employer refuses to permit an OSHA inspection.

*Section 1903.4(b).* This provision permits the Secretary to seek a warrant or other process before attempting an inspection in those case where it is desirable for any one of a number of reasons to do so. For example, if an employer has a policy of not permitting warrantless inspections, this section would allow the agency to obtain a

warrant before going out to the employer's facility.

*Section 1903.4(c).* This section authorizes regional agency non-legal personnel to obtain process with the approval of the Regional Administrator and Regional Solicitor.

*Section 1903.4(d).* This section defines the term "compulsory process" to mean any appropriate court action to obtain entry onto a worksite including *ex parte* applications for inspections warrants or their equivalent.

## III. Public Participation

Interested persons are invited to submit written data, views and arguments with respect to this proposal and all issues involved therein. These comments must be postmarked on or before July 21, 1980 and submitted in quadruplicate to: Docket Officer, Docket No. W-001, Room S-6212, 200 Constitution Ave., NW, Washington, DC 20210. Written submissions must clearly identify the provisions of the proposal which are addressed and the position taken with respect to each issue.

The data, views and arguments that are submitted will be available for public inspection and copying at the above address. All timely written submissions received will be made a part of the record of this proceeding and will be considered in formulating the final rule.

## IV. Authority

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Ave., NW, Washington, DC 20210.

Accordingly, pursuant to section 8(a) and 8(g)(2) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 657(a) and 657(g)(2), and the Secretary of Labor's Order 8-76 (41 FR 25059) it is proposed to amend Part 1903 of Title 29 of the Code of Federal Regulations as set forth below.

Signed at Washington, D.C., this 15th day of May, 1980.

Eula Bingham,

*Assistant Secretary of Labor.*

It is proposed to revise 29 CFR 1903.4 to read as follows:

### § 1903.4 Objection to inspection.

(a) Upon a refusal to permit the Compliance Safety and Health Officer, in exercise of his official duties, to enter without delay and at reasonable times any place of employment or any place therein, to inspect, to review records, or to question any employer, owner, operator, agent, or employee, in accordance with § 1903.3 or to permit a representative of employees to accompany the Compliance Safety and Health Officer during the physical inspection of any workplace in accordance with § 1903.8, the Compliance Safety and Health Officer shall terminate the inspection or confine the inspection to other areas, conditions, structures, machines, apparatus, devices, equipment, materials, records, or interviews concerning which no objection is raised. The Compliance Safety and Health Officer shall endeavor to ascertain the reason for such refusal, and shall immediately report the refusal and the reason therefor to the Area Director. The Area Director shall consult with the Regional Solicitor, who shall take appropriate action, including compulsory process, if necessary.

(b) Compulsory process may be sought in advance of an inspection or investigation if, in the judgment of the Area Director and the Regional Solicitor, circumstances exist which make preinspection process desirable or necessary.

(c) With the approval of the Regional Administrator and the Regional Solicitor, compulsory process may also be obtained by the Area Director or his designee.

(d) For purposes of this section, the term compulsory process shall mean the institution of any appropriate action, including *ex parte* application for an inspection warrant or its equivalent.

(Secs. 8(a), 8(g)(2) (29 U.S.C. 657(a), 657(g)(2) 5 U.S.C. 553))

[FR Doc. 80-15480 Filed 5-19-80; 8:45 am]
BILLING CODE 4510-26-M

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

[FRL 1487-7]

## Approval and Promulgation of State Implementation Plans Nonattainment Area Plan for Pennsylvania

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rulemaking.

**SUMMARY:** Elsewhere in today's Federal Register EPA is conditionally approving the Pennsylvania State Implementation Plan (SIP) where there are deficiencies and the State provides assurances that it will submit corrections. This notice solicits comments on deadlines for conditionally approved items. Conditional approvals mean that Section 176 and Section 316 of the Clean Air Act, and new source growth restrictions will not apply unless the State fails to submit the necessary SIP revisions by the scheduled dates, or unless the revisions are not approved by EPA. Procedures for application of these restrictions are discussed elsewhere in the Federal Register.

**DATES:** Comments must be received on or before June 19, 1980.

**ADDRESSES:** Copies of the materials submitted by the Governor and comments received on this proposal may be examined during normal business hours at:

U.S. Environmental Protection Agency, Air Programs Branch, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106. ATTN: Harry G. Hanson.

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W., Waterside Mall, Washington, D.C. 20460.

All comments on the proposed revisions should be directed to Mr. Howard R. Heim, Chief, Air Programs Branch (3AH10), Air, Toxics, & Hazardous Materials Division, U.S. Environmental Protection Agency, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106; ATTN: AH300PA.

**FOR FURTHER INFORMATION CONTACT:** Harry G. Hanson (3AH12), U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, telephone 215/597-8173.

**SUPPLEMENTARY INFORMATION:**

### Conditional Approval Time Schedules

The deficiencies discussed elsewhere in today's Federal Register and the time schedules in which the Commonwealth must correct them are:

1. The Commonwealth and Allegheny County will remove the exemption allowing the use of cutback asphalt as a tack coat and submit revised regulations by December 31, 1980. In the interim, they must meet the following schedules:

September 30, 1980—Notice of public hearing.

October 31, 1980—Public hearing and draft regulations submitted to EPA.

December 31, 1980—Adopt new regulations and submit to EPA.

2. The Commonwealth and Allegheny County will revise the limit of the solvent content allowed in emulsified asphalt consistent with reasonably available control technology and submit revised regulations by December 31, 1980. In the interim, they must meet the following schedules:

September 30, 1980—Notice of public hearing.

October 31, 1980—Public hearing and draft regulations submitted to EPA.

December 31, 1980—Adopt new regulations and submit to EPA.

3. The Delaware Valley Regional Planning Commission, as the designated lead planning agency for the Philadelphia metropolitan area, will obtain firm commitments from appropriate State and local authorities for the implementation of the Newton Branch electrification and the Route 66 Trolley extension and submit these commitments to EPA by December 31, 1980; should firm commitments not be obtained by December 31, 1980, the Commonwealth must submit substitute measures with equivalent reductions by June 30, 1981.

4. Each designated lead planning agency and metropolitan planning organization in the Allentown-Bethlehem-Easton, Scranton, Wilkes-Barre, and Harrisburg areas will provide written assurances, to EPA with endorsements by the Commonwealth by July 31, 1980 that no project, program, or plan will be approved that does not conform with the approved State Implementation Plan.

5. The Commonwealth will revise the language in the Special Permit Requirements (§ 127.65(b)) to comply with Section 173(3) of the Clean Air Act concerning permit requirements by March 1, 1981.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. §§ 7401–642).

Dated: March 5, 1980.

Jack J. Schramm,

*Regional Administrator.*

[FR Doc. 80-14235 Filed 5-19-80; 8:45 am]

BILLING CODE 6560-01-M

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Ch. I

### [CC Docket No. 80-176; FCC 80-220]

## Regulatory Policies Concerning Resale and Shared Use of Common Carrier International Communications Services

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** The Federal Communications Commission today is instituting a proceeding to consider the adoption of rules and policies requiring carriers to permit resale and shared use of international communication services. Adoption of these rules and policies would be consistent with previous Commission actions eliminating carrier tariff restrictions on resale and shared use of domestic private line services.

**DATES:** Comments must be filed on or before June 23, 1980, and reply comments must be filed on or before July 18, 1980.

**ADDRESSES:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Helen Golding or Tim Stevens, Common Carrier Bureau, (202) 632-6917.

In the matter of regulatory policies concerning resale and shared use of Common Carrier International Communications Services; Notice of Proposed Rulemaking.

Adopted: April 22, 1980.

Released: May 19, 1980.

By the Commission: Chairman Ferris issuing a separate statement.

1. Several years ago, we required domestic carriers to eliminate restrictive provisions concerning resale and shared use from their private line tariffs.[1] More recently, we initiated a proceeding to consider the question of whether resale and shared use restrictions should be removed from tariffs providing for domestic public switched network services.[2] Although questions concerning the lawfulness of restrictions on the use of international services arose in connection with the *Resale and Shared Use* decision, we stated on reconsideration that we would address international resale and shared use in a separate proceeding.[3] More recently in response to a complaint [4] we recognized the developing market oportunities for a new resale carrier which would result in benefits to the ultimate customer and stressed the need for a comprehensive examination of the issues associated with the resale and shared use of international services.

2. We are now initiating a rulemaking proceeding to consider whether or to what extent common carriers subject to our jurisdiction which provide international communications services should be allowed to continue to restrict the resale and shared use of the services and facilities they offer under tariffs filed with this Commission. By commencing such a proceeding at this time, we believe that we will directly complement other recent Commission actions which are intended to lead to improvements in the performance of the international communications market by structural rather than regulatory solutions. See paras. 7–8, *infra.*

### I. International Communications Industry

3. This rulemaking proceeding encompasses the entire spectrum of services offered by international carriers to the U.S. public. The tariff restrictions for each of these services prohibit or substantially restrict resale and shared use by third parties. Because of the number of carriers and diversity of services involved, as well as the potential for resale and shared use restrictions to affect the users of these services differently, we believe that a brief description of the international communications market would be beneficial. We also will highlight some of the recent regulatory initiatives in this area and explain how the present proceeding is consonant with those actions.

4. The common carriers which currently provide international and overseas communications services to the general public are the American Telephone and Telegraph Company (AT&T) and the international record carriers (IRCs), including ITT World Communications, Inc., RCA Global Communications, Inc., Western Union International, Inc., TRT Telecommunications Corporation and FTC Communications, Inc.[5] Recently, moreover, we found lawful The Western Union Telegraph Company's provision of a specific service, telex, to overseas points transitting Canada and Mexico, conditioned upon the filing of proper tariffs. *Western Union, New Telex Service Arrangements Via Canada and Mexico (Western Union),* File No. C-L-2, FCC 79-845, released January 3, 1980.

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[1] *Resale and Shared Use of Common Carrier Services,* 60 F.C.C. 2d 261 (1976), *recon.* 62 F.C.C. 2d 588 (1977), *Aff'd sub nom. American Telephone and Telegraph Company* v. *FCC,* 572 F. 2d 17 (2d Cir. 1978), *cert. denied,* 439 U.S. 875 (1978) (hereafter *Resale and Shared Use).*

[2] *Resale and Shared Use of Common Carrier Domestic Public Switched Network Services,* CC Docket 80-54, FCC 80-58, released February 25, 1980 (hereafter *Public Switched Network Resale).*

[3] We also noted that our determination to take no immediate action with regard to international private line services was not to be construed as a finding that the pertinent tariff provisions were necessarily just reasonable or not unduly discriminatory. 62 F.C.C. 2d at 593.

[4] *ITT World Communications, Inc., et al.* v. *Consortium Communications International, Inc. (CCI),* FCC 79-846, released February 12, 1980.

[5] The IRCs do not provide service to Canada and only limited service to Mexico. They do, however, serve Hawaii and U.S. Possessions including Puerto Rico and Guam. U.S.-Liberia Radio Corp. provides limited service between Akron, Ohio and Liberia.

5. AT&T provides overseas Message Toll Telecommunications Service (MTS) and private line services that can be conditioned for voice, audio and television communications. Our recent *Dataphone* decision [6] also allows AT&T to permit customers to use the international MTS network, on a permissive or secondary use basis, to transmit data.[7] The IRCs provide record services including telex (50 baud switched teletypewriter service), message telegram, private line services that can be arranged for data, alternate voice/data, teletype or facsimile communications television and other miscellaneous data services.[8]

6. The two basic components of overseas telecommunications service are the landline haul and overseas transmission. With record telecommunications originating or terminating in the "gateways," the IRC provides the landline haul.[9] However, where such traffic originates or terminates outside the "gateway," that portion of the communication is provided by means of facilities or services of a domestic carrier.[10] With AT&T's overseas services, the telephone company generally provides both the landline haul and overseas transmission portions of the service. Overseas MTS is provided on a through basis from any point within the contiguous United States to points overseas. Overseas transmission of all services is provided generally via underseas cable or satellite facilities. Terrestrial extensions presently furnished by AT&T connect the carriers' operating centers to either a satellite earth station or submarine cablehead. In the case of satellite channels, the Communications Satellite Corporation (Comsat) leases to AT&T and the IRCs use of ground stations and the U.S. portion of the satellite transponder.[11] The foreign portion, that is, the theoretical division of the satellite and the foreign ground station is provided by INTELSAT, and then leased to the foreign telecommunications entity. Terrestrial extensions from the INTELSAT earth station to the premises of the overseas customer is furnished by the overseas correspondent or foreign administration authorized to furnish such communications.[12] For communications provided over submarine cables, AT&T and the IRCs have joint ownership from the U.S. to a theoretical midpoint. The portion from this midpoint to the overseas location is owned or furnished by the overseas correspondent or foreign administration.

## II. Structure of the Proceeding

### *A. General Policy Considerations*

7. We have taken major steps recently to revise our regulatory approach to certain long-established practices in the international telecommunications industry. We did so because we perceived them to have inhibited consumer choice and allowed rates for some services to remain higher than they would be in a more competitive environment. We have come to recognize that in certain instances these practices and the market structure underlying them have been perpetuated by the regulatory mechanisms in effect. The eight decisions we adopted on December 12, 1979,[13] reflect a coordinated policy effort to encourage the market structure to develop in a manner which increases efficiency in the utilization of services and facilities, gives rise to greater consumer choice and more diverse service offering, and causes rates to become more closely aligned with the underlying cost of providing service. Inasmuch as tariff regulations limiting resale and shared use may also be artificially preserving price discrimination, unreasonably interfering with innovation in the industry and unduly restricting customers in their use of tariffed offerings, it strikes us that their elimination would be consistent with other recent internation policy initiatives.

8. Underlying our review of those tariff restrictions is also the need to reevaluate our regulatory rules and policies in light of changed technology used to provide telecommunications services, as well as the desire to further enhance the transition of a telecommunications industry structure characterized by monopoly and tight oligopoly to a structure which includes elements of workable competition. Both motives, of course, are directly related to our mandate of pursuing the public interest and making available, to the extent possible, rapid and efficient nationwide and worldwide communications service with adequate facilities at reasonable charges, pursuant to Section 1 of the Communications Act, 47 U.S.C. 151.

### *B. Specific Factors To Be Considered*

#### *1. Impact on service rates and market structure*

9. We propose to order the elimination of all restrictions against resale and shared use as part of our policy of promoting the public interest by allowing the production and pricing of services to be determined through market rather than regulatory activities to the greatest extent possible. The primary impact which resale and sharing should have on international telecommunications services is to reduce price discriminations among services which customers perceive to be substitutable. When close substitutes are offered at widely differing prices,

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[6] Docket 19558, FCC 79-842, released February 11, 1980.

[7] See footnote 8, *infra*, concerning parallel treatment of the IRC's Datel service.

[8] Such services include Program Channel, Phototelegram, Datel, Digital Data, Press Bulletin, and marine related services. The recent *Datel* decision, Docket No. 19558, FCC 78-843, released February 14, 1980, authorizes the IRCs to provide customers the option to transmit voice traffic as a permissive use of Datel service.

[9] The term "gateway" has traditionally been used to denote any of the specific geographical areas within which the IRC's were permitted to render their authorized international service directly to the public. Historically, such gateway areas were co-located with the IRC's operation centers. In Docket No. 19660, we specifically authorized 21 new service areas for which applications had been filed. *International Record Carriers Scope of Operations (Gateways)*, FCC-80-841, released February 29, 1980. The IRC's were also given permission to seek authority to extend these previously limited service areas to include any and all points in the contiguous United States.

[10] For the particular purposes of Section 222 of the Act, 47 U.S.C. 222, the landline haul portion of international record service is defined as domestic communications.

[11] The Communications Satellite Corporation was created by statute in 1962, and authorized to plan, construct, own, manage and operate a commercial communications satellite system by itself or in conjunction with foreign governments or business entities. Communications Satellite Act of 1962, Section 305(a)(1) and (2), 47 U.S.C. § 735(a)(1) and (2). In accordance with this mandate, Comsat is the sole designated U.S. representative to INTELSAT, a multinational organization which owns and operates satellites for the provision of international communications. Comsat does not offer international services directly to ultimate customers. By separate action today, we are proposing changes to this traditional role. See *Comsat Study*, FCC 80-218, released May 1, 1980. Specifically, we propose there a basic structural division in Comsat, with one entity continuing to be the U.S. representative to INTELSAT and INMARSAT and the provider of the basic facilities at tariffed rates to traditional carriers and other authorized users. The second entity would be authorized to engage in all other activities, including research and development and the provision of retail service to the public. In another action the *Authorized User Rulemaking*, FCC 80-219, released May 6, 1980, we proposed to permit all entities to obtain basic facilities directly from Comsat.

[12] The overseas portion to Hawaii and possessions under the control of the U.S. Government, i.e., Puerto Rico and Guam, are furnished by Comsat via satellite or the IRCs via cable. In Hawaii, for example, the IRCs may operate individually or in association with Hawaiian Telephone Company.

[13] See, *Preliminary Audit and Study of Operations of International Carriers and Their Communications Services (Audit)*, Docket No. 20778, FCC 79-840, released January 29, 1980; *Interconnection of International Telex (Interconnection)*, Docket No. 21005, FCC 790845, released February 15, 1980 *PMS*, CC Docket No. 78-96, FCC 79-846, relased January 7, 1980; *Gateways, supra; Dataphone, supra; Datel, supra, Western Union, supra; CCI supra.*

arbitrage activities can be expected to force an eventual equality in interservice price/cost relationships [14]. An opportunity for resale and sharing to produce this effect exists with services such as MTS and telex. Because of the bandwidth advantage of the voice-grade circuits used for MTS, an arbitrageur could use that service to send more telex information in an equivalent period of time, thus generating a corresponding cost advantage. The influence of resale and sharing, however, could be felt even if entry by new carriers does not occur. The threat of entry, arising from the removal of restrictive tariff provisions, could be sufficient to generate that result.

10. We foresee that the entry which resale and sharing would allow will influence market development in two significant areas of performance. The enhanced opportunity for entry flowing from the elimination of carrier-imposed restrictions is likely to increase the number of firms and services from which telecommunications users may choose. As a result, firms supplying telecommunications services would be under increased pressure to accept a competitive rate of return on investment. We view the marketplace method for achieving cost-based pricing of services, where this can occur, to be more effective and desirable than attempts by the Commission to review cost studies generated by the carriers themselves. In our *International Audit* order, *supra*, we reflected on the difficulties experienced in relying upon cost accounting studies to expose instances of excessive earnings which we have reason to believe exist for certain international services. Even in instances where we can consider a carrier's own submissions to be a relatively reliable indication of high earnings levels for international services, we believe that market mechanisms would be effective in bringing rates to their proper levels.

11. The other area of performance which entry should influence is that of service development and marketing techniques. The opportunity to resell and share will encourage the providers of services to strive to develop more innovative uses of the basic services offered by underlying carriers. We recognize that this value-added aspect of resale and shared use will be more important over the longer run. Resellers will probably not be able to survive indefinitely only by offering basic services at a discount. We also recognize that development of most value added services by resellers will require the participation of overseas correspondents.

*2. Feasibility of international resale and shared use*

12. We have focused primarily on how we believe resale and shared use can be an effective mechanism for lowering rates and improving service in the international area. While we propose the elimination of existing tariff restrictions, we nonetheless are aware that the realization of these public benefits will depend in large part upon the responses of foreign carriers joining in the provision of international services. In this vein, we recognize that the services which would become subject to resale and sharing are presently governed by operating agreements between the U.S. carriers and their foreign correspondents, and that these latter entities are in a position to either facilities or impede the resale and sharing of services in practice. We undertake this proceeding with the conviction that resale of international services is a workable concept. Thus, apart from potential shifts in traffic which could conceivably necessitate some modification in existing arrangements for the division of revenues between carriers, we see no reason why preservation of the status quo would be in the interest of the foreign correspondents. Indeed, we believe these entities may also derive benefits from operating in a resale environment.

13. We, therefore, shall briefly address aspects of resale which we view as potentially advantageous to other countries, drawing upon both our successful experience with resale domestically and some standard economic analysis. A good illustration of resale encouraging the application of new and existing technology has occurred in the area of domestic satellite service. Using the satellite facilities of RCA American Communications, Inc. and the Western Union Telegraph Company, numerous resellers and brokers of satellite service have developed what is essentially an entire new segment of the communications industry providing specialized television program distribution. The underlying carriers, which previously had had only limited success marketing their satellite capacity in competition with AT&T's traditional voice-grade channel business, now derive significant revenues from these new communications applications. Customers, of course, have also benefitted from the resulting wider variety of telecommunications services provided via satellite. The growth of this industry has also accelerated the development of satellite equipment manufacturing, as demand for earth stations greatly increases. Yet another example is the experience of GTE-Telenet, which through the use of traditional private line exchange, telephone services has been able in a resale environment to bring the benefits of packet switching to the data transmission market: Such companies have not only developed new communications offerings, but have also introduced them ahead of the established carriers. Moreover, resale and sharing has made possible the availability to small users of specialized services formerly economical only to very large customers.

14. Our experience indicates that resale will also redound to the benefit of underlying carriers in other ways. Not only has usage consolidation *not* led to either an overall reduction in the use of basic telecommunications services or a corresponding revenue loss, but, in fact, appears to have had precisely the opposite, benefical effects. There is substantial evidence that lower per unit costs associated with high volume usage, when reflected in lower per unit pricing have tended to stimulate overall telecommunications usage. Thus, the declining real cost of long distance telephone calls in the U.S. has reflected in part the use of technologies which allow more calls to be placed over existing bandwidths. Lower rates have actually led to increased revenues for domestic telephone companies, while in the same period the usage of private line services has also increased. One explanation is that users have tended to substitute telecommunications for other means of conveying information. In sum, to the extent resale increases of overall demand, the salutary overall effect has been to allow new entry, increase the usage of underlying carrier facilities, and permit expansion of underlying carrier operations.

15. It is important to note that with certain basic forms of resale and shared use there is no technical effect whatsoever on the underlying service of the carrier; only the identity of the users is altered by the absence of restrictions. For instance, if a private line customer were to find other persons interested in communicating from its U.S. office to a mutually desired destination in a foreign country, and simply resold or shared its excess capacity on that channel, the service offered by the underlying carrier would not be changed in any way, and messages transiting the facilities would

[14] We recognize that arbitrage will not affect price/cost relationships of basic services, such as MTS, and that Commission review of earning levels will continue to be required for such basic services.

be received in the same form as if used by a single customer. Clearly, under these circumstances, resale and shared use can perform the basis arbitrage function discussed earlier, without any alternation of the technical parameters of the service as agreed to by the underlying carrier and the foreign correspondent or raising concerns about whether the foreign end of the service is technically compatible with the messages transmitted. It seems probable to us that foreign correspondents would find it superflous to negotiate separate technical or revenue division arrangements with resellers or sharers operating in this manner.[15] In other instances, resale techniques may involve changing the manner in which basic common carrier services are used. For example, multiplexing permits a greater concentration of messages on a private line and MTS can be used in the transmission of telex traffic. Even in these cases, the reseller would have to operate within existing technical standards and there would be no independent need for an operating agreement.[16] Thus, we believe that greater flexibility in the use of services would in no manner impair the quality of international common carrier services. To the contrary, subscribers would be offered a greater variety of services at generally lower prices. The attendant usage stimulation which would occur in those services which are price elastic would endure to the benefit of both domestic and foreign subscribers.

16. As stated, resale and shared use which transmutes the nature and use of services, as we currently know them may also affect the distribution of traffic among different services. Indeed, such value-added functions may do so to a greater degree than the arbitrage form of resale and shared use discussed above in paragraph 12. In either case, however, changes in the nature of traffic patterns may warrant a reevaluation of existing settlement arrangements. We also believe that since the elimination of current tariff restrictions on the use of service will lead to greater emphasis on the underlying costs as a basis for setting rates, impetus may be given to the adoption of pricing techniques, e.g., usage-sensitive pricing, whereby all users would pay for the actual telecommunications capacity utilized, regardless of the particular application, with the result that the opportunity for arbitrage will ultimately be eliminated. This will give consumers the opportunity to select more accurately the lowest priced service that adequately meets their communications needs. Having given some of our impressions of the practical considerations involved, parties may submit their own views on the workability of international resale and shared use.

*3. Status of resellers as carriers*

17. In the *Resale and Shared Use* decision, *supra*, we characterized resale activities as a form of common carriage subject to the jurisdiction of this Commission. As a result, resellers are now required to file tariffs pursuant to Section 203 of the Act, 47 U.S.C. 203, and to obtain authorization for their operations pursuant to Section 214, 47 U.S.C. 214. Our *CCI* decision, *supra*, followed that precedent and applied full Title II regulation to an entity offering an international service by means of resale. We expressed misgivings, however, about the logic which would lead to extending this degree of regulation to an entity engaging in a simple arbitrage function. In the *Competitive Carrier Rulemaking*, CC Docket 79-252, FCC 79-599, released November 2, 1979, (44 FR 67445, November 26, 1979) we are examining the validity of certain of the basic assumptions and interpretations of the Act upon which we predicated our initial approach to the regulation of resellers.

18. As set forth in that proceeding, serious questions have been raised with regard to our historical treatment of resellers—both domestic and international. First, we have questioned whether our *Resale and Shared Use* decision was judicious in defining resellers as common carriers. Secondly, we have noted that we should consider the extent of our authority to forebear and under what circumstances such authority should be exercised. Finally, we have questioned whether new definitional approaches to the term "common carrier" can or should be implemented, with the effect of excluding resellers, *inter alia*, from that concept.

19. The legal issues raised have been the subject of numerous pleadings filed in the *Competitive Carrier Rulemaking*, and parties participating in this proceeding are free to incorporate by reference the comments submitted in *Competitive Carrier Rulemaking*. Parties are free to readdress those issues as they specifically relate to this proceeding. As to other considerations, specifically whether sound policy, including thorough economic analysis, dictates full deregulation of international resellers,[17] parties may wish to expand earlier comments, where applicable, to address these considerations as they directly relate to the international markets. It is possible that interested persons may perceive characteristics unique to the international communications sector which would militate against treating these resellers in the same manner as their domestic counterparts. Similarly, parties may address any additional matters appropriate to the full and independent consideration in this proceeding of the deregulation of resellers in the international sector. It is our tentative belief here, as signalled by *CCI* and *Competitive Carrier Rulemaking*, that common carrier regulation of international resellers is inappropriate and unwise—from legal, economic and policy perspectives.

20. Closely related to consideration of how resellers should be treated for regulatory purposes is the question of which entities would fall within the classification of resellers.[18] For example, as described in *Resale and Shared Use, supra*, an entity which supplies basic communications service via facilities which it owns or by a mixture of owned and leased facilities is deemed to be an

[15] In a companion decision adopted today, we explain why the case of a non-facilities based carrier does not raise any of the public policy concerns which warrant conditioning Section 214 authority or actual implementation of service on the filing of operating agreements, so long as such agreements, if obtained, are filed within thirty days after execution as currently provided by the reporting requirements of Section 43.51 of our rules, 47 CFR 43.51. See our discussion in *International Relay, Inc.*, FCC 80-22, released May 5, 1980, paras. 16-20 and cases cited therein.

[16] Parties may also comment on whether or not our own regulatory treatment of resellers, which has imposed on them the full panoply of Title II obligations, may in and of themselves suggest to foreign correspondents that all U.S. carriers must obtain operating agreements, and thus, effectively influence them to impose similar requirements on their own account. They may also consider the effect of a decision to allow resale on the ability of existing value-added carriers to successfully arrange to provide competitive international communications services.

[17] Also see *Second Computer Inquiry*, FCC 80-189, released May 2, 1980.

[18] In *Resale and Shared Use, supra*, we defined "resale" as: An activity where one entity suscribes to the communications services and facilities of another entity and then reoffers communications services and facilities to the public (with or without "adding value") for profit. 60 FCC 2d 261, 271.

"Sharing" in turn was defined as: A non-profit arrangement in which several users . . . collectively use communications services and facilities obtained from an underlying carrier or a resale carrier, with each user paying the communications-related costs associated with subscription to and collective use of the communications services and facilities according to its pro rata usage of such communications services and facilities. 60 FCC 2d at 274.

An "underlying carrier" was said to be one "owning transmission facilities from whom resale entities obtain communications service . . ."; it "may supply the basic communications service via facilities which it owns or a mixture of owned and leased facilities." 60 FCC 2d at 271.

"underlying carrier." We ask parties to address whether the mere possession of indefeasible right of user (IRU) interests should be regarded as a sufficient property interest to warrant "underlying carrier" status, as presently defined. In other words, do IRU interests constitute ownership of basic transmission facilities. Those supporting the view that IRCs exhibit certain characteristics of resellers should comment on the extent to which regulation of the IRCs would be in the public interest in the event we should find regulation of international resellers under Title II of the Act to be inappropriate.

*4. Application of proposal to all international services*

21. We are, of course, evaluating whether existing resale and shared use tariff restrictions should be removed from the tariffs of all services now offered by international carriers subject to our jurisdiction. However, consistent with our approach in *Public Switched Network Resale,* interested parties may address our proposals in this proceeding on a service by service basis. For example, certain persons may favor resale and shared use more strongly for one type of service than another, or perhaps have reason to advocate that sharing but not resale should be allowed for a particular service. If a party favors resale or sharing of only certain services, it should explain precisely the technical, financial, legal or policy reasons why eliminating these restrictions would affect the services in question differently than others.

*5. Provision of enhanced services*

22. In our *Final Decision* in the *Second Computer Inquiry,* Docket 20828, FCC 80-189, released May 2, 1980, we indicated that the question of whether or not the IRCs should be required to establish separate subsidiaries in the event they desired to offer enhanced services would be addressed as part of our consideration of the international resale issue. Although the regulatory framework which has existed in the past has fostered the artificial existence of market power on behalf of the IRCs, we anticipate that changes resulting from decisions adopted by this Commission on December 12, 1979, in conjunction with our proposed elimination of restrictions against resale and shared use, will have a moderating effect on market power possessed by the IRCs. Nonetheless we invite parties to comment on whether a requirement for separate subsidiaries should be imposed on the IRCs for purposes of offering enhanced services.[19]

*6. Statutory burdens*

23. This proceeding will involve consideration of several provisions of the Communications Act. Initially, if the tariff restrictions in question are to remain in effect, they must be shown to be just, reasonable, and not unreasonably discriminatory under Sections 201(b) and 202(a) of the Act, 47 U.S.C. 201(b), 202(a).[20] Moreover, as stated above, we have an affirmative duty to advance the public interest under Section 1 of the Act. Finally, we stress that the burden of proof for establishing the justness and reasonableness of the tariff restrictions at issue is on each carrier and, inferentially, on others seeking retention of these restrictions. Of course, parties who favor unlimited resale and sharing of the various international services should also supply evidence which supports their position. In the meantime, for purposes of this proceeding, we are persuaded that normal notice and comment procedures will be adequate for full exploration of the issues raised. See *American Airlines, Inc.* v. *C.A.B.,* 359 F.2d 624, 633 (D.C. Cir. 1966), *cert. denied,* 385 U.S. 843. *See also AT&T* v. *FCC,* 572 F.2d 17, 21-23 (2nd Cir. 1978), *cert. denied,* 439 U.S. 875 (1978); *Resale and Shared Use,* 60 FCC 2d 261, 325 (Appendix D).

## III. Ordering Clauses

24. Accordingly, *it is ordered,* That, pursuant to Section 4(i), 4(j), 201, 202, 203, 205 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154 (i), (j), 201, 202, 203, 205 and 403, and Section 553 of the Administrative Procedure Act, 5 U.S.C. 553, there is issued a notice of proposed rulemaking. Members of the public are on notice that policies which may be established in this proceeding may be embodied in the Commission's Rules and Regulations.

25. *It is further ordered,* That all interested persons may file comments on the matters discussed in this Notice on or before June 23, 1980. Reply comments shall be filed on or before July 18, 1980. In accordance with Section 1.419 of the Commission's Rules, 47 CFR 1.419, an original and five copies of all filings shall be furnished to the Commission. In reaching its decision, the Commission may take into consideration 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.

26. *It is further ordered,* That the Secretary shall cause this Notice of Proposed Rulemaking to be published in the Federal Register.

Federal Communications Commission.[21]

William J. Tricarico,

*Secretary.*

April 22, 1980.

**Separate Statement of Charles D. Ferris, Chairman**

Re International Telecommunications Competition.

Today the Commission moves from fine tuning existing business practices in the international communications market to forging another substantial commitment to competition in communications. I believe we have soundly rejected the lack of responsiveness of the current international carriers. In doing so, we allow more diverse service offerings at lower prices for consumers.

The consumer of international communications services has suffered for too long as the established carriers earned profits on some of their services which are among the highest of any firms in this country. This was never acceptable and becomes even more intolerable as the country's economy and foreign policy becomes more and more intertwined with those of other countries.

While we do not yet live in a "global village," one need only view the evening news or read a newspaper to realize how immediately the activities of other nations move the issues in our own country. Communications is the link between these nations. That link cannot be permitted to restrict the efficiency of dealings among nations because it offers less than efficient services, the prices for which are too high in any event. My votes on these items were cast with the conviction that our proposals, if adopted, will make it impossible for this performance to be continued.

Last December, we recognized that the performance of the international portion of the telecommunications industry could best be improved by more competition rather than more regulation. The Western Union International Gateways and International Dataphone orders we adopted on December 12—though limited in scope—were consistent with that philosophy. Our actions today—the Comsat Study, the Authorized User and International Resale Notices of Proposed

[19] We emphasize that the requirement for AT&T and GTE to establish separate subsidiaries for enhanced services applies to their overseas as well as domestic services.

[20] The Common Carrier Bureau recently found that several international carriers had not justified proposed single-customer exceptions to existing restrictions on third party use of their services in accordance with these statutory provisions. See, *RCA Global Communications Corp.,* Mimeo No. 24554, released December 20, 1979; *TRT Telecommunication Corp., et al.,* Mimeo No. 22188, released October 12, 1979, *application for review* denied, FCC 80-221, released May 6, 1980.

[21] See attached Statement of Chairman Ferris.

Rulemaking, and the licensing of a new international carrier—have the potential to bring even more far reaching benefits to consumers of international communications services.

The changes we propose would allow a major new influx of the benefits of competitive force into the industry. For the first time they would bring Comsat, with its expertise in the satellite field, directly to consumers who move their messages around the world.

Users would be able to pay a price based entirely on the advantages of satellite communications. This would also mean that other carriers will compete knowing that if their prices for the same services are set too high, users can go directly to Comsat.

If we allow international resale, more benefits can be expected to flow to consumers as other firms begin to seek out new markets and innovative services for satellite communications. Our experience in domestic communications shows that resellers and shared users probe an existing carrier's price structure and attack rate discriminations. The beneficiaries of the resulting lower costs are the American communications consumers.

I recognize that our international communications system involves many parties. The FCC cannot unilaterally impose new market structures on our foreign partners. I do not believe today's actions do so. Rather, I think they specify for the first time a broad set of proposals that we think would benefit the American public.

We have no intention of attempting to force unilaterally our ideas of the best market structures on other participants in providing world-wide communications networks. But, I believe that today's outlining of the issues will be informative to all concerned and is a substantial step toward a more competitive U.S. communications industry.

[FR Doc. 80-15461 Filed 5-19-80; 8:45 am]
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47 CFR Ch. I

[CC Docket No. 80-170; RM-3525; RM-3536; FCC 80-219]

## Aeronautical Radio, Inc. and United States Government; Petitions for Declaratory Ruling

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of Proposed Rulemaking, RM-3525, RM-3536, concerning Authorized users of the international telecommunications facilities provided by the Communications Satellite Corporation (Comsat).

**SUMMARY:** The Commission adopted a Notice of Proposed Rulemaking (NPRM) which addresses Comsat's authority to deal directly with the public as a retail carrier. The NPRM also seeks comments as to which entities may be permitted to deal directly with Comsat in its wholesale capacity. Under the proposed policy revisions, Comsat, through a separate subsidiary, would no longer be limited to serving only as a wholesaler of international satellite services. The Commission tentatively concludes that by authorizing Comsat to enter the retail market, along with permitting separate rates for cable and satellite services, the competition which results will encourage the realization of economies made possible by satellite technology.

**DATES:** Comments must be received on or before July 3, 1980, and Reply Comments must be received on or before August 1, 1980.

**ADDRESSES:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Scott K. Socol, International Facilities, Authorization and Licensing Division, Common Carrier Bureau, Federal Communications Commission, Washington, D.C. 20554 (202) 632-7834.

In the matter of Aeronautical Radio, Inc.—Petition for declaratory ruling or rulemaking that it is an authorized user of the international telecommunications facilities provided by the Communications Satellite Corporation under the Communications Satellite Act of 1962. CC Docket No. 80-170, RM-3525.

United States Government—Petition for declaratory ruling that the United States Government, acting through its Executive Agencies, is an authorized user, without limitation or restriction, of the international telecommunications facilities provided by the Communications Satellite Corporation under the Communications Satellite Act of 1962. RM-3536; Notice of proposed rulemaking.

Adopted: April 22, 1980.

Released: May 6, 1980.

By the Commission: Chairman Ferris issuing a separate statement; Commissioner Jones concurring in the result.

1. The Commission has before it for consideration a Petition for Declaratory Ruling or Rulemaking filed on October 25, 1979, by Aeronautical Radio, Inc. (Arinc) and a Petition for Declaratory Ruling filed on December 5, 1979, by the Secretary of Defense on behalf of all federal executive agencies. Both petitions request the Commission to designate the petitioners as authorized users under the Communications Satellite Act of 1962 [1] (hereinafter called the "Satellite Act"), thereby enabling them to obtain international telecommunications services directly from the Communications Satellite Corporation (Comsat). Rather than issue the requested declaratory rulings, the Commission hereby gives notice of its intention to review the entire authorized user policy in the context of a broad rulemaking proceeding.

2. Numerous parties expressed interest in the instant proceeding. Statements in opposition to both petitions were filed by American Satellite Corporation (ASC), The American Telephone and Telegraph Company (AT&T), Hawaiian Telephone Company (HTC), ITT World Communications Inc. (ITTWC), RCA Global Communications, Inc. (RCAGC), TRT Telecommunications, Inc. (TRT) and Western Union International, Inc. (WUI). A statement in support of the Arinc petition was filed by Societe Internationale de Telecommunications Aeronautiques (SITA). Consolidated comments addressing both petitions and requesting the Commission to institute a broad rulemaking proceeding were filed by the National Telecommunications and Information Administration (NTIA). Reply comments to Arinc's petition were filed by Arinc,[2] ITTWC and WUI, while replies to the Secretary of Defense's petition were filed by WUI and DOD.

3. The question of Comsat's authority to deal directly with certain authorized users, along with the possibility of allowing the United States International Service Carriers (USISC) [3] access to the international satellite space segment provided by INTELSAT, underlies several matters before us. In view of its far reaching implications, we would prefer to address these questions in the context of a single application rather than on an *ad hoc* basis. The very nature and complexity of the issues that must be addressed, their basic impact on the overall structure of the international telecommunications industry and the number of parties interested in the outcome compel us to conclude that the questions raised by the petitioners should be considered in a broad rulemaking proceeding.[4] We therefore shall dismiss without prejudice

[1] 47 U.S.C. § 701 *et seq.*

[2] Arinc's reply comments were filed one day late accompanied by a motion to accept the late filed pleading. We accept Arinc's reply and will consider it in arriving at our decision.

[3] As used herein, USISC refers to AT&T as well as the international record carriers.

[4] The Commission itself has noted on several occasions the need for a comprehensive review of the authorized user and earth station ownership questions. The courts have ruled that rule changes should be accomplished through rulemakings rather than *ad hoc* considerations. See, *e.g., SEC* v. *Chenery Corp.*, 332 U.S. 194 (1947), *NLRB* v. *Wyman-Gorden Co.*, 394 U.S. 759, 764-66 (1969), *Colby Bates Bowdoin Education Telecomm. Corp.* v. *FCC*, 574 F. 2d 639, 642-43 (1978). We will not at this time attempt to review the question of earth station ownership as urged by several parties. However, we do intend to initiate a rulemaking focused on this issue in the near future.

the petitions of Arinc, and DOD for declaratory rulings, [5] and grant Arinc's alternate request, as supports by NTIA, to initiate a broad rulemaking proceeding to consider revisions of the Authorized User policy.

## Background

4. Before proceeding to a discussion of the issues raised by the various pleadings, it will be helpful to review the establishment of our fourteen year old policy regarding authorized users of Comsat's facilities and services. This review will give a context for understanding the current controversy as well as identifying those circumstances which prevailed at the time the policy was first promulgated, but which may no longer be applicable due to the rapidly changing environment in the international arena. It should be noted at the outset that the Satellite Act does not define, nor does it attempt to specify, who shall be an authorized user of the global satellite system. Instead, Congress clearly left it to be discretion of the Commission to determine which entities should be authorized to transact directly with Comsat for international satellite circuits.[6]

5. In its initial *Authorized Users* decision [7] the Commission explored the extent to which, as a matter of law, noncarrier entities can obtain telecommunications services directly from Comsat; the extent to which, as a matter of policy, such entities should be authorized to obtain services; the nature and scope of such services; the type of entities which may be deemed eligible to obtain the services the nature and extent of the authorization required; and the policies and procedures which the Commission should establish to govern applications for such authorization. We concluded that, as a matter of law, Comsat may be authorized to provide service directly to noncarrier entities, but under ordinary circumstances Comsat is to be primarily a carrier's carrier and not a retailer. However, the Commission further concluded that, as a matter of policy, in certain "unique and exceptional" instances, dependent upon the nature of the service, Comsat would be permitted to provide service directly to noncarrier users. Finally, it was recognized that the U.S. Government has a special position because of its unique or national interest requirements, and Comsat may be authorized to provide direct service when the Government's needs cannot be effectively met under the carrier's carrier approach.[8]

6. Upon requests for reconsideration and clarification of the initial *Authorized Users* decision, the Commission issued a second order in February 1967, clarifying the procedures by which U.S. Government agencies may be designated as authorized users.[9] In essence, we said that in all instances where Comsat seeks to deal directly with the Government based on the national interest facet, we shall act after receipt of advice from the Director of Telecommunications Management (DTM, later replaced by Office of Telecommunications Policy, and currently the NTIA), since defense requirements related to the national interest are matters peculiarly within the province of the executive. In addition, the Commission modified its earlier decision to allow Comsat to provide direct service to the Government whenever such service was required by the national interest, and deleted the additional requirement that the Government's needs could not be met by the carrier's carrier approach.

7. Over a decade later the Commission was confronted with precisely the situation alluded to above, whereby Comsat sought to provide service directly to the National Aeronautic and Space Administration (NASA). Having submitted the lowest bid to NASA for the requested service, Comsat turned to the Office of Telecommunications Policy (OTP) for its approval. However, OTP determined that direct service from Comsat was not required in this instance to satisfy a unique governmental need and the international record carriers (IRCs) were able to meet NASA's technical service requirements. While refusing to authorize direct service from Comsat, the Commission expanded its earlier *Authorized Users* decisions in regard to the U.S. Government. The Commission elaborated as follows:

> We believe that the Government may be granted authorized user status even where it does not appear to be required by the national interest. It does not follow from the fact that authorized user status will be granted if required by the national interest, that it is the sole circumstance in which the Government can become an authorized user. There is no reason why the other circumstances which might lead us to permit Comsat to provide direct service to other entities under the Authorized User policies should not be applicable to the Government as well. There may well be instances in which the public interest would be served by granting the Government authorized user status even though the national interest does not require it.[10]

8. One final related item which modified the *Authorized Users* decision should be mentioned. In response to a petition, the Commission instituted a rulemaking in July 1978, which reviewed the arrangements for international television service and proposed changes in our policy to permit Comsat to serve television transmission customers directly.[11] In its final Order in this proceeding the Commission noted that since international television transmission comprised less than one percent of USISC's revenues, there would be little chance of public detriment by virtue of a diversion of funds with a concomitant increase in rates for other communications services. Having decided that competition in this area is both feasible and desirable, the Commission concluded that:

> [T]he public interest will be served by permitting competition among the carriers and Comsat in the provision of international television program transmission service. We therefore grant Spanish International's request for a waiver of our "unique and exceptional" policy in the *Authorized User* decision (4 F.C.C. 2d at 431, 435–36) as it applies to other similarly situated television customers, and they are authorized users under our *Authorized User* decision and may receive direct service from Comsat. In other respects, the Authorized User decision and our "unique and exceptional" policy are not modified by this decision.[12]

The Commission has recently implemented this policy by adopting an order authorizing Comsat to provide international television service to users at U.S. earth stations.[13]

## The Pleadings

### *A. Arinc Petition*

9. We shall briefly summarize the pleadings related to the two requests for

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[5] The grant or denial of a motion for a declaratory ruling is a matter of broad administrative discretion under the Administrative Procedure Act, 5 U.S.C. 554(e). See *Strauss Communications, Inc.*, 46 F.C.C. 2d 262 (1974), *Yale Broadcasting Co. v. FCC*, 478 F. 2d 594 (1973), 155 U.S. App. 390 (D.C. Cir.), *cert. denied* 414 U.S. 914.

[6] Satellite Act, § 201(c) (2) and (11).

[7] *Authorized Users*, 4 F.C.C. 2d 421 (1966). In making its determinations, the Commission was guided by the mandate of the Satellite Act to ensure that all authorized users have nondiscriminatory access to the global system; to encourage wider and more effective use of radio techniques; to assure that competition is maintained and strengthened; and assure that the benefits of the new technology be reflected in service made available to the public through both improvements in quality of service and the realization of all possible economies. *Id.* at 426.

[8] *Id.* at 436.

[9] *Authorized Entities and Users-Comsat*, 6 F.C.C. 2d 593 (1967).

[10] *Western Union International, Inc.*, 71 F.C.C. 2d 337 at 367 (1979).

[11] *Notice of Proposed Rulemaking, Spanish International Network*, 68 F.C.C. 2d 1280 (1978).

[12] *Spanish International Network*, 70 F.C.C. 2d 2127 at 2148 (1978). Hereinafter referred to as *SIN* or *Spanish International Network*.

[13] File No. I-P-C-50, FCC 80-42 (released Feb. 21, 1980).

declaratory rulings insofar as they may be useful to our broader review of the existing Authorized User policy. Arinc has requested the Commission to issue a declaratory ruling that it is an authorized user of the international telecommunications facilities provided by Comsat or, in the alternative, to institute a rulemaking proceeding to establish that it is in the public interest for Arinc to have direct access to Comsat private line services. Arinc traces its fifty year history of operating as a not-for-profit company serving the unique needs of the aviation industry and maintains that the current service offerings of the USISC's are too limited and inflexible to accommodate the aviation industry's need for an efficient, reliable worldwide network. Arinc goes on to claim that the interposition of these carriers would be cumbersome and serve only to degrade the reliability of the system.

10. Arinc sets forth three separate grounds entitling it to authorized user status: (1) the communications requirements of the air transport industry are of such an exceptional and unique nature that the service must be tailored to the peculiar needs of the customer; (2) the service desired cannot presently be provided within the terms and conditions of a general public tariff offering, and (3) under the recent SIN decision, regardless of the unique or exceptional nature of the service, the public interest would be served by interjecting an independent competitive force striving to improve global communications for the aviation industry. Specifically, Arinc claims that permitting it to acquire wideband circuits for international use directly from Comsat will produce the following advantages: (1) flexibility in network configuration will enable it to shift, on a near real-time basis, traffic loads to meet changing needs and facilitate maintenance of network performance in the event of failures; (2) reduce aggregate bandwith requirements will conserve scarce public resources and reduce costs to all users; and (3) reliability, which is a key objective, can be achieved through complementary redundancy in intra-continental and transoceanic circuitry, flexibility in system configuration, and responsive, efficient network management.[14]

11. The responding parties oppose Arinc's petition on the following grounds: (1) Arinc fails to satisfy the "unique and exceptional" circumstances requirement established by the original *Authorized Users* decision, (2) Arinc has shown no public benefits to be derived by obtaining direct service from Comsat; (3) Insufficient facts have been set forth for the Commission to issue a blanket determination sought by Arinc; and (4) No action should be taken on any pending authorized user requests prior to the Commission's completion of its inquiry into Comsat's corporate structure, Docket No. 79-266, so as to ensure fair terms and competitive safeguards to Comsat's entry into the retail market. NTIA opposes any singular grants of authorized user status and generally urges the Commission to grant Arinc's alternative request for a comprehensive rulemaking proceeding aimed at revising the outmoded authorized user and earth station ownership policies. SITA's comments did not really address Arinc's petition, but rather, sought to present facts similar to those raised by Arinc to enable the Commission to similarly designate SITA as an authorized user should Arinc's request be granted.

12. In response to Arinc's claim that the existing carriers have refused to provide certain wideband services, the IRCs maintain that their inability to offer such service is due solely to the unavailability of domestic and overseas connecting links. The IRCs point to the refusal of AT&T to provide domestic group or supergroup wideband channels for connecting purposes,[15] and maintain this problem would still exist regardless of which carrier, including Comsat, provides the service. The respondents generally maintain that any piecemeal erosion of the authorized user policy will threaten their leased channel revenues, thereby endangering their ability to invest in needed facilities, and, in the long run, stifle any semblance of competition. They also contend that the service which Arinc seeks to provide raises issues of common carriage and resale and shared use of international facilities, which should not be hastily addressed in this proceeding.

13. Arinc's primary rebuttal is that the opposition is misdirected in focusing on narrow issues rather than the basic issue of whether, as a matter of law, Arinc should be precluded from dealing directly with Comsat. Citing the recent *SIN* decision for the proposition that users should be free to make their own arrangements, Arinc goes on to say that if it is unable on its own to provide the quality service needed, as the IRCs contend, the aviation industry would simply continue to patronize the IRC's. Arinc refutes the contention that it would become a common carrier "for hire" as opposed to providing a non-profit, shared use service for the aviation industry.[16] Finally, Arinc states that the opposing carriers have shown no public detriment or financial harm which would result from granting it authorized user status.

14. WUI replied that lost revenues due to Comsat's entry into the retail market would threaten its ability to fulfill public interest obligations as well as threaten the competitive viability of the international record industry. WUI accused SITA of attempting to "piggyback" on Arinc's request without setting forth any factual evidence and therefore its pleading should be treated as totally irrelevant. NTIA briefly replied that no new authorized user should be declared prior to a thorough examination of proper terms and conditions for Comsat's entry into the retail market.

*B. DOD Petition*

15. The DOD petition seeks a declaratory ruling that the United States Government, acting through its executive agencies, is an authorized user, without limitation or restriction, of the international telecommunications facilities and services provided by Comsat. DOD cites the legislative history of the Satellite Act at length to support its position that Congress intended there to be unrestricted Government direct dealing with Comsat. DOD maintains there is no basis for the Commission's present Authorized User policy which carves out special instances where direct dealing with Comsat will be permitted. Specifically, DOD interprets Sections 102(a) and 201(a)(6) of the Satellite Act as explicitly permitting the Government to establish its own system to meet unique needs or to satisfy the national interest, rather than restricting the Government's dealings with Comsat. Premised upon this reasoning, DOD concludes that the "unique" and "national interest" provisions had no relation to the Government's ability to deal directly with Comsat, and therefore the Commission must correct what DOD believes is a misreading of congressional intent. In support of its procedural request for the issuance of a declaratory ruling, DOD points to the controversy created by its recent request for Hawaii-Guam 1.544 Mbps

[14] Arinc also questions the reliability of service provided by the IRC's due to the need to loop the service through the IRC's operating center. This operational problem may change by virtue or the Commission's action in Docket No. 19660, F.C.C. 79-841, released February 27, 1980.

[15] This problem is being explored in Docket No. 21499.

[16] Arinc supports its distinction by citing the Commission's decision in *Shared Use and Resale*, 60 F.C.C. 2d 261, *recon.*, 62 F.C.C. 2d 588 (1979), *aff'd sub nom. AT&T v. F.C.C.*, 572 F. 2d 17 (2d Cir.), *cert. denied*, 439 U.S. 875 (1978).

service from Comsat[17] as highlighting the uncertainty it faces in attempting to establish a secure 1.544 Mbps network with facilities on several military bases.

16. The same seven carriers which opposed the Arinc request for a declaratory ruling have lined up in opposition to the DOD petition.[18] The major thrust of the opposition is as follows: (1) the DOD request is procedurally deficient in that there is no controversy or uncertainty regarding the Commission's Authorized User policy; (2) principles of administrative finality should preclude consideration since neither DOD nor the General Services Administration (GSA) sought judicial review of the Commission's order at the time it was issued;[19] (3) the statutory language and legislative history of the Satellite Act do not support DOD's request; (4) as a matter of law and policy, Comsat is a carrier's carrier and cannot be a competitor in the retail market without threatening the existing carrier's leased channel revenues, thereby driving up their rates and impairing their ability to improve service offerings; (5) DOD's petition ignores the public interest facet and fails to meet the heavy burden of persuasion required to overturn an established Commission policy; (6) Section 305(b)(4) of the Satellite Act authorizes Comsat to contract with authorized users, including the U.S. Government, only for the services of the "communications satellite system," a term defined by the Satellite Act to exclude earth stations, and therefore Comsat cannot be allowed to provide end-to-end service to the Government; and (7) any modification of the present Authorized User policy must be preceded by a comprehensive rulemaking proceeding whereby adequate terms and conditions are imposed to ensure fair competition between the USISC and Comsat.[20]

17. DOD, in its reply comments, declares that no persuasive rebuttal had been made to its petition and, if fact, the opposition has virtually ignored the legislative history of the Act or chosen to selectivedly edit it to misrepresent its true meaning. The one significant rebuttal, according to DOD, is the argument that the "communications satellite system," as contained in Section 305(b)(4), does not include the hiring of channels of communication which are derived by means of satellite terminal stations. However, DOD states that when the language is construed in the proper context and interpreted in light of the Act's legislative history, one must conclude that the U.S. Government has been designated by Congress as an authorized user of the complete communications satellite system, including satellite terminal stations.

## Discussion

18. After reviewing all of the pleadings we consider it unwise at the present time to grant the relief requested by means of a declaratory ruling. In refusing to grant such relief, we do not mean to reject the contentions raised by the petitioners. Instead, we believe the issue raised by these petitions can be mer properly addressed in the context of a broader rulemaking proceeding. Therefore, we hereby give notice of proposed rulemaking or formulation of policy regarding authorized users of international satellite facilities provided by Comsat. Having received the views of the interested parties in this proceeding, as well as others,[21] we shall proceed to set forth our tentative conclusions and proposals for modification of the existing policy.

19. In exercising its authority and obligation to regulate the extent to which certain entities may be authorized to deal directly with Comsat in 1966, the Commission was influenced to a large extent by the nature of the international telecommunications industry at that time. There was an express fear that if Comsat were "allowed to siphon off the most profitable part of the business [the private leased circuits] from them [the terrestrial carriers]," [22] they would have "to increase rates charged other users in order to enable them to earn a fair rate of return. Certainly such detriment to the vast majority of users for the apparent benefit of a few large users would be in derogation of the objectives of the Act." [23] Thus, it is clear that the Commission's primary concern was the economic impact on the existing industry. We wish to emphasize at the outset that our primary focus will center on the possible diversion of private leased channel revenues from the IRCs. However, this does not preclude the possibility that Comsat may at some future time seek to establish its own switched network in order to provide a variety of other services, including telex and overseas MTS via satellite.

20. In 1965, the U.S. Government leased 179 of the approxmiately 200 voice-grade private leased circuts serving overseas points. This was the equivalent of about 90% of the leased circuits and accounted for 70% of private line revenues. Mot importantly, leased circuit traffic was the most profitable service and played a significant role in providing the carriers' total profit margin. The economic situation has undergone drastic transformation since 1965. Between 1966 and 1978, telex revenues increased almost ten times and have become the major source of IRC income and profits. In 1976 telex provided about 62% of the IRC's revenues and showed a rate of return ranging from 31.7% to 58.3%.[24] In sharp contrast, the rate of return on private leased circuits for the IRCs in 1976 ranged from −3.3% to 5.6%.[25] Additionally, the Government's participation in the leased circuits business in 1978 accounted for less than one-third of the IRC private line revenues. Clearly, telex has replaced private leased circuits as the major source of revenue and profit for the IRCs, and the relative importance of private leased circuits has substantially decreased in the fourteen years since the *Authorized Users* decision.

21. Furthermore, when the initial *Authorized Users* decision was adopted, the IRC's net operating revenues exceeded their leased circuit revenues by only $100,000.[26] At that time it was feared by the Commission that loss of these revenues, which have relatively low variable costs, would come close to wiping out the IRCs' earnings. This is certainly not the case today, and we must reassess the economic concerns that underlay our regulatory policy announced fourteen years ago.

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[17] Application File Nos. I-P-C-85, 391-CSG-P-80, 392-CSG-P-80.

[18] AT&T, ASC, HTC, ITIWC, RCAG, TRT, and WUI. NTIA also commented in broader-guaged filing.

[19] GSA sought reconsideration of the Commission's initial decision, but failed to seek judicial review of the reconsideration order or the initial Authorized User decision. The D.C. Circuit Court of Appeals has stated: "Justice requires that a party have a fair chance to present his position. But overall interests of administration do not require or generally contemplate that he will be given more than one fair opportunity." *Retail Clerks Union v. N.L.R.B.*, 463 F. 2d 316 (D.C. Cir. 1972).

[20] Suggested conditions include: (1) require Comsat to create a separate subsidiary to avoid cross-subsidization, (2) devise a means for equal access to the international space segment, such as an IRU or cost-shared lease basis, (3) allow for separate, non-ESOC earth stations provided by retail carriers to satisfy particular customer needs and (4) require separate tariffs for the earth station and space segment.

[21] See, pleadings in the Comsat Study, C.C. Docket No. 79-266, Notice of Inquiry released October 19, 1979, and application of Comsat, File Nos. I-P-C-85, 391-CSG-P-80, 392-CSG-P-80, filed on November 16, 1979.

[22] *Authorized Users, supra*, 4 F.C.C. 2d at 431

[23] *Id.* at 433.

[24] FCC 79-849, Docket No. 20778, released January 23, 1980, Table 8 p. 28.

[25] *Id.*, Table 9, p. 29. See also Tables 2 and 3, pp. 32-33, illustrating telex's accelerated growth and profitability.

[26] IRCs' net operating revenues before Federal income taxes in 1965 were $20,300,000, while revenues from leased circuit services were $20,200,000.

22. In addition to the changing economic environment in the international arena, Comsat's role has also changed dramatically. Congress was confronted with a unique situation in the early 1960's while attempting to draft legislation leading to the creation of a global communications satellite system. Congress sought to foster a global commercial satellite system with equitable worldwide access for all in the interest of world peace and understanding. Comsat was created as the sole entity to mobilize U.S. taxpayer-developed techology in pursuit of this goal and to represent the nation in an internationally owned and operated satellite system. In hopes of an expeditous realization of this goal, monopoly powers and privileges were conferred upon Comsat. Due to the sensitive nature of the undertaking and the high degree of foreign cooperation necessary for success, it was determined that a single unified voice was needed to represent the nation in its negotiations.

23. In the developmental years Comsat played an indispensable role in the International Telecommunication Satellite Consortium (INTELSAT). Pursuant to the Interim Agreements,[27] Comsat, the U.S. Signatory, was designated as manager of the global system and was responsible for coordinating research, design, development, construction, establishment and operation of the space segment. The Definitive Arrangements,[28] which consist of (1) a Definitive Agreement among participating governments, and (2) an Operating Agreement among the actual investors and participants in INTELSAT, became effective in 1973. In addition to drastically restructuring the internal organs of INTELSAT, the Definitive Arrangements had a major impact upon Comsat—a Director General was created to replace Comsat as the head executive over a six year transition period. Comsat continued to perform technical and operational services for INTELSAT until December 31, 1978, under a management services contract.

24. INTELSAT today is a much different creature than it was in the early years when Comsat influenced its establishment. It is a financially successful and self-supporting organization with a widespread membership.[29] As global satellite traffic continues to increase, Comsat's ownership interest and voting power declines.[30] Comsat's daily management role has been eliminated. Its current role of providing technical and operational services pursuant to contract is also likely to decline since the Director General is obligated to contract with entities other than Comsat on a competitive basis, and the number of firms competing is increasing.

25. It is evident that Comsat has achieved the primary purposes of the Satellite Act. As described above, Comsat played a pervasive role in the early development and operation of INTELSAT. But today INTELSAT functions independently, yet Comsat retains its vast expertise that aided this country in its leap to the forefront in the satellite communications industry. It would be to the public's overall detriment if Comsat were prevented from applying the knowledge and expertise it has gained over the past 18 years in the promotion of satellite communications generally. As discussed in more detail below, we tentatively find that the public will benefit from allowing Comsat increased involvement in the retail marketplace. We recognize that permitting such diversification by Comsat raises significant legal and public policy concerns. We turn now to those concerns, which are also treated in the Comsat Study, and how we propose to resolve them consistent with the Satellite Act and our public interest standards.

26. First, there is a threshold question of whether the Satellite Act permits Comsat to provide services directly to consumers. Second, we must examine whether the public interest would be served by authorizing Comsat to do so, and under what conditions. In the following discussion, we tentatively conclude that the Satellite Act is no bar to Comsat's lease of international satellite facilities to ultimate users and that the provision by Comsat of this service, subject to some important conditions, is in the public interest and consistent with sound public policy.

## Construction of the Communications Satellite Act of 1962

27. In its Articles of Incorporation, Comsat links the purposes and powers of the company directly to the purposes of the Satellite Act, which are set out in Section 102 [31] and 305.[32] The Comsat Study examines this part of the Satellite Act and its legislative history and, in essence, concludes that Comsat's legal

[27] 15 U.S.T. 1705, T.I.A.S. No. 5646, 544 U.N.T. 26, effective August 20, 1964.

[28] 23 U.S.T. 3813, T.I.A.S. No. 7532, effective February 12, 1973.

[29] INTELSAT has grown from 19 member countries in 1964 to 102 members in 1979, and the net investment in its space segments has grown from $69 million in 1967 to $437 million in 1979.

[30] Comsat now has a 24% ownership interest in INTELSAT as opposed to 40% in 1973 when the Definitive Arrangements became effective.

[31] Sec. 102(a) The Congress hereby declares that it is the policy of the United States to establish, in conjunction and in cooperation with other countries, as expeditiously as practicable a commercial communications satellite system, as part of an improved global communications network, which will be responsive to public needs and national objectives which will serve the communications needs of the United States and other countries, and which will contribute to world peace and understanding.

(b) The new and expanded telecommunication services are to be made available as promptly as possible and are to be extended to provide global coverage at the earliest practicable date. In effectuating this program, care and attention will be directed toward providing such services to economically less developed countries and areas as well as those more highly developed, toward efficient and economical use of the electromagnetic frequency spectrum, and toward the reflection of the benefits of this new technology in both quality of services and charges for such services.

(c) In order to facilitate this development and to provide for the widest possible participation by private enterprise, United States participation in the global system shall be in the form of a private corporation, subject to appropriate governmental regulation. It is the intent of Congress that all authorized users have nondiscriminatory access to the system; that maximum competition be maintained in the provision of equipment and services utilized by the system; that the corporation created under this Act be so organized and operated as to maintain and strengthen competition in the provision of communications services to the public; and of the persons or companies participating in the ownership of the corporation shall be consistent with the Federal antitrust laws.

(d) It is not the intent of Congress by this Act to preclude the use of the communications satellite system for domestic communications services where consistent with the provision of this Act nor to preclude the creation of additional communications satellite systems, if required to meet unique governmental needs or if otherwise required in the national interest.

[32] Sec. 305(a) In order to achieve the objectives and to carry out the purposes of this Act, the corporation is authorized to: (1) plan, initiate, construct, own, manage, and operate itself or in conjunction with foreign governments or business entities a commercial communications satellite system; (2) furnish, for hire, channels of communication to United States communications common carriers and to other authorized entities, foreign and domestic; and (3) own and operate satellite terminal stations when licensed by the Commission under section 201(c)(7). (b) Included in the activities authorized to the corporation for accomplishment of the purposes indicated in subsection (a) of this section, are, among others not specifically named—(1) to conduct or contract for research and development related to its mission; (2) to acquire the physical facilities, equipment and devices necessary to its operations, including communications satellites and associated equipment and facilities, whether by construction, purchase, or gift; (3) to puchase satellite launching and related services from the United States Government; (4) to contract with authorized users, including the United States Government, for the services of the communications satellite system and; (5) to develop plans for the technical specifications of all elements of the communications satellite system. (c) To carry out the foregoing purposes, the corporation shall have the usual powers conferred upon a stock corporation by the District of Columbia Business Corporation Act.

authority to enter into [non-INTELSAT] activities is contingent upon a determination that such activities are consistent with the objectives of the Satellite Act and/or incidental to or connected with the purposes of the Act. The Study also asserts that Comsat's legislative charter should not foreclsoe it from engaging in activities involving the development and application of satellite communications and related technology which provide public benefits.[33]

28. As a supplement to the findings in that Study, we believe that a fair reading of the statutory language, together with the legislative history, supports the view that the Commission is empowered with broad discretion to decide which entities should have access to Comsat. In exercising that discretion, the Commission may clearly determine that Comsat should not be restricted to the role of being primarily a carrier's carrier. Concededly, this view conflicts with our decision in *Authorized Users, supra,* where we concluded, as a matter of law, that Comsat was to be primarily a carrier's carrier, 4 F.C.C. 2d at 427. However in our decision in *Spanish International Network, supra,* we again examined the legislative history of the Satellite Act and expressed "doubts that Congress intended to restrict Comsat's role to being primarily a carrier's carrier." 70 F.C.C. 2d at 2135, note 8.

29. Upon further examination, we believe that those doubts should now be firmly resolved in favor of a statutory construction that permits expansion of Comsat's role. First and foremost, the language in the statute does not provide that Comsat is to be primarily a carrier's carrier. On the other hand, there is statutory language to suggest that Comsat could serve *any* authorized user. For example, Section 305(a)(2) of the Satellite Act, 47 U.S.C. § 735(a)(2), provides that Comsat is authorized to "furnish, for hire, channels of communication to United States communications common carriers *and* to other authorized entitities, foreign and domestic". (Emphasis added). Clearly, this language does not confine authorized users to carriers on an exclusive or primary basis. When this section is read in conjunction with Section 201(c)(11), 47 U.S.C. § 721(c)(11),[34] it is clear that the Commission was left with broad discretion to decide the extent to which authorized users could be non-carriers. This reading of the breadth of Commission discretion is further supported by the fact that Congress omitted any definition of authorized user in Section 103 of the Act, 47 U.S.C. § 702, which could limit the Commission's discretion. Since, as we believe, the statutory language is clear and unambiguous, we need not resort to the legislative history for an indication of congressional intent. *See, e.g., Ernst and Ernst* v. *Hochfelder,* 425 U.S. 185 (1975), *Tennessee Valley authority* v. *Hill,* 437 U.S. 153 (1978). *But see Portland Cement Ass'n* v. *Ruckelshaus,* 486 F. 2d 775 (D.C. Cir. 1973).

30. However, our earlier analyses of the Satellite Act in the *Authorized Users* and *Spanish International Network* decisions did not rely on the statutory language alone, but also examined the legislative history. Upon re-examination we conclude that the legislative history is far more ambiguous than originally believed, although there is substantial evidence to support the statutory interpretation discussed above. For example, in *Authorized Users, supra,* the Commission focused almost exclusively on one part of the legislative history—a floor statement by Senator Pastore, manager of the Senate bill—in reaching its conclusion that Comsat was to serve mainly the carriers. Senator Pastore stated in relevant part:

> No one, either the proponents of H.R. 11040 or the advocates of Government ownership, has proposed that the satellite entity should go into competition with the existing carriers in serving the general public directly. To the contrary—the satellite corporation under H.R. 11040 will serve mainly the carriers. Even the Government corporation contemplated by the substitute measure offered by Senator Kefauver would likewise serve the carriers.
>
> Let me repeat these simple but all important facts. The market to be served by the corporation consists of the carriers who will use its facilities. The market to be served by the carriers will be the senders and recipients of communications time. The corporation will depend upon the carriers for its revenues; the carriers will depend upon the corporation for facilities. *Thus, this will not be a situation in which one enterprise is motivated to control another enterprise in order to stifle competition to the public detriment.* On the contrary, the interest of the carriers will lie in promoting the success of the corporation, thereby promoting their own success, with resulting benefits to the public (Emphasis added).
>
> (108 *Cong. Rec.* 16920 (1962))

Upon closer examination of this statement, we believe that Senator Pastore was not suggesting that Comsat's role should be restricted permanently. When this statement was made, Senator Pastore presumably knew that the satellite bill did not expressly provide for Comsat to serve mainly the carriers. He also presumably knew that the bill empowered the Commission with broad discretion to authorize access. In addressing that discretion, Senator Pastore wanted to signal the Commission to limit non-carrier access to Comsat as long as certain conditions existed. For example, Senator Pastore did not want Comsat competing directly with the carriers because these carriers might become (and eventually did become) shareholders of Comsat. Senator Pastore was concerned that, if Comsat were allowed to compete directly, the carriers might be motivated to monopolize and control access to Comsat's space segment, thus suppressing marketplace competition and the development of a new technology. This concern is no longer valid because the major carriers have sold virtually all of their Comsat stock and will not, absent further order of this Commission, be reacquiring that stock.[36] Senator Pastore was also concerned that direct competition from Comsat would siphon off revenues sorely needed by the carriers.[36] This concern is not germane now because the major carriers no longer depend on this business to insure their financial success.

31. One final thought must be acknowledged in construing the Satellite Act. That legislation was enacted at a time when the development of satellite communications was in its infancy. In this context, it surely could not have been the intent of Congress to unduly limit the Commission's ability to adapt to changing circumstances and encourage the growth of this rapidly developing technology. Cf. *NBC* v. *United States,* 319 U.S. 190, 216–17 (1943). No doubt this explains why neither Senator Pastore nor his colleagues sought to amend the statutory language to restrict authorized users on a permanent basis to be primarily licensed common carriers; and the need for regulatory flexibility in the face of changed circumstances also helps explain the adoption of a provision conferring the Commission

[33] See *Comsat Study,* C.C. Docket No. 79-266, FCC 80-218, released May 1, 1980. The Study challenges Comsat's contention that it may engage in any activity "not inconsistent" with the Satellite Act, which would comprehend a much broader array of activities than the types intended by Congress. To the extent that there may be any uncertainty about the scope of Comsat's activities, we recommend, in the Comsat Study, that Congress explicitly define Comsat's role consistent with our analysis.

[34] Section 201(c)(11) provides that the Commission shall "make rules and regulations to carry out the provisions of this Act."

[35] *See Domestic Communications-Satellite Facilities,* 38 F.C.C. 2d 655, 679–680 (1972).

[36] *See* hearings on S. 2814 before the Senate Committee on Aeronautical and Space Sciences, 87th Cong., 2nd Sess., at 210 (1962).

with broad rulemaking authority in this area.

32. Much of the foregoing analysis is confirmed by the congressional reactions to amendments proposed by the FCC. In March 1962, while Congress was considering satellite legislation, Newton Minow, then Chairman of the Federal Communications Commission, offered an amendment to make clear that Comsat could not lease channels directly to entities who would normally be customers of the carriers. A Senate committee rejected this amendment.[37] One month later, Mr. Minow again offered a series of amendments to restrict Comsat's role; it was Minow's view that the Commission's discretion to authorize access should not extend beyond the restrictive role he envisioned for Comsat. Those amendments also contained language giving the Commision broad discretion to adopt rules implementing the statute. Another Senate committee again rejected Minow's language limiting Comsat's role but accepted much of his lanugage empowering the Commission with broad rulemaking discretion.[38] Thus, these actions by Congress support the view that Comsat does not have to be primarily a carrier's carrier for all time.[39] In sum, the statute on its face, reinforced by substantial evidence from an otherwise ambiguous legislative history, strongly supports this interpretation. Having now taken a closer look at the statutory language and the legislative history, we believe that our legal conclusion in *Authorized Users, supra,* was in error and that, under the present circumstances the Commission need not restrict Comsat to being primarily a carrier's carrier.

[37] To achieve his purpose, Mr. Minow offered an amendment which, in part, would have deleted the words "and to other authorized entities, foreign and domestic" from the provision that was later enacted into law as Section 305(a)(2). That amendment was not accepted. See Hearings on S. 2814 before Senate Committee on Aeronautical and Space Sciences, 87th Cong., 2nd Sess., at 210 and 470–471 (1962).

[38] Congress adopted some of Mr. Minow's language which was intended to give the Commission broad flexibility to regulate access to Comsat. For example, the language contained in Section 201(c)(11) of the Act was proposed by Mr. Minow. *See* Hearings on S. 2814 before the Senate Committee on Commerce, 87th Cong., 2nd Sess., at 67–68 and 115–116 (1962). However, Congress also rejected other language which Minow introduced to restrict Comsat's role. *Id. See also, Spanish International Network, supra,* 70 F.C.C. 2d at 2135, and note 9.

[39] *See also,* colloquy between Rep. Devine and Dr. E. C. Welsh, Hearings on H.R. 10115 and H.R. 10138 before the House Interstate and Foreign Commerce Committee, 87th Cong., 2nd Sess., pt. 2 at p. 379 (1962); colloquy between Senator Wiley and Mr. Newton Minow, Hearings on H.R. 11040 before the Senate Committee on Foreign Relations, 87th Cong., 2nd Sess., at p. 50 (1962).

Public Interest Analysis

33. We now turn to our assessment of the public interest and the economic analysis that underlies our proposal. In view of the dramatic economic and technological changes that have occurred over the past fifteen years, we now believe that the primary objectives of the Satellite Act, that is, "the reflection of the benefits of this new technology in both quality of services and charges for such services, [and] . . . that the corporation created under this act be so organized and operated as to maintain and strengthen competition in the provision of communications services to the public," [40] will be better served today by allowing Comsat to deal directly with the public. By permitting Comsat to provide service directly, we tentatively conclude that the economies realized by satellite technology will be more accurately reflected in the rates charged for international communications satellite services. This will interject a carrier with an exclusive interest in furthering the use of statellite technology. It will provide an outlet for Comsat to apply the knowledge and expertise it has gained over the past 18 years, through both its research and development programs for INTELSAT as well as its managerial role in the U.S. Earth Station Ownership Consortium (ESOC). Presently, there exists no such force in the market to exploit international satellite services to their utmost potential without having some conflicting incentives.

34. Given that the existing Satellite Act permits Comsat to enter the retail market, we are primarily concerned about the possibility that Comsat may pass costs incurred in the provision of competitive services on to its monopoly ratepayers. In order to avoid this prospect, certain changes must be made in Comsat's corporate structure and accounting system to safeguard against cross-subsidization and price discrimination. It would be patently unfair to allow Comsat to obtain a competitive advantage in the retail market by virtue of its position as a monopoly wholesaler of the international space segment. We are also concerned that Comsat's retail activities not interfere with its ability to effectively fulfill the purposes of the Satellite Act. Therefore, consistent with the recommendations in the Comsat Study, we propose to condition Comsat's entry into the retail market upon it either voluntarily undertaking the restructuring necessary to guard against anticompetitive practices, or Congress amending the Satellite Act along the lines recommended in the Comsat Study. Should such action not be forthcoming, the Commission would then condition any Section 214 authorization of Comsat on the satisfactory restructuring of the corporation as proposed in the Comsat Study. Restructuring, along with any additional conditions that might be imposed as a result of this proceeding, would mitigate our general concern that Comsat might use its monopoly position to deprive other entities of the opportunity to serve the public under fair and equitable conditions. Among the other conditions we are are considering is a requirement that Comsat Global must serve all prospective purchasers of INTELSAT facilities including Comsat National,[41] under equal terms and conditions and at tariff rates subject to the regulation of the Commission.

[40] Satellite Act, § 102(c), 47 U.S.C. § 702(c).

35. Our tentative conclusion to permit Comsat to provide retail service directly to the public is based not only on the prospect of interjecting another competitor simply for the sake of additional competition. We hope to obtain benefits beyond that possible by simply authorizing another carrier along the lines of the existing record carriers. Currently, satellite facilities are just another factor employed by the IRCs to arrive at average rates. The incentives of the IRCs are greatly influenced by their existing capital investments in older cable facilities. In many instances, this rate averaging results in a sense of indifference by the IRCs in seeking to make maximum efficient use of the satellite system. This, in turn, leads to defective competition between the two major modes of international transmission.

36. There would appear to be several values in having Comsat actively competing in the international market. Clearly, Comsat has a major stake in satellite technology through its past and present role in INTELSAT. In particular, Comsat's labs have always been at the forefront in providing the latest advancements in the state of the art, and we expect them to continue to do so for some time to come. By virtue of its accomplishments in both the development and management of the INTELSAT system, Comsat has achieved a worldwide reputation. This might facilitate the task of negotiating any necessary operating arrangements

[41] For convenience sake, we refer to "Comsat National" as the prospective retail entity of Comsat. We will refer to the entity which will continue to function as the U.S. Signatory to INTELSAT as "Comsat Global."

with foreign correspondents.[42] Due to its large investment stake, Comsat should have every incentive to promote satellite utilization to its optimum so that all of the inherent advantages of the technology may be exploited and reflected in better quality, lower cost service to the public.

Composite Rate Formulation

37. Currently, regardless of reductions in cost charged by Comsat to the USISC, the tariff rates of the USISC fails to reflect the true economies of satellite technology due to the composite rate structure utilized. The composite rate formula makes it virtually impossible to reflect the advantages of satellite technology because the carriers average the costs of providing the service over both satellite and cable facilities. Compositing of rates in the international arena was first employed following our directive in the initial *Authorized Users* decision where we said:

> Satellite circuits now becoming available should enable the carriers to secure facilities at lower costs in relation to terrestrial facilities and thereby permit them to reduct rates to reflect such cost reductions. We, therefore, expect the common carriers promptly to give further review to their current rate schedules and file revisions which fully reflect the economies made available through the leasing of circuits in the satellite system. Failure of the carriers to do so promptly and effectively will require the Commission to take such actions as are appropriate. Even though satellite circuits are not now and will not for some time be available to all points to which users presently lease circuits from terrestrial carriers, implementation of this policy by the carriers should also reduce charges to many points to which satellite circuits are not now available.[43]

38. The Commission also indicated at that time that major users often utilized a combination of satellite and cable facilities to the same points to provide for redundancy and diversity to protect from outages. It was thought that in 1965 the average charge per circuit might very well be less if the existing carriers supplied all of their needs rather than if Comsat were permitted to lease satellite circuit directly to them at lower rates, while the other carriers satisfied their redundancy and diversity needs at rates reflecting the higher cost of cable facilities.[44] However, we tentatively conclude that the objectives sought by requiring composite rate averaging have either already been realized for the most part, or may be more fully realized by permitting separate tariffs reflecting the true cost of service over a particular type facility.[45]

39. A quick review of composite pricing will illustrate why it was first required and why we now question its appropriateness in view of satellite technology's growth and acceptance as a high quality mode of transmission. The composite rate formula clearly became an accepted means for ratemaking in 1967 in what has come to be known as the "30 Circuits Case."[46] In that proceeding, Comsat and the IRCs sought to provide leased channel service to DOD between Hawaii and three Far East points. Although DOD preferred to deal directly with Comsat, which offered a rate of $4,200 a month per half circuit, rather than the IRCs whose lowest bid was $10,000 a month per half circuit, the Commission ordered that a composite rate of $7,100 a month per half circuit be employed and split the 30 circuits evenly among ITTWC, RCAG and WUI.[47] Since that time, rate averaging has been employed on a global basis so that the benefits made possible by satellite technology have been partially, but not fully realized.

40. Under the current regulatory guidelines, Comsat does not price its services to compete for traffic since it is allocated a set portion of total traffic based on a Commission prescribed formula.[48] This, in effect, eliminates any incentive Comsat might have to reduce prices, in order to increase satellite traffic. Indeed, the current scheme gives Comsat the incentive to keep prices as high as possible. For example, between 1972 and 1978, Comsat's Tariff No. 1[49] remained unchanged, although its costs per unit declined.[50]

41. In the Commission's 1975 decision in Docket No. 16070,[51] it was generally determined that (1) Comsat's profits were excessive; (2) the rate base was inflated and cost of capital overstated; and (3) the rate structure was unjustified and not responsive to Section 102(b) of the Satellite Act. After the Settlement Agreement in May 1978, Comsat responded by filing a 48.5% rate reduction in an attempt to ensure that earned revenues remained near the prescribed 12.48% (11.48% on rate base plus 1.0% for efficiency) rate of return set by the Commission. However, lower rates led to higher than expected quantity of circuits requested via satellite facilities so that Comsat's annual rate of return after the Settlement Agreement was still above the prescribed level. In view of this trend, Comsat has been able to initiate further reductions so that its current world-wide, uniform tariff for voice/data satellite half circuits is now $1,275 per month, or $15,300 per year. This figure, when compared to the IRCs' current tariffs for leased voice grade half circuits determined on a composite

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[42] We have learned that establishing operating arrangements abroad has been a particularly difficult undertaking for new entrants. (e.g. Graphnet and Telenet).

[43] *Authorized Users*, 4 F.C.C. 2d at 434-35.

[44] *Id.* at 435.

[45] When satellite service first became available, the Commission noted that this new technology "should enable the carriers to secure facilities at lower costs in relation to terrestrial facilities and thereby permit them to reduce rates to reflect such cost reductions." 4 F.C.C. 2d at 434. The Commission therefore directed the carriers to revise their rate schedules to reflect the economies made possible by the global satellite system. Consequently, composite rate averaging was implemented in order to reflect these savings. However, although reductions have been realized, the anamolous effect has been to hamper the true savings made possible by satellite transmission because the higher cable costs continue to be averaged into the carriers' rates. The compositing of rates has precluded the full realization of the objectives of § 201(c)(5) of the Satellite Act which directs the Commission to "insure that *any economies* made possible by a communications satellite system are appropriately reflected in rates for public communications services." (emphasis added)

[46] *ITT World Communications Inc. et al.*, 6 F.C.C. 2d 511 (1967).

[47] The Military Operations Subcommittee of the House Government Operations Committee pointed out that an across the board rate reduction in the Pacific by the IRCs would save the government twice as much as the lower rate by Comsat for the 30 circuits and therefore recommended that the 30 circuits be granted to the IRCs in exchange for reductions in Pacific rates for cable and satellite facilities. Government Use of Satellite Communications, House Report No. 2318, 87th Cong. 2d Sess. Oct. 19, 1966.

[48] See discussion, *infra*, paras. 43-45. This approach was first required in *ITT Cable and Radio Inc.—Puerto Rico et al.*, 5 F.C.C. 2d 823 (1966) and modified in 13 F.C.C. 2d 235 (1968). *Overseas Communications*, 30 F.C.C. 2d 571 (1971) and *Overseas Communications*, 73 F.C.C. 2d 328 (1979).

[49] Revised pages 11A, 11AA, and 11AAA of Tariff No. 1 represent tariffs for the lease of voice-grade half circuits over various routes. These tariffs varied according to distance during this time period.

[50] INTELSAT reduced the half circuit utilization charge, which is representative of Comsat's major cost in acquiring INTELSAT facilities, from $22,960 per unit per year in 1972 to $6,840 per unit per year in 1978, a reduction of approximately 70.2%. It should be noted that INTELSAT's utilization charge is not necessarily indicative of the true cost of obtaining service for the Signatories. The Signatories investment share is determined by total utilization of the space segment by each, relative to the total us of all. INTELSAT receives funds from two channels: (1) capital contributions are made by each Signatory based on its investment share to cover the costs for design, development, construction and establishment of the system and (2) all users, even non-Signatories, pay a utilization charge which provides the majority of INTELSAT's operating revenues. In return for capital contributions, each Signatory receives repayment, which in 1979 included 14% interest, and acquires an ownership interest in INTELSAT. The utilization charge is the same for both Signatories and non-Signatories. But the true cost of utilization for Signatories is determined by their investment share of capital expenditure in the system, their share of operating expenses, and their own cost of capital. In Comsat's case, the true cost of using the INTELSAT space segment on a fulltime basis is probably less than the set utilization charge.

[51] *Communications Satellite Corporation*, 56 F.C.C. 2d 1101 (1975).

basis,[52] shows there to be approximately a 200–300% increase charged by the IRCs over the cost of acquiring a similar satellite half circuit from Comsat. These figures further illustrate that the current system does not capture the true cost savings inherent in satellite technology. The present situation leads us to the tentative conclusion that substantial rate reductions are possible if we permit Comsat to offer service directly to the public based solely on the cost of obtaining the satellite facilities.

42. As a retailer of satellite services, Comsat will have a greater incentive to initiate innovative applications utilizing newly developed hardware. Under the current framework, there is little incentive for Comsat to introduce new, cost-saving equipment since there is no assurance that these savings will be passed along to the ultimate users, thereby creating a greater demand for satellite services.

### Prescribed Use Formulas

43. The true application of facility cost has been further blurred due to the Commission's relative use policies which dictate the number of circuits to be routed via different transmission facilities. This policy, which allocated market shares by setting the proportionate usage of various facilities, was first initiated in 1966, in a decision concerned with the need for additional facilities in the Caribbean.[53] In that case, there was a finding of the simultaneous need for both an additional cable facility as well as a new earth station. To ensure equitable utilization of both facilities and to give Comsat reasonable assurance of use, since it does not have direct access to the general using public, we directed the carriers to lease satellite circuits equal in number to the total they were then using in the cable and thereafter to employ a 50/50 use policy.[54] This policy was extended in the TAT–5 decision,[55] and refined into a proportionate fill policy which provided that the "unfilled capacities of the satellites would be leased at a rate, with appropriate adjustments, so that, when added to the use made of the satellite facilities by non-cable users, unused satellite capacity would be leased by all users as the cable is filled to the end that both types of facilities reach a 100 percent fill at approximately the same time." [56]

44. In 1971 we adopted a "reasonable parity" approach which directed the carriers to "formulate proposals for the deployment of both satellite and cable facilities in a manner which will utilize effectively all advances in technology so as to make available an efficient and economic system of communications with due regard for considerations of redundancy and diversity." [57] More recently the Commission issued a final order prescribing the use of North Atlantic facilities for the 1979–1985 timeframe which adopted a circuit activiation methodology for AT&T (regarding MTS traffic) which looks towards balanced loading over alternate transmission paths.[58] However, it specifically recognized the unique needs of the IRCs in satisfying requests for leased record channel service and therefore allowed greater flexibility by not adopting any activation schedule for them.[59]

45. Any fill formula which distributes market shares distorts the true economies which could be realized. This policy has emerged as a result of preferences inherent in rate of return regulation, whereby a firm has an incentive to own rather than lease facilities since they can be included in the rate base, which ultimately determines the level of profit allowed. It was a concern that the conventional carriers, which own the competing cable technology, would favor additional cable investments over satellite leases, even if more costly, which led to the development of our various fill formulas. We now tentatively conclude, that by allowing freer access to international satellite facilities by entities other than the existing USISC and by authorizing Comsat to enter the retail market through a separate subsidiary, we will move away from market sharing based on administrative allocation and toward a more cost-based system of pricing for international telecommunications services.

46. It should be noted that balanced loading for message telephone service, which is the most recent prescribed use formula adopted by the Commission, has served as a substitute for marketplace competition between cable and satellite facilities. This practice has been necessary due to a variety of factors, including the existing Authorized User policy and lack of customer choice of transmission paths. This, in turn, has limited Comsat's ability to fully exploit utilization of the international satellite system and eliminated the incentive for Comsat to initiate further satellite price reductions in order to generate more traffic. Currently, there is only very limited competition in the provision of international MTS service from the U.S.

As with telex service,[60] it may be possible for Comsat, through its separate subsidiary, to develop a switched network capable of competing for overseas MTS traffic utilizing satellite-only transmission.[61] Our

[52] Comsat's current Tariff No. 1 sets a uniform worldwide tariff of $1,275 per half circuit per month. In sharp contrast, the IRCs tariffs are now nearly three times higher, due to the averaging of more expensive cable facilities into their rates. It should be noted that the IRCs' tariffs reflect not only the cost of aquiring facilities from Comsat, but also the cost connecting facilities, as well as other costs incurred by the IRCs in providing the service to end users. The following sample of IRC tariffs reflects this discrepancy: Monthly rate for leased Voice-Grade Half-Circuit, for service from the United States to: Most European countries, $4,140; Japan, $4,875; Most South American countries, $4,235.

[53] *ITT World Communications Inc. et al.*, 5 FCC 2d 823 (1966).

[54] *Id.* at 832.

[55] *AT&T et al.*, 13 FCC 2d 235 (1968).

[56] *Id.* at 237–38

[57] *Overseas Communications*, 30 FCC 2d 571 at 574 (1971).

[58] *Overseas Communications*, 73 FCC 2d 326 (1979).

[59] *Id.* at 350. Although the IRCs will be monitored to check their performance, it was recognized that minor departures would be relatively insignificant due to the relatively small volume of leased channel record service.

[60] As noted at the outset, given the fact that the telex market is experiencing explosive growth, there is a possibility that Comsat will seek to compete for this service as well as for private leased channel circuits. Telex service shares some of the same characteristics as message telephone service since both provide real-time two-way communications by means of a switched network where the facility is not now selected by the subscribers. Consequently, achieving service reliability by use of redundancy and diversity are relevant to both services. Indeed, the same considerations which led us to find balanced loading to be an acceptable use of North Atlantic facilities for message telephone service during the 1979–85 period are applicable to telex service. On the other hand, while telex and message telephone service share a number of similar characteristics, there are important differences. The most important of these is the fact that while the vast majority of message telephone service is provided by means of a single network, there are presently five competing international telex networks in the United States. Second, the IRCs until recently have been limited to operation in five cities. This has resulted in a far more limited investment in these telex networks than is the case with message telephone network. Therefore, it may be entirely feasible from an economic standpoint for Comsat to develop a competing telex network utilizing only satellite facilities. Of course we do not make any determination on that question here. However, we do solicit comments on the likelihood of such a satellite-only telex service being offered and the effects of such a service on the existing industry.

[61] This is not meant to imply that Comsat would be granted any sort of preferential treatment in establishing such an overseas satellite MTS service through "full interconnection" with AT&T's domestic switched MTS network. As we indicated in the recent *Datel* Order, Docket No. 19550, FCC 79–843, released February 14, 1980, the IRCs presently must be afforded interconnection with AT&T's domestic MTS network equivalent to that afforded to all domestic carriers (OCCs), including any interconnection required for the IRCs to obtain foreign exchange (FX) service. We stressed that this limited interconnection is only an interim arrangement pending final resolution of the interconnection issues as a result of the soon to be completed NTIA interconnection report and our ultimate resolution of the Docket 19600 proceedings.

Footnotes continued on next page

consideration of such a service offering would, of course, be reserved until such time as Comsat applied for the necessary Section 214 authorization. However, we do seek comments on the likelihood of such a service offering and its effect on the international MTS market.

47. By allowing the interchangeable cable and satellite technologies to compete on a separate cost basis, we hope to eliminate much of the preference for cable investment presently encouraged by our past policies of not permitting Comsat to retail, composite rate averaging and prescribed use forumulas.[62] Removing these artificial constraints should help terminate any damper on retail competition presently imposed by regulatory dictate. This, in turn, should allow the technological characteristics of the competing transmission modes to be more accurately reflected in the rates to customers. The Commission has specifically recognized that establishment of composite rates does not preclude the use of separate satellite rates where in the public interest.[63]

48. Allowing rate structures for cable and stelllite is consistent with the objectives of the Satellite Act. Our past policies have successfully encouraged the development and use of the global satellite system. Now that INTELSAT has obtained a stable and secure position in the provision of international communications services, we believe the pbulic will be well served by allowing satellite technology to flourish on its own merits. Allowing separate satellite rates should promote a decline in unit costs since rates for satellite services would no longer be handicapped by averaging in cable costs. By adopting this approach, it will be left to the customer to determine the value of a particular service and whether the cost of obtaining a diverse route over alternate facilities is worth the price. We recognize that satellite and cable facilities are not equivalent in all respects. They may differ in certain aspects, such as privacy and physical survivability. Thus, parties may wish to comment on the relationship between our proposed reliance on marketplace forces and national security considerations.

Specific Proposals for Comment

49. The central question to be addressed in this proceeding is the extent to which, as a matter of both law and policy, Comsat may be authorized to offer international satellite communications services directly to the public. We have carefully traced the nature and development of the international telecommunications industry in an attempt to illustrate the dynamism of this market and changing circumstances calling for a review of our existing Authorized User policy. We have indicated that the existing industry structure leads to differing economic and operational incentives as a result of rate base regulation as well as the absence of a competitive force to encourage more cost-effective utilization technology.

50. We tentatively conclude that there is not, and cannot be, real marketplace competition between satellite and cable technologies under the present industry structure and regulatory guidelines. Consequently, we propose restructuring Comsat's persent role along the lines advanced in the Comsat Study, thereby permitting it to effectively promote the cost-savings inherent in international satellite transmissions through direct dealing with the consuming public and the U.S. Government. In this manner, we expect that a competitive institutional mechanism, rather than a regulated monopoly, will probe the elasticities of demand for international satellite services and encourage efficient applications of this technology. To this end, Comsat will no longer be confined to a role of a carrier's carrier, whereby it is dependent upon the owners of a competing technology, in which they have extensive capital investments, to generate business over the INTELSAT satellite facilities. Past handling of this through the implementation of prescribed loading formulas, substituted artificial regulatory market sharing on the utilization of interchangeable technologies rather than allowing one or the other to be used based on its own advantages. We believe competitive marketplace forces will better dictate the efficient utilization of the various technologies. We encourage comments on what effect this may have on comprehensive worldwide facilities planning.

51. By proposing to allow the USISC and Comsat National to file separate tariffs reflecting the differing costs of satellite and cable facilities, we realize there may be a need to revise current tariffs based on composite rate averaging. We invite comments on the likely benefits to accrue to the public by permitting such pricing as well as difficulties foreseen in implementing such a policy. Requiring general tariffs for the international space segment only may also lead to more innovative and cost-efficient usage of earth station facilities. Comments with regard to potental benefits as well as possible detriments are also invited. Any claims of adverse economic impact or anticipated cost savings should be substantiated in accordance with Section 1.363 of the Commission's Rules (47 C.F.R. 1.363).

52. In view of our proposals set forth today, we consider it to be premature to grant the declaratory relief requested by Arinc and DOD. Should the proposals set forth here be ultimately adopted as Commission approval to contract with Comsat Global for the lease of satellite transmission facilities. They would be free to contract with Comsat Global for the international space segment along with the earth station facilities necessary to receive the transmissions. Of course, they would still be responsible for making the necessary arrangements to complete the circuits on the foreign end as well as acquiring the domestic connecting facilities. Therefore, we shall dismiss without prejudice the request of Arinc and DOD for authorized user status.

53. We note that a related NPRM on Resale and Shared Use of International Communications Services [61] initiated today, may have some bearing on Comsat's dealings with prospective users of INTELSAT facilities. The NPRM proposes the removal of the existing tariff restrictions on resale and shared use and also questions whether these entities should be considered common carriers, thereby requiring Commission authorization to provide service. In view of these related actions, we question whether any restrictions should be imposed on users of INTELSAT facilities seeking to contract directly with Comsat Global. Comments might address a minimum threshold amount which must be acquired in order to buy from Comsat Global, or the various administrative, accounting or other difficulties which might be experienced in dealing with numerous propective purchasers of INTELSAT facilities.

54. Although the Comsat Study is exploring possible structural changes before Comsat is permitted to enter the retail market, parties may wish to

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Footnotes continued from last page
Certainly, any ultimate determinations on full interconnection would be equitably applied to the IRCs as well as to Comsat, should it attempt to offer enhanced service offerings utilizing AT&T's domestic MTS network.

[62] We also intend to initiate another Notice of Proposed Rulemaking which will explore possible revisions in our earth station ownership policy as well as the possibility for capital investment in satellite circuitry. This will eliminate the inherent preference for ownership in cable facilities rather than the use of satellite circuits.

[63] *Authorized Enitities and Users*—Comsat, 6 F.C.C. 2d at 595.

[61] CC Docket No. 80-176, initiated by separate action today.

comment on the degree of separation necessary to avoid potential conflicts of interest and cross-subsidization and propose safeguards to ensure that Comsat Global is able to fulfill its statutory role as the U.S. Signatory in INTELSAT. Comments might also address Comsat's legal authority, pursuant to both the Satellite Act and its Articles of Incorporation, to engage in the proposed retail activities.

55. In summation, we tentatively conclude that the fears expressed in our initial *Authorized Users* decision, that is, that direct service by Comsat would adversely affect the public interest because leased channel revenues would be diverted from the conventional carriers, thereby necessitating rate increase for message telephone service, telex or telegram service, is no longer valid. From the figures available, revenues from leased channels services account for approximately only 7½ percent of the overall revenues in the entire international market. The IRCs have reported only marginal profits, and in some instances losses, in providing leased channel service. Since leased channel service is in all likelihood the only service offering to be directly impacted initially by Comsat's entry, we do not now perceive any reason to fear a diversion of revenues. Rather, we tentatively believe that permitting Comsat's entry into the retail market will actually further the express goals of the Satellite Act, that it will be "responsive to public needs," [65] will "maintain and strengthen competition," [66] and more readily permit the realization of qualtiy service at lower cost made possible by satellite technology. In addition, this approach is consistent with the Commission's recent actions seeking to provide "an approved international communications system with more choice for consumers, more diverse service offerings and lower rates." [67]

[65] 47 U.S.C. § 702(a).

[66] 47 U.S.C. § 702(a).

[67] *American Telephone and Telegraph Company (Dataphone)*, FCC 79-842, released February 11, 1980, at paragraph 20. Other related decisions concerning the provision of international services by communications common carriers are: *Preliminary Audit and Study of Operations of International Carriers and Their Communications Services (Audit)*, Docket No. 20778, FCC 79-840; *International Record Carriers Scope of Operations (Gateways)*, Docket No. 19660, FCC 79-841, *Datel*, Docket No. 19558, FCC 79-843; *Interconnection of International Telex (Interconnecton)*, Docket No. 21005, FCC 79-844; Western Union, New Telex Service Arrangements via Mexico and Canada *(Western Union)*, File No. C-L-2, FCC 79-845; *ITT World Comm. et. al. v. CCI* (CC), Files Nos. TS-9-78, TS-78-1945, FCC 79-846; *PMS* CC Docket No. 78-96, FCC 79-847 (adopted December 12, 1979).

**Procedures**

56. The primary purpose of this proceeding is to elicit information which will enable the Commission to determine whether to modify its Authorized User policy so as to stimulate competition in the provision of international telecommunications services. In accordance with sound administrative practice and the Administrative Procedure Act, [68] we invite public participation by all interested parties in the form of written comments. Parties should clearly address their responses to the questions raised as well as any related matter they deem relevant. Allegations of financial harm to any carriers or segment of the public should be substantiated by studies conducted in conformance with Section 1.363 of the Commission's Rules. Where no study has been undertaken, either because of unavailability of data or other reasons, an explanation of the difficulties should be attached. if loss of revenues or increase in costs is alleged, identify the specific service affected and best estimates of revenues threatened or anticipated. We urge all interested parties to respond in a timely fashion to enable the Commission to render an expeditious clarification or modification of the Authorized Users policy. In reaching it decision, the Commission may take into consideration 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 Commision's reliance on such information is noted in the Report and Order.

57. Accordingly, *it is ordered*, that, pursuant to sections 4(i), 4(j), 201, 202, 204, 205 and 403 of the Communications Act of 1934, as amended, Sections 201(c)(2) and 201(c)(11) of the Communications Satellite Act of 1962, and section 553(b) of the Administrative Procedure Act, a proposed rulemaking or formulation of general policy in the above-captioned matter is instituted.

58. *It is further ordered*, that, interested parties shall file comments concerning the proposed change in policy on or before July 3, 1980. Replies shall be filed on or before August 1, 1980.

59. *It is further ordered*, that, requests by Arinc and DOD for declaratory rulings designating them as authorized users of the international telecommunications facilities provided by Comsat ARE DISMISSED WITHOUT PREJUDICE and Arinc's alternative request that we initiate a rulemaking proceeding IS GRANTED.

60. *It is further ordered*, that, in accordance with the provisions of Section 1.419 of the Commission's Rules and Regulations, all participants in the proceeding ordered herein shall file with the Commission an original and five (5) copies of all comments and reply comments. Copies of comments and reply comments filed in this proceeding shall be available for public inspection during regular business hours in the Commission's reference room at its headquarters at 1919 M street, N.W., Washington, D.C.

Federal Communications Commission [69]

**William J. Tricarico,**

*Secretary.*

**Separate Statement of Charles D. Ferris, Chairman**

Re International Telecommunications Competition.

Today the Commission moves from fine tuning existing business practices in the international communications market to forging another substantial commitment to competition in communications. I believe we have soundly rejected the lack of responsiveness of the current international carriers. In doing so, we allow more diverse service offerings at lower prices for consumers.

The consumer of international communications services has suffered for too long as the established carriers earned profits on some of their services which are among the highest of any firms in this country. This was never acceptable and becomes even more intolerable as the country's economy and foreign policy becomes more and more intertwined with those of other countries.

While we do not yet live in a "global village," one need only view the evening news or read a newspaper to realize how immediately the activities of other nations move the issues in our own country. Communications is the link between these nations. That link cannot be permitted to restrict the efficiency of dealings among nations because it offers less than efficient services, the prices for which are too high in any event. My votes on these items were cast with the conviction that our proposals if adopted, will make it impossible for this performance to be continued.

Last December, we recognized that the performance of the international portion of the telecommunications industry could best be improved by more competition rather than more regulation. The Western Union, International Gateways and International Dataphone orders we adopted on December 12—though limited in scope—were consistent with that philosophy. Our actions today—the Comsat Study, the Authorized User and International Resale Notices of Proposed Rulemaking, and the licensing of a new international carrier—have the potential to bring even more far reaching benefits to

[68] 5 U.S.C. §§551 *et seq.*

[69] See attached statement of Chairman Ferris.

consumers of international communications services.

The changes we propose would allow a major new influx of the benefits of competitive force into the industry. For the first time they would bring Comsat, with its expertise in the satellite field, directly to consumers who move their messages around the world.

Users would be able to pay a price based entirely on the advantages of satellite communications. This would also mean that other carriers will compete knowing that if their prices for the same services are set too high, users can go directly to Comsat.

If we allow international resale, more benefits can be expected to flow to consumers as other firms begin to seek out new markets and innovative services for satellite communications. Our experience in domestic communications shows that resellers and shared users probe an existing carrier's price structure and attack rate discriminations. The beneficiaries of the resulting lower costs are the American communications consumers.

I recognize that our international communications system involves many parties. The FCC cannot unilaterally impose new market structures on our foreign partners. I do not believe today's actions do so. Rather, I think they specify for the first time a broad set of proposals that we think would benefit the American public.

We have no intention of attempting to force unilaterally our ideas of the best market structures on other participants in providing world-wide communications networks. But, I believe that today's outlining of the issues will be informative to all concerned and is a substantial step toward a more competitive U.S. communications industry.

[FR Doc. 80-15465 Filed 5-19-80; 8:45 am]
BILLING CODE 6712-01-M

# Notices

Federal Register
Vol. 45, No. 99
Tuesday, May 20, 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.

## ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

### Committee on Informal Action; Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given on a meeting of the Committee on Informal Action of the Administrative Conference of the United States, to be held at 10:00 a.m., Thursday, June 5, 1980, in the library of the Administrative Conference of the U.S., 2120 L Street, N.W., Suite 500, Washington, D.C.

The Committee will discuss an ongoing study of techniques of avoiding or narrowing formal evidentiary hearings in selected agency proceedings as well as the general topic of the need for greater articulation of agency policies through rulemaking.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this meeting contact Jeffrey Lubbers (202/254–7065). Minutes of the meeting will be available on request.

Richard K. Berg,
*Executive Secretary.*
May 14, 1980.

[FR Doc. 80-15376 Filed 5-19-80; 8:45 am]
BILLING CODE 6110-01-M

### Committee on Judicial Review; Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Judicial Review of the Administrative Conference of the United States, to be held at 10:00 a.m., Thursday, June 5, 1980, in the Fourth Floor Conference Room, Covington and Burling, 888 16th Street, N.W., Washington, D.C.

The Committee will meet to discuss a preliminary draft of a report on forum shopping and the race to the courthouse.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the Committee before, during, or after the meeting.

For further information concerning this meeting contact Linda A. Sedivec at the Office of the Chairman of the Administrative Conference, 2120 L Street, N.W., Suite 500, Washington, D.C. 20037 (202/254–7020). Minutes of the meeting will be available on request.

Richard K. Berg,
*Executive Secretary.*
May 13, 1980.

[FR Doc. 80-15377 Filed 5-19-80; 8:45 am]
BILLING CODE 6110-01-M

## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

### 1979 Wheat, Corn, Sorghum and Barley Crops; Determinations Regarding the Proclamation of National Program Acreages

**AGENCY:** Agricultural Stabilization and Conservation Service, USDA.

**ACTION:** Notice of Revision of National Program Acreages for 1979 Crops of Wheat, Corn, Sorghum and Barley.

**SUMMARY:** This notice is to announce revised national program acreages for the 1979 crops of wheat, corn, sorghum and barley which were published on August 18, 1978, (43 FR 36665) for wheat and on November 21, 1978, (43 FR 54280) for feed grains. The preliminary announced NPA's for wheat, corn, sorghum and barley were 57.1, 63.7, 13.2, and 6.5 million acres, respectively. This action is taken in accordance with applicable provisions of the Agricultural Act of 1949, as amended, which authorizes the Secretary of Agriculture to revise the national program acreages if he determines it necessary based upon the latest information.

**EFFECTIVE DATE:** May 19, 1980.

**FOR FURTHER INFORMATION CONTACT:** Orville I. Overboe, Agricultural Program Specialist, Production Adjustment Division, ASCS–USDA, 3630 South Building, P.O. Box 2415, Washington, DC 20013, telephone (202) 447–7987. The Final Impact Statement describing the options considered in developing this notice and the impact of implementing each option is available on request from the above named individual.

**SUPPLEMENTARY INFORMATION:** This notice has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant." The need for this notice is to revise the 1979 crop wheat, corn, sorghum and barley national program acreages, first proclaimed on August 18, 1978, and November 21, 1978, for the purpose of determining the national allocation factors for such commodities as authorized in sections 107A(d)(1) and 105A(d)(1) of the Agricultural Act of 1949, as amended. These provisions authorize the Secretary to revise the national program acreages which he initially proclaimed for any crop year for the commodity for the purpose of determining the allocation factor if he determines that such revision is necessary based upon the latest available information. The Secretary has determined that the national program acreages for the 1979 crops of wheat, corn, sorghum and barley shall be revised based on the latest available information. It is essential that this decision be made effective as soon as possible since the proclamation of the revised national program acreages is required as soon as such decision is made. Furthermore, this decision directly affects other decisions to be made by the Secretary with respect to making deficiency payments for such 1979 crops. Therefore, it is impracticable and contrary to the public interest to comply with the public rulemaking requirements of 5 U.S.C. 553 and Executive Order 12044. This notice of determination shall become effective upon May 19, 1980. Accordingly, the final national program acreages for the

1979 crops of wheat, corn, sorghum and barley are determined to be the following:

Determinations

1. *Revised National Program Acreage for 1979-Crop Wheat.* It is hereby proclaimed that the final revised national program acreage for the 1979 crop of wheat shall be 70.1 million acres. The revised national program acreage is based on the following data:

| | Million bushels |
|---|---|
| (a) Estimated domestic use, 1979–80 | 790 |
| (b) Plus estimated exports, 1979–80 | 1,400 |
| (c) Minus estimated imports, 1979–80 | −2 |
| (d) Plus adjustment for carryover [1] | 82 |
| (e) Divided by national weighted average farm program yield (bushels/acre) | 32.4 |
| (f) Equals: 1979 National Program Acreage (million acres) | 70.1 |

[1] Carryover equal to 6.6 percent of world consumption of wheat. Such consumption during the 1978–79 marketing year is estimated to be 415.3 million metric tons (MMT) (415.3×.066=27.4 MMT×36.74 (bushels conversion factor)=1,007 million bushels (desired level of U.S. carryover wheat stocks)). 1978–79 carryover wheat stocks were 925 million bushels resulting in an 82 million bushel stock adjustment.

2. *Revised National Program Acreages for 1979–Crops Corn, Sorghum, and Barley.* It is hereby proclaimed that the final revised national program acreage for the 1979 crops of corn, sorghum, and barley shall be 85.7, 15.9, and 7.8 million acres, respectively. The revised national program acreages are based on the following data:

[In millions of bushels]

| | Corn | Sorghum | Barley |
|---|---|---|---|
| (a) Estimated domestic use, 1979–80 | [1] 5,600 | [1] 617 | 375 |
| (b) Plus estimated exports, 1979–80 | 2,400 | 275 | 50 |
| (c) Minus estimated imports, 1979–80 | 1 | 0 | 10 |
| (d) Plus or minus adjustment for carryover to desired level [2] | +179 | +26 | −37 |
| (e) Divided by national weighted average farm program yield (bushels/acre) | 95.4 | 57.7 | 46.3 |
| (f) Equals: 1979 National Program Acreage (million acres) | 85.7 | 15.9 | 7.8 |

[1] Includes estimated production and use of 115.5 million tons of corn silage (635 million bushels grain equivalent) and 9.0 million tons of sorghum silage (50 million bushels grain equivalent).

[2] Desired carryover of U.S. feed grain stocks is equal to 6.7 percent of world consumption of coarse grains. Such consumption during the 1978–79 marketing year is estimated to be 740.2 million metric tons (MMT) (740.2×.0.067=49.6 MMT (desired level of U.S. feed grain carryover stocks)). The corn component of the feed grain total has been determined to be 1,465 million bushels (37.2 MMT×39.368 (bushel conversion factor). 1978–79 carryover corn stocks were 1,286 million bushels resulting in a stock adjustment of 179 million bushels. The sorghum component of the feed grain total has been determined to be 185 million bushels (4.7 MMT×39.368 (bushel conversion factor)). 1978–79 carryover sorghum stocks were 159 million bushels resulting in a 26 million bushel stock adjustment. The barley component of the feed grain total has been determined to be 190 million bushels (4.1 MMT×45.93 (bushel conversion factor). 1978–79 carryover barley stocks were 227 million bushels resulting in an 37 million bushel stock adjustment.

Signed at Washington, D.C. on May 15, 1980.

Bob Bergland,

*Secretary.*

[FR Doc. 80-15335 Filed 5-19-80; 8:45 am]

BILLING CODE 3410-05-M

## Rural Electrification Administration

### Kansas Electric Power Cooperative, Inc., Finding of No Significant Impact

Notice is hereby given that the Rural Electrification Administration (REA) has prepared a Finding of No Significant Impact which concludes there is no need for REA to prepare an environmental impact statement in connection with a proposed loan guarantee commitment by REA for Kansas Electric Cooperative, Inc. (KEPCo), of Topeka, Karsas. The proposed loan guarantee commitment will assist KEPCo to obtain financing to purchase a 17 percent ownership share in the Wolf Creek nuclear generation station located near Burlington, Coffey County, Kansas.

The nuclear generating station is under construction, partially complete and sponsored by Kansas Gas and Electric Company and Kansas City Power and Light Company. A Final Environmental Statement concerning the generating plant was prepared by the U.S. Nuclear Regulatory Commission in October 1975. An Environmental Assessment of KEPCo's acquiring partial ownership of the facility was prepared for KEPCo by Black & Veatch, Consulting Engineers, in March 1979. An Environmental Assessment concerning possible REA financing of KEPCo's participation was prepared by REA in November 1979.

Threatened and endangered species, prime and unique farmlands, archaeological and historic sites, wetlands and floodplains, and other potential impacts of the project are adequately considered in the KEPCo and REA Environmental Assessments.

REA's Independent evaluation of the proposed project leads it to conclude that its proposed financial assistance for this project does not represent a major Federal action that will significantly affect the quality of the human environment.

Based on this independent evaluation, the REA Environmental Assessment, a review of the KEPCo Environmental Assessment and a review of the NRC Environmental Statement, a Finding of No Significant Impact was reached in accordance with sections IV B and D of REA Bulletin 20–21.

Various alternatives to participation in Wolf Creek have been reviewed by KEPCo. The most viable alternatives which would provide power to the KEPCo members at the times and in the amounts required would be for the members to either continue purchasing wholesale power from the investor-owned utilities or for KEPCo to construct its own generation facilities. Ownership by KEPCo in Wolf Creek would eliminate the need for a separate generation facility and represents the better environmental arrangement.

Copies of REA's Finding of No Significant Impact, REA's Environmental Assessment and KEPCo's Environmental Assessment may be secured on request submitted to Mr. Joe S. Zoller, Assistant Administrator-Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, DC 20250. A notation in the NRC Environmental Statement indicates copies are available from the National Technical Information Service, Springfield, Virginia 22161, at $9.25 per copy. This material can be reviewed at the offices of KEPCo, 5709 W. 21st., Topeka, Kansas.

Final REA action, with respect to this matter, will be taken only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, DC, this 12th day of May, 1980.

Robert W. Feragen,

*Administrator, Rural Electrification Administration.*

[FR Doc. 80-15336 Filed 5-19-80; 8:45 am]

BILLING CODE 3410-15-M

## DEPARTMENT OF COMMERCE

## Economic Development Administration

### Carteret County Convention Center, North Carolina; Intent Not to Issue an Environmental Impact Statement

Notice is hereby given that an environmental impact statement (EIS), pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, for the proposed grant amendment on the Carteret County Convention Center project in North Carolina, will not be issued.

On March 13, 1979, the Economic Development Administration (EDA) issued a Notice of Intent to Prepare an EIS on the proposed grant amendment to locate the convention center project on Bogue Banks (44 FR 14613). A preliminary (internal) EIS was prepared

and reviewed by Agency personnel. Upon reviewing the results of the preliminary EIS, EDA has concluded that major, unacceptable adverse environmental impacts would result if the projects were to be constructed on Bogue Banks. Among the more adverse impacts are:

1. Destruction and loss of relic dunes and native vegetation;
2. High risk of flooding and overwash;
3. Destruction of more than four acres of wetlands;
4. Elimination or disturbance of resting and foraging areas of endangered or threatened wildlife; and
5. Inconsistency with emerging federal policies regarding development on barrier islands.

The existing EDA grant of $1.8 million, which provides for the construction of the center at a mainland site, remains in effect. The Grantee's request for a grant amendment to allow construction of the convention center on Bogue Banks is denied.

Questions regarding the determination not to proceed with the convention center on Bogue Banks or the EIS on this action may be addressed to: Jack D. Price, EIS Coordinator, phone number 202/377–5339, Room 7217 (EDA), U.S. Department of Commerce, Washington, D.C. 20230.

Dated: May 13, 1980.

Robert O. Hall,

*Assistant Secretary for Economic Development.*

[FR Doc. 80-15364 Filed 5-19-80; 8:45 am]

BILLING CODE 3510-24-M

## Scoping Meetings: Industrial Park Development and Resource Recovery Facilities in New York and New Jersey

Notice is hereby given that, pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 and § 1501.7 of the Council on Environmental Quality's regulations, the Economic Development Administration (EDA) of the U.S. Department of Commerce will hold a series of scoping meetings for the Environmental Impact Statements (EISs) that will be prepared for the development of two industrial park and resource recovery facility projects. The EISs are being prepared in response to a request for EDA grant assistance to the Port Authority of New York and New Jersey.

The two projects are to be developed in the urbanized portion of the Port District. One is to be located in New York and the other in New Jersey.

The purpose of the projects is to initiate a program of industrial development intended to help preserve the Port District from further economic deterioration. The parks would be developed by the Port Authority. The seven alternative sites to be analyzed in the EISs are as follows:

Charleston, Staten Island, New York.
Doremus Avenue, Newark, New Jersey.
Greenville Yard/Claremont Terminal, Jersey City, New Jersey.
Hunts Point/Oak Point Yards, Bronx, New York.
North Avenue, Elizabeth, New Jersey.
Spring Creek, Brooklyn, New York.
Kapkowski Street, Elizabeth, New Jersey.

To assist in the determination of the scope of issues to be addressed in the EISs and to identify the significant issues related to the proposed action, EDA will conduct several scoping meetings to inform interested parties and to solicit their comments. The meetings are scheduled for:

One World Trade Center, 43rd Floor, Oval Room, New York, New York 10048, 5:30 p.m. and 7:30 p.m., June 4, 1980.

Journal Square Transportation Center, 1 PATH Plaza, 1st Floor, Jersey City, New Jersey 07306, 5:30 p.m. and 7:30 p.m., June 5, 1980.

Requests to speak at the meeting should be directed to: Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230, ATTN: Mr. Andrew E. Kauders.

Dated: May 15, 1980.

Robert O. Hall,

*Assistant Secretary for Economic Development.*

[FR Doc. 80-15363 Filed 5-19-80; 8:45 am]

BILLING CODE 3510-24-M

## National Oceanic and Atmospheric Administration

### Inter-Council Billfish Steering Committee; Public Meetings

**AGENCY:** National Marine Fisheries Service, NOAA.

**SUMMARY:** The South Atlantic, New England, Mid-Atlantic, Gulf of Mexico, and Caribbean Fishery Management Councils, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94–265), have established an Inter-Council Billfish Steering Committee, which will meet to reevaluate optimum yield and review comments on the draft Billfish Fishery Management Plan.

**DATES:** The meetings will convene on Monday, June 16, 1980, at 1 p.m., and adjourn at approximately 12 noon on Wednesday, June 18, 1980. The meetings are open to the public.

**ADDRESS:** The meetings will take place at the Ramada Inn-Airport, Atlanta, Georgia.

**FOR FURTHER INFORMATION CONTACT:** South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, South Carolina 29407, Telephone: (803) 571–4366.

Dated: May 15, 1980.

Winfred H. Meibohm,

*Executive Director, National Marine Fisheries Service.*

[FR Doc. 80-15417 Filed 5-19-80; 8:45 am]

BILLING CODE 3510-22-M

### Mid-Atlantic Fishery Management Council's Scientific and Statistical Committee; Public Meeting

**AGENCY:** National Marine Fisheries Service, NOAA.

**SUMMARY:** The Mid-Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94–265), has established a Scientific and Statistical Committee, which will meet to discuss the Bluefish and Shark Fishery Management Plans, research needs for fiscal year 1981, as well as other fishery management matters.

**DATES:** The meeting will convere on Thursday, June 5, 1980, at 9:30 a.m., and will adjourn at approximately 3 p.m. The meeting is open to the public.

**ADDRESS:** The meeting will take place at the Best Western Airport Motel, Philadelphia International Airport, Route 291, Philadelphia, Pennsylvania.

**FOR FURTHER INFORMATION CONTACT:** Mid-Atlantic Fishery Management Council, North and New Streets, Room 2115, Federal Building, Dover, Delaware 19901, Telephone: (302) 674–2331.

Dated: May 15, 1980.

Winfred H. Meibohm,

*Executive Director, National Marine Fisheries Service.*

[FR Doc. 80-15418 Filed 5-19-80; 8:45 am]

BILLING CODE 3510-22-M

### Modification of Marine Mammal Permit

Notice is hereby given that pursuant to the provisions of Sections 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Permit No. 220 issued to the Southwest Fisheries Center, National Marine Fisheries Service, La Jolla, California 92038, on February 3, 1978 (43 FR 6827), is modified in the following manner:

Section B–14 is changed to read:

14. Of the animals authorized in Section A–2a, six may be taken, tagged, and released in the waters surrounding the Hawaiian Islands.

The Permit as modified, and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: May 13, 1980.

Robert K. Crowell,

*Deputy Executive Director, National Marine Fisheries Service.*

[FR Doc. 80-15419 Filed 5-19-80; 8:45 am]

BILLING CODE 3510-22-M

## Modification of Marine Mammal Permit

Notice is hereby given that pursuant to the provisions of Section 216.33 of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216) and Section 222.25 of the regulations governing endangered species permits (50 CFR Part 222), Permit No. 135 issued to Mr. William A. Watkins and Mr. William E. Schevill on June 15, 1976 (41 FR 25920), as modified on July 12, 1977 (42 FR 35876) and March 31, 1980 (45 FR 20989), is further modified as follows:

1. The heading of the permit is modified to read: "Permit for Taking and Importing Marine Mammals"

2. Section A is modified by adding a new subsection A–2 as follows: "Tissue samples from finback whales (*Balaenoptera physalus*) which were taken by whalers in Icelandic waters may be imported."

The modification is effective on May 14, 1980.

The Permit as modified, and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930;

Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702;

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731;

Regional Director, National Marine Fisheries Service, Northwest Region, 1700 Westlake Avenue, North, Seattle, Washington 98109; and

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Dated: May 14 1980.

Winfred H. Meibohm,

*Executive Director, National Marine Fisheries Service.*

## Patent and Trademark Office

## Public Advisory Committee for Trademark Affairs

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee meeting:

The Public Advisory Committee for Trademark Affairs will meet from 9:30 A.M. until 5:00 P.M. on June 10, 1980 at the Mayflower Hotel, 1127 Connecticut Avenue NW., Washington, DC, in the Virginia Room.

The Committee was first established in 1970 and reestablished in 1979 to advise the Patent and Trademark Office on steps which can be taken in order to increase the efficiency and effectiveness of the administration of the Trademark Act and to provide a continuing source of knowledge from the private sector to the government.

The agenda for the meeting is as follows:

(1) Trademark Official Gazette.
(2) Processing of Trademark Mail.
(3) Warehouse Storage of Trademark Files.
(4) Trademark Application Pendency.
(5) Trademark Operation Productivity and Quality Control.
(6) Standardization in Trademark Application Forms.
(7) Trademark Search Room.
(8) Computerization.
(9) Office Space Requirements.
(10) Proposed Trademark Rules Changes.

The meeting will be open to public observation; approximately 15 seats will be available for the public on a first come-first served basis. If time permits, oral comments by the public of 3 minutes on each topic within the above agenda will be allowed. To insure proper consideration at the meeting, any comments or suggestions relating to the agenda items should be submitted in writing before June 3, 1980. Further comments and suggestions will be accepted after the meeting on any of the matters discussed.

Copies of the minutes will be available upon request.

Inquiries may be addressed to the Commissioner of Patents and Trademarks, Washington, DC 20231. Please mark all correspondence to the attention of Committee Control Officer, Patricia M. Davis, Office of Trademark Program Control, Room CP3–11C17. Telephone: 703–557–3881.

Dated: May 8, 1980.

Sidney A. Diamond,

*Commissioner of Patents and Trademarks.*

Dated: May 14, 1980.

Approved:

Francis W. Wolek,

*Acting Assistant Secretary for Productivity, Technology and Innovation.*

[FR Doc. 80-15333 Filed 5-19-80; 8:45 am]

BILLING CODE 3510-16-M

## DEPARTMENT OF DEFENSE

## Department of the Air Force

## USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board Ad Hoc Committee on the Air Force in Space will meet at the Aerospace Corporation, Los Angeles, California on June 11 and 12, 1980.

The Committee will receive classified briefings on current and projected Air Force space related programs. Consequently, this meeting will be closed to the public in accordance with Section 552b (c) of Title 5, United States Code, specifically subparagraph (1).

For further information, please contact the Scientific Advisory Board Secretariat at (202) 687–4648.

Carol M. Rose,

*Air Force Federal Register Liaison Officer.*

May 9, 1980.

[FR Doc. 80-15326 Filed 5-19-80; 8:45 am]

BILLING CODE 3910-01-M

## U.S. Marine Corps

## Privacy Act of 1974; Amendment to System of Records

**AGENCY:** Department of the Navy (U.S. Marine Corps).

**ACTION:** Notice of amendment to system of records.

**SUMMARY:** The U.S. Marine Corps proposes to amend an existing system of records subject to the Privacy Act of 1974. The specific changes to the system being amended are set forth below, followed by the system published in its entirety, as amended.

**DATES:** The system shall be amended as proposed without further notice on June 19, 1980, unless comments are received on or before June 19, 1980, which would result in a contrary determination.

**ADDRESS:** Send comments to the system manager identified in the record system notice.

**FOR FURTHER INFORMATION CONTACT:** Mrs. B. L. Thompson, Privacy Act Coordinator, Headquarters, U.S. Marine Corps, Washington, D.C. 20380, telephone: 202-694-1122.

**SUPPLEMENTARY INFORMATION:** The Marine Corps' record systems notices as prescribed by the Privacy Act of 1974, Pub. L. 93-579 (5 U.S.C. 552a) have been published in the Federal Register as follows:

FR Doc 79-36297 (44 FR 68946) November 30, 1979
FR Doc (44 FR 74495) December 17, 1979
FR Doc 80-4470 (45 FR 9316) February 12, 1980
FR Doc 80-5182 (45 FR 10840) February 19, 1980
FR Doc 80-5420 (45 FR 11523) February 21, 1980
FR Doc 80-6233 (45 FR 13182) February 28, 1980

The proposed amendment is not within the purview of the provisions of 5 U.S.C. 552a(o) of the Act which requires the submission of a new or altered system report.

Dated: May 14, 1980.

M. S. Healy,

*OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.*

AMENDMENT

MMN00019

**SYSTEM NAME:**

Drug/Alcohol Abuse Reporting Program (44 FR 74541) 17 Dec 1979

**CHANGES:**

**SYSTEM LOCATION:**

Delete the entire entry and substitute: "Primary System—Headquarters, U.S. Marine Corps, Washington, D.C. 20380. *Decentralized Segments*-Navy Drug Rehabilitation Center, Navy Alcohol Rehabilitation Centers, Navy and Marine Corps Counseling and Assistance Centers, Navy Regional Medical Centers, Navy Alcohol Rehabilitation Drydocks, Naval Health Research Center, Navy Correction Centers, and local activities to which an individual is assigned. (See Directory of Department of the Navy Mailing Addresses).

**CATEGORIES OF INDIVIDUAL COVERED BY THE SYSTEM:**

Delete the entire entry and substitute: "All military personnel who have been tested for, identified, evaluated, apprehended, or rehabilitated for drug or alcohol abuse or who have been granted drug abuse exemption; or who are seeking assistance in drug or alcohol abuse programs."

**AUTHORITY FOR MAINTENANCE FOR THE SYSTEM:**

Delete the entire entry and substitute: "Title V, P.L. 92-129; Section 413, P.L. 92-255."

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Delete the entire entry and substitute: "Blanket "routine uses" identified in the annual republication of Marine Corps systems of records in the Federal Register do not apply to this system of records.

Records of identity, diagnosis, prognosis, or treatment of any client/patient, irrespective of whether or when the individual ceases to be a client/patient, maintained in connection with the performance of any alcohol or drug abuse prevention and treatment function conducted, regulated, or directly or indirectly assisted by any department or agency of the United States, shall, except as provided therein, be confidential and disclosed only for the purposes and under the circumstances expressly authorized in Title 21 U.S.C., Section 1175, as amended by 88 Stat. 137, and Title 42 U.S.C., Section 4582, as amended by 88 Stat. 131. These statutes take precedence over the Privacy Act of 1974, in regard to accessibility of such records except to the individual to whom the record pertains.

To authorized personnel of the Marine Corps who in the official execution of their duties require such information in order to manage the drug/alcohol abuse programs.

Within the Armed Forces or within those components of the Veterans Administration furnishing health care to veterans or between such components and the Armed Forces.

To medical personnel outside the Armed Forces to the extent necessary to meet a bona fide medical emergency.

To Government personnel for the purpose of obtaining benefits to which the patient is entitled.

To qualified personnel for the purpose of conducting scientific research, management or financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report of such research, audit or evaluation, or otherwise disclose identities in any manner.

To a court of competent jurisdiction upon authorization by an appropriate order after showing good cause therefor. In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure."

**RETRIEVABILITY:**

Add the following sentence to the paragraph: "When names and social security numbers are removed, data is aggregated for use in research, management information, and planning."

**SAFEGUARDS:**

Delete the entire entry and substitute: "Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained."

**RETENTION AND DISPOSAL:**

Delete the entire entry and substitute: "Paper files are maintained for two years, then destroyed. Records stored on magnetic tapes are maintained indefinitely."

**SYSTEM MANAGER(S) AND ADDRESS:**

Delete the entire entry and substitute: "Commandant of the Marine Corps, (Code MPH), Headquarters, U.S. Marine Corps, Washington, D.C. 20380."

**NOTIFICATION PROCEDURE:**

Delete the entire entry and substitute: "Written requests should be addressed to the Commandant of the Marine Corps, (Code MPH), Headquarters, U.S. Marine Corps, Washington, D.C. 20380. Requests must contain full name, social security number, military status, address and signature of requester. (Those inquiring about records at Confinement Centers must have their signature notarized, if not confined at time of request.) Individuals may visit the Commandant of the Marine Corps, (Code MPH), located in the Arlington Annex (FOB-2), Columbia Pike and Arlington Ridge Road, Arlington, VA, for assistance with records at that location; individuals may also visit local activities concerned (see Directory of Department of the Navy Mailing Addresses). Individuals must provide poof of identification such as a military identification card, driver's license, or other picture-bearing identification."

MMNO 0019

**SYSTEM NAME:**

Drug/Alcohol Abuse Reporting Program.

SYSTEM LOCATION:

Primary System—Headquarters, U.S. Marine Corps, Washington, D.C. 20380.

Decentralized Segments—Navy Drug Rehabilitation Center, Navy Alcohol Rehabilitation Centers, Navy and Marine Corps Counseling and Assistance Centers, Navy Regional Medical Centers, Navy Alcohol Rehabilitation Drydocks, Naval Health Research Center, Navy Correction Centers, and local activities to which an individual is assigned (see Directory of Department of the Navy Mailing Addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All military personnel who have been tested for, identified, evaluated, apprehended, or rehabilitated for drug or alcohol abuse; or who have been granted drug abuse exemption; or who are seeking assistance in drug or alcohol abuse programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Drug abuse identification/rehabilitation statistical reports, alcohol abuse identification/rehabilitation statistical reports, grant of drug exemption report, request for disposition on drug dependent personnel; grant of exemption/rehabilitation case file to include medical evaluations, counselor evaluations, monthly progress reports, alcoholism education roster; and such correspondence or messages sent by the system manager pertaining to the individual concerned. Urinalysis specimen control register and military police drug/alcohol related offense reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title V, Pub. L. 92-129; Section 413, Pub. L. 92-255.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Blanket "routine uses" identified in the annual republication of Marine Corps systems of records in the Federal Register do not apply to this system of records.

Records of identity, diagnosis, prognosis, or treatment of any client/patient, irrespective of whether or when the individual ceases to be a client/patient, maintained in connection with the performance of any alcohol or drug abuse prevention and treatment function conducted, regulated, or directly or indirectly assisted by any department or agency of the United States, shall, except as provided therein be confidential and disclosed only for the purposes and under the circumstances expressly authoried in Title 21 U.S.C., Section 1175, as amended by 88 137, and Title 42 U.S.C., Section 4582, as amended by 88 Stat. 131. These statutes take precedence over the Privacy Act of 1974, in regard to accessibility of such records except to the individual to whom the record pertains.

To authorized personnel of the Marine Corps who in the official execution of their duties require such information in order to manage the drug/alcohol abuse programs.

Within the Armed Forces or within those components of the Veterans Administration furnishing health care to veterans or between such components and the Armed Forces.

To medical personnel outside the Armed Forces to the extent necessary to meet a bona fide medical emergency.

To Government personnel for the purpose of obtaining benefits to which the patient is entitled.

To qualified personnel for the purpose of conducting scientific research, management or financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report of such research, audit or evaluation, or otherwise disclose identities in any manner.

To a court of competent jurisdiction upon authorization by an appropriate order after showing good cause therefor. In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders, card files, punched cards, magnetic tapes.

RETRIEVABILITY:

Name, social security number, case number. When names and social security numbers are removed, data is aggregated for use in research, management information, and planning.

SAFEGUARDS:

Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained.

RETENTION AND DISPOSAL:

Paper files are maintained for two years, then destroyed. Records stored on magnetic tapes are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Commandant of the Marine Corps, (Code MPH), Headquarters, U.S. Marine Corps, Washington, D.C. 20380.

NOTIFICATION PROCEDURE:

Written requests should be addressed to the Commandant of the Marine Corps, (Code MPH), Headquarters, U.S. Marine Corps, Washington, D.C. 20380. Requests must contain full name, social security number, military status, address and signature of requester. (Those inquiring about records at Confinement Centers must have their signature notarized, if not confined at time of request.) Individuals may visit the Commandant of the Marine Corps, (Code MPH), located in the Arlington Annex (FOB-2), Columbia Pike and Arlington Ridge Road, Arlington, Va., for assistance with records at that location; individuals may also visit local activities concerned (see Directory of Department of the Navy Mailing Addresses). Individuals must provide proof of identification such as a military identification card, driver's license, or other picture-bearing identification.

RECORD ACCESS PROCEDURES:

Rules for access may be obtained from the SYSMANAGER.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSMANAGER.

RECORD SOURCE CATEGORIES:

Individual concerned, other records of the activity, medical personnel, military police or other correspondence.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 80-15426 Filed 5-19-80; 8:45 am]
BILLING CODE 3810-71-M

## Department of the Navy

## Privacy Act of 1980; Amendment/Deletion to Systems of Records

**AGENCY:** Department of the Navy (DON).

**ACTION:** Notice of amendment and deletion of systems of records.

**SUMMARY:** The Department of the Navy proposes to amend eight existing systems of records and delete one

system of records subject to the Privacy Act of 1974. The specific changes to the systems being amended are set forth below, followed by the systems published in their entirety, as amended.

**DATES:** The systems shall be amended as proposed without further notice on June 19, 1980, unless comments are received on or before June 19, 1980, which would result in a contrary determination.

**ADDRESS:** Send comments to the systems managers identified in the systems of records.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Gwendolyn R. Rhoads, Privacy Act Coordinator, Office of the Chief of Naval Operations (OP–09B1P), Department of the Navy, The Pentagon, Washington, D.C. 20350, telephone 202–694–2004.

**SUPPLEMENTARY INFORMATION:** The Navy systems of records notices as prescribed by the Privacy Act of 1974, Title 5 U.S.C. Section 552a (Pub. L. 93–579) have been published in the Federal Register as follows:

FR DOC (44 FR 67703) November 27, 1979.
FR DOC (44 FR 68947) November 30, 1979.
FR DOC (44 FR 74553) December 17, 1979.
FR DOC (45 FR 13794) March 3, 1980.

The proposed amendements are not within the purview of the provisions of 5 U.S.C. 552a(o) of the Act which requires the submission of new or altered systems reports.

Dated: May 14, 1980.

M. S. Healy,

*OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.*

**N62769 02**

**SYSTEM NAME:**

Individual Merchandise Control Record (44 FR 74632) 17 Dec 79

**CHANGES:**

**SYSTEM LOCATION:**

Add the following activity at the end of the entry: "3rd Combat Support Group, Clark Air Base, RP."

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Add the following phrase to the beginning of the entry: "Used by Department of the Navy Personnel in their official duties related to * * *"

**SYSTEM MANAGER(S) AND ADDRESS:**

Add the following activity at the end of the entry: "* * * and 3rd Combat Support Group, Clark Air Base, RP."

**N62769 02**

**SYSTEM NAME:**

Individual Merchandise Control Record

**SYSTEM LOCATION:**

Merchandise Control Offices: U.S. Naval Station, Subic Bay, RP; U.S. Naval Air Station, Cubi Point, RP; U.S. Naval Communications Station Philippines, San Miguel, RP; and 3d Combat Support Group, Clark Air Base, RP.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individual records are maintained on each person issued a ration card for purchasing purposes at the various bases in the Philippines.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Purchases of individuals while attached for duty and authorized to buy items during their tenure in the Philippines.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Military Bases Agreement and subsequent exchange of notes between the Government of the United States of America and the Republic of the Philippines.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Used by Department of the Navy personnel in their official duties related to monitoring the purchases of individuals to ensure they are not over expending their purchase limitations or abusing their tax-free privileges afforded them, plus, identifying possible blackmarketeering.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

File folders.

**RETRIEVABILITY:**

Name.

**SAFEGUARDS:**

Only authorized employees allowed access to files; locked cabinets.

**RETENTION AND DISPOSAL:**

If no violations during tour—destroyed immediately upon detachment; if minor violations—destroyed after three months of detachment; if permanent revocation of privileges invoked—record kept indefinitely.

**SYSTEM MANAGER(S) AND ADDRESS:**

Merchandise Control Officers, U.S. Naval Station, Subic Bay; U.S. Naval Air Station, Cubi Point; U.S. Naval Communications Station Philippines, San Miguel, RP; and 3rd Combat Support Group, Clark Air Base, RP.

**NOTIFICATION PROCEDURE:**

Individual must fill out merchandise control information form upon requesting a ration card be issued. Information provided merchandise control officers. Requester must provide merchandise control officer with his/her name, rank/rate/GS rating, marital status, number of dependents, age of dependents, name of parent command attached to in the Philippines, social security number, name of dependents, individual can visit merchandise control office applicable to their command for record maintenance. Military ID card required.

**RECORD ACCESS PROCEDURES:**

The agency's rules for access to records may be obtained from the system managers.

**CONTESTING RECORD PROCEDURES:**

The agency's rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the system managers.

**RECORD SOURCE CATEGORIES:**

Personal data of individual and dependents.

**SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

**N00250 IR-PERS-RECORD**

**SYSTEM NAME:**

Industrial Relations Personnel Records (44 FR 74621) 17 Dec 80

**CHANGES:**

**SYSTEM LOCATION:**

In the first line, delete the words: "Commanding Officer, Navy Resale System Office . . ." and substitute with: "Commander, Navy Resale and Services Support Office . . ."

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

In the third line, delete the phrase "Navy Resale System Office" and substitute with: "Navy Resale and Services Support Office . . ."

**AUTHORITY FOR MAINTENANCE OF SYSTEM:**

After the phrase: "5 USC 301," add: "and 10 USC 5031".

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Add to the beginning of the entry: "Used by Department of the Navy personnel in the performance of their duties as follows:"

RETENTION AND DISPOSAL:

Delete the last sentence.

SYSTEM MANAGER(S) AND ADDRESS:

Under Policy Holder, delete the words: "Commanding Officer, Navy Resale System Office" in the second and third lines, and substitute with: "Commander, Navy Resale and Services Support Office . . ."

Under Record Holder, in first line, in place of "(R3)" insert "(IRD3)". In second line, in place of "Navy Resale System Office" insert, "Navy Resale and Services Support Office."

NOTIFICATION PROCEDURE:

Delete the words: "Manager, Recruitment and Employment (IR3), Navy Resale System Office," and substitute with: "Commander, Navy Resale and Services Support Office".

Delete the last sentence and substitute with the following: "At the time of a personal visit, requesters must provide proof of identity containing the requester's signature."

*N00250 IR-PERS-RECORD*

SYSTEM NAME:

Industrial Relations Personnel Records

SYSTEM LOCATION:

Commander, Navy Resale and Services Support Office, 3rd Avenue and 29th Street, Brooklyn, NY 11232 (for all Navy exchanges). Commissary Stores operations as listed in the directory of Department of the Navy mailing addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian employees, former civilian employees and applicants for employment with the Navy Resale and Services Support Office and Navy exchanges located worldwide.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel jackets (including: Personnel information questionnaire; personnel action; certificate of medical examination; indoctrination checklist; designation of beneficiary; death benefit; completed leave records; report of accident; cash register overage-shortage records; notice of excessive absence and tardiness, and warnings; report of hearings and recommendations relative to employee grievances; report of all disciplinary action; certified record of court attendance; certified copy of completed military orders for any annual duty tours with recognized reserve organizations; employee job description; examination papers and test, if any; evidence of date of birth, where required; security investigation data, where required; official work performance rating; official letters of recommendations; designation of beneficiary for unpaid compensation; reference check records; applicant files; tuition assistance records; grievance/appeal records; employee profiles; personnel security information (including):: National Agency Checks and Naval Investigative Service reports); travel requests; travel allowance and claims record; transportation agreements; employee affidavit; priviledge card application and listing.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 10 U.S.C. 5031

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by Department of the Navy personnel in the performance of their duties as follows: Retention of forms necessary to properly record the employment history of each employee, reflecting performance of employees which may be used by selecting officials in choosing employees for promotion or transfer; for verification of employment; to provide a record of travel performed and verification that the employee received proper remuneration for teh travel performed, to insure employees receive timely consideration in the processing of work appraisals and salary increases.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The media in which these records are maintained vary, but include: file folders; magnetic tapes; punch cards; rolodex files; cardex files; ledgers; and printed reports.

RETRIEVABILITY:

Name and/or social security number; employee job number; employee payroll number.

SAFEGUARDS:

Locked file cabinets; safes; locked offices which are supervised by appropriate personnel, when open; supervised computer tape library which is accessible only through the Computer Center (entry to computer center is controlled by a combination lock known by authorized personnel only); security guards.

RETENTION AND DISPOSAL:

Current employee records remain on file at the appropriate personnel offices; records on former employees are retained for one year and then forwarded to the Federal Records Center, St. Louis, MO for retention of permanent papers and destruction of temporary papers. Applicant files are retained for one year, except that applications from those over 40 years old are retained for two years.

SYSTEM MANAGER(S) AND ADDRESS:

Policy Official: Commander, Navy Resale and Services Support Office, 3rd Avenue and 29th Street, Brooklyn, New York 11232.

Record Holder: Manager, Recruitment and Employment (IRD3), Navy Resale and Services Support Office, 3rd Avenue and 29th Street, Brooklyn, New York 11232.

Individual record holders within the central system may be contacted through the central system record holder.

NOTIFICATION PROCEDURE:

Written contact may be made by addressing inquires to: Commander, Navy Resale and Services Support Office, 3rd Avenue and 29th Street, Brooklyn, NY 11232. In initial inquiry, the requester must provide full name, SSN, activity where last employed or where last application for employment was filed. A list of other offices the requester may visit will be provided after initial contact is made at the office listed above. At the time of a personal visit, requester must provide proof of indentity containing the requester's signature.

RECORD ACCESS PROCEDURES:

The agency's rules for access to records may be obtained from the systems manager.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the systems manager.

RECORD SOURCE CATEGORIES:

The employee; former employers; educational institutions; supervisors of employees; applicants; applicants previous employers; Naval Investigative Service; Federal Bureau of Investigation.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under 5 U.S.C. 552a (j) or (k), as applicable.

N00250 FIDELITY BOND

SYSTEM NAME:

Commercial Fidelity Bond Insurance Records (44 FR 74620) 17 Dec. 79.

CHANGES:

SYSTEM NAME:

Delete the word "Records" and substitute with the word "Claims".

SYSTEM LOCATION:

Delete the first sentence and substitute with: "Commander, Navy Resale and Services Support Office . . ."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

At the beginning of the entry, insert the following: "Used by Department of the Navy personnel in the performance of their duties . . ."

SYSTEM MANAGER(S) AND ADDRESS:

In the first and second lines, delete the words: "Commanding Officer, Navy Resale System Office . . ." and substitute with: "Commander, Navy Resale and Services Support Office . . ."

NOTIFICATION PROCEDURE:

Delete the third and fourth lines and substitute with: "Commander, Navy Resale and Services Support Office . . ."

In the second paragraph, delete the last sentence in its entirety and substitute with: "At the time of a personal visit, requester must provide proof of identity containing the requester's signature.

N00250 FIDELITY BOND

SYSTEM NAME:

Commercial Fidelity Bond Insurance Claims.

SYSTEM LOCATION:

Commander, Navy Resale and Services Support Office, 3rd Avenue and 29th Street, Brooklyn, NY 11232 (for all Navy exchanges).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian and military personnel assigned to Navy exchanges, who the duly constituted authority (usually a Board of Investigation appointed by the base Commander) has established to be guilty of a dishonest act which has resulted in a loss of money, securities or other property, real or personal, for which the exchange is legally liable.

CATEGORIES OF RECORDS IN THE SYSTEM:

Equipment loss reports, cash and/or merchandise loss reports from Navy exchanges, including correspondence relating to losses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC 301 and 10 USC 5031.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by Department of the Navy personnel in the performance of their duties to provide information, as required to the insurance carrier (Fidelity Bond Underwriter) for appropriate coverage, as well as to render appropriate assistance in processing insurance claims.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The media in which these records are maintained varies, but include file folders and ledgers.

RETRIEVABILITY:

Name, payroll number; service number; activity.

SAFEGUARDS:

Locked file cabinets; locked offices which when open are supervised by appropriate personnel; security guards.

RETENTION AND DISPOSAL:

Records are retained for three years after settlement and then retired to the Federal Records Center, St. Louis, MO.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Navy Resale and Services Support Office, 3rd Avenue and 29th Street, Brooklyn, NY 11232. In the initial inquiry the requester must provide full name, payroll or military service number and activity where they had their dealings. A list of other offices the requester may visit will be provided after initial contact at the office above. At the time of a personal visit, requesters must provide proof of identity containing the requester's signature.

RECORD ACCESS PROCEDURES:

The agency's rules for access to records may be obtained from the system manager.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

The individual; the insurance underwriter; audit reports; investigatory reports and/or activity loss records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

N00250 Navlodge Record

SYSTEM NAME:

Navy Lodge Records (44 FR 74623) 17 Dec 79.

CHANGES:

SYSTEM LOCATION:

Delete the first line and substitute with the following: "Commander, Navy Resale and Services Support Office. . ."

CATEGORIES OF RECORDS IN THE SYSTEM:

At the end of the entry, delete the words: ". . . equipment rental lists."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

At the beginning of the entry, add the following: "Used by Department of the Navy personnel in the performance of their duties to:"

SYSTEM MANAGER(S) AND ADDRESS:

Under the Policy Official, delete the first and second lines and substitute with: "Commander, Navy Resale and Services Support Office. . ."

Under Record Holder, the first line, delete, "(SM6)" and substitute with: "(SMD4)". In the second line, delete in its entirety and substitute with: "Navy Resale and Services Support Office . . ."

NOTIFICATION PROCEDURE:

Delete the third and fourth lines and substitute with: "Commander, Navy Resale and Services Support Office..."

In the second paragraph, delete the last sentence in its entirety and substitute with: "At the time of a personal visit, requester must provide proof of identity containing the requester's signature."

N00250 Navlodge Record

SYSTEM NAME:

Navy Lodge Records.

SYSTEM LOCATION:

Commander, Navy Resale and Services Support Office, 3rd Avenue and 29th Street, Brooklyn, NY 11232 (for all Navy exchanges).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patrons and guests authorized lodging at a Navy exchange Navy Lodge.

CATEGORIES OF RECORDS IN THE SYSTEM:

Reservation Request; Guest Registration Card; Navy Lodge Guest Folio.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC 301 and 10 USC 5031

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATAGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by the Department of the Navy personnel in their official duties to: Record reservations to insure orderly room assignment and avoid improper booking; record registration and payment of account; verify proper usage by eligible patrons; cash control; gathering of occupancy data; determine occupancy breakdown; rental and furnishings accountability.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The media in which these records are maintained vary, but include: Folio card; ledger; Guest Registration Cards; and local copies and reports of central system reports.

RETRIEVABILITY:

Name; service number; social security number.

SAFEGUARDS:

Supervised offices; locked files.

RETENTION AND DISPOSAL:

Records are retained for two years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Policy Official: Commander, Navy Resale and Services Support Office, 3rd Avenue and 29th Street, Brooklyn, New York, 11232.

Record holder: Manager, Personalized Services (SMD4), Navy Resale and Services Support Office, 3rd Avenue and 29th Street, Brooklyn, New York 11232.

Individual record holders within the central system may be contacted through the central system record holder.

NOTIFICATION PROCEDURE:

Written contact may be made by addressing inquiries to: Commander, Navy Resale and Services Support Office, 3rd Avenue and 29th Street, Brooklyn, NY 11232. In the initial inquiry the requester must provide full name, social security number, service number and location of the last Navy Lodge where they had dealings. A list of other offices the requester may visit will be provided after initial contact is made with the office listed above. At the time of a personal visit, requesters must provide proof of identity containing the requester's signature.

RECORD ACCESS PROCEDURES:

The agency's rules for access to records may be obtained from the system manager.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

The individual patron and the charges he or she incurred during a visit at the Navy Lodge.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

N00250 Pay and Benefits

SYSTEM NAME:

Payroll and Employee Benefits Records (44 FR 74623) 17 Dec 79.

CHANGES:

SYSTEM LOCATION:

Delete the first line and substitute with: "Commander, Navy Resale and Services Support Office . . ."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

In the second line, change, "Navy Resale System Ofice. . ." to read "Navy Resale and Services Support Office . . ." In the sixth line, after the words, "Navy civilian employees" delete remainder of paragraph.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Add to the beginning of the entry: "Used by Department of the Navy personnel in the performance of their duties as follows:"

SYSTEM MANAGER(S) AND ADDRESS:

Delete the words: "Commanding Officer, Navy Resale System Office" in the second and third lines, and substitute with: "Commander, Navy Resale and Services Support Office . . ."

Under "Record Holder", delete the first and second lines and substitute with: "Risk Manager, Navy Resale and Services Support Office . . ."

NOTIFICATION PROCEDURE:

Delete the words: "Manager, Recruitment and Employment (IR3), Navy Resale Systems Office" and substitute with: "Commander, Navy Resale and Services Support Office . . ."

Delete the last sentence and substitute with the following: "At the time of a personal visit, requester must provide proof of identity containing the requester's signature."

N00250 Pay and Benefits

SYSTEM NAME:

Payroll and Employee Benefits Records.

SYSTEM LOCATION:

Commander, Navy Resale and Services Support Office, 3rd Avenue and 29th Street, Brooklyn, NY 11232 (for all Navy exchanges). Commissary Store operations as listed in the directory of Department of the Navy mailing address.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian employees and former civilian employees with the Navy Resale and Services Support Office and Navy exchanges located world-wide for payroll and benefits information. Civilian employees and former civilian employees of Coast Guard exchanges, club and messes and U.S. Navy civilian employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Distribution reports; tax reports; leave accrual reports; earnings records cards; payroll registers; insurance records and reports regarding property damage; personal injury or death; group life; disability; medical and retirement plan; payroll savings authorization; record of payroll savings; overtime authorization; Treasury Department tax withholding exemption certificate.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC 301 and 10 USC 5031.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by Department of the Navy personnel in the performance of their duties as follows: To calculate pay; prepare checks for distribution registers; leave records; to submit federal and state tax reports; to record contributions to benefits plans; to process all insurance claims. To provide information as required to the insurance carriers, U.S. Department of Labor; and to the Bureau of Employees Compensation to

calculate retirement benefits upon request of employees.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

The media in which these records are maintained vary, but include: Magnetic tape files; card files; file folders; ledgers; and printed reports.

**RETRIEVABILITY:**

Name and/or SSN; employee job number; employee payroll number.

**SAFEGUARDS:**

Locked file cabinets; safes; locked offices which are supervised by appropriate personnel, when open; security guards; supervised computer tape library which is accessible only through the computer center (entry to computer center is controlled by a combination lock known by authorized personnel only).

**RETENTION AND DISPOSAL:**

Records are retained for six years and retired to Federal Records Center, St. Louis, MO.

**SYSTEM MANAGERS(S) AND ADDRESS:**

Policy Official: Commander, Navy Resale and Services Support Office, 3rd Avenue and 29th Street, Brooklyn, New York 11232.

Record Holder: Risk Manager, Navy Resale and Services Support Office, 3rd Avenue and 29th Street, Brooklyn, New York 11232.

**NOTIFICATION PROCEDURE:**

Written contact may be made by addressing inquires to: Commander, Navy Resale and Services Support Office, 3rd Avenue and 29th Street, Brooklyn, NY 11232. In the initial inquiry the requester must provide full name, SSN, activity where last employed. A list of other offices the requester may visit will be provided after initial contact is made at the office listed above. At the time of a personal visit, requesters must provide proof of identity containing the requester's signature.

**RECORD ACCESS PROCEDURES:**

The agency's rules for access to records may be obtained from the system manager.

**CONTESTING RECORD PROCEDURES:**

The agency's rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the system manager.

**RECORD SOURCE PROCEDURES:**

The employer of former employee; payroll department; the employee's supervisor and the employee's physician or insurance carrier's physician.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

**N00250 Layaways**

**SYSTEM NAME:**

Layaway Sales Record (44 FR 74620) 17 Dec 79.

**CHANGES:**

**SYSTEM LOCATION:**

Delete the words: "Commanding Officers, Navy Resale System Office . . ." in the first line and substitute with "Commander, Navy Resale and Services Support Office . . ."

**ROUTINE USES OF RECORDS MAINTAINED THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Begin the entry as follows: "Used by Department of the Navy personnel in the performance of their duties . . ." and continue as published.

**SYSTEM MANAGER(S) AND ADDRESS:**

Delete the words: "Commanding Officer, Navy Resale System Office . . ." in the second and third lines and substitute with: "Commander, Navy Resale and Services Support Office . . ."

Under "Record Holder", delete the address in its entirety and substitute with: "Director, Controller Division (CD), Navy Resale and Services Support Office, 3rd Avenue and 29th Street, Brooklyn, New York 11232.

**STORAGE:**

Delete entire entry and substitute with the following: "Paper records in file folders include layaway tickets and layaway patron lists".

**NOTIFICATION PROCEDURE:**

Delete the words: "Director, Controller Division, Navy Resale System Office," and substitute with: "Commander, Navy Resale and Services Support Office . . ."

Delete the last sentence ans substitute with the following: "At the time of a personal visit, requester must provide proof of identity containing the requester's signature."

**N00250 Layaways**

**SYSTEM NAME:**

Layaway Sales Records.

**SYSTEM LOCATION:**

Commander, Navy Resale and Services Support Offices, 3rd Avenue and 29th Street, Brooklyn, NY 11232 (for all Navy exchanges).

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Patrons of Navy exchanges who buy goods on a layaway.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Layaway tickets and layaway patron lists.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 USC 301 and 10 USC 5031.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Used by Department of the Navy personnel in the preformance of their duties to record the selection of layaway merchandise, record payments, verify merchandise pick-up and performs sales audit.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records in file folders include layaway tickets and layaway patron lists.

**RETRIEVABILITY:**

Name, address, service number or exchange permit number.

**SAFEGUARDS:**

Locked file cabinets, supervised records space.

**RETENTION AND DISPOSAL:**

Records are retained for two years and then destroyed.

**SYSTEM MANAGER(S) AND ADDRESS:**

Policy Official: Commander, Navy Resale and Services Support Office, 3rd Avenue and 29th Street, Brooklyn, NY 11232.

Record Holder: Director Controller Division (CD), Navy Resale and Services Support Office, 3rd Avenue and 29th Street, Brooklyn, NY 11232.

Individual record holders within the central system may be contacted through the central system record holder.

**NOTIFICATION PRODECURE:**

Written contact may be made by addressing inquiries to: Commander, Navy Resale and Services Support Office, 3rd Avenue and 29th Street, Brooklyn, NY 11232. In the initial inquiry, the requested must provide full name, SSN, activity where layaway sales were transacted. A list of other offices requester may visit will be provided after initial contact at the

office listed above. At the time of a personal visit, requesters must provide proof of identity containing the requester's signature.

RECORD ACCESS PROCEDURES:

The agency's rules for access to records may be obtained from the system manager.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting and appealing initial determinations by the individual concerned may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

The individual.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

N00250 Military-MISYS

SYSTEM NAME:

Resale System Military Management Information System (44 FR 74622) 17 Dec. 79.

CHANGES:

SYSTEM LOCATION:

Delete the entire entry and substitute with: "Commander, Navy Resale and Services Support Office, 3rd Avenue and 29th Street, Brooklyn, NY 11232".

CATEGORIES OF RECORDS IN THE SYSTEM:

In fifth line, delete the phrase: "promotion status".

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete the entire entry and substitute with the following: "Used by Department of the Navy personnel in the performance of their official duties related to determining recommended replacements for key military personnel; recommending actions to the Officer, Personnel Division, Navy Systems Command; and keeping a record of orders and pertinent correspondence with individual personnel.

RETRIEVABILITY:

Delete the phrase: "service number," and substitute with "rank or rating; * * *"

SYSTEM MANAGER(S) AND ADDRESS:

Under the entry of Policy Official, delete first two lines, and substitute with the following: "Commander, Navy Resale and Services Support Office * * *"

Under the entry of "Record Holder," delete the first two lines and substitute with the following: "Director, Office of Military Personnel (OMP), Navy Resale and Services Support Office * * *"

NOTIFICATION PROCEDURE:

Delete the first two lines in the address and substitute with: "Commander, Navy Resale and Services Support Office * * *"

Delete the second paragraph in its entirety and substitute with: "In the initial inquiry, the requester must provide full name, social security number, and military duty status. At the time of personal visit, the requester must provide proof of identity containing the requester's signature."

N00250 Military-Mlsys

SYSTEM NAME:

Resale System Military Management Information.

SYSTEM LOCATION:

Commander, Navy Resale and Service Support Office, 3rd Avenue and 29th Street, Brooklyn, New York 11232.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and past military officers and key enlisted personnel assigned to the Navy Resale and Services Support Office.

CATEGORIES OF RECORDS IN THE SYSTEM:

Management Information System (including: Name; rank or rate; SSN; designation date of rank; date reported; rotation date; education level; lineal number; dependency status). Card file on officers assigned includes dates in Navy Resale System and location of assignments. Correspondence folder with officer and senior enlisted personnel contains preference of assignment, biographical information, and orders.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 10 U.S.C. 5031.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by Department of the Navy personnel in the performance of their official duties related to determining recommended replacements for key military personnel; recommending actions to the Officer, Personnel Division, Navy System Command; and keeping a record of orders and pertinent correspondence with individual personnel.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The media in which these records are maintained vary, but include: Magnetic tape, printed reports; card files and file folders.

RETRIEVABILITY:

Name, rank or rating; SSN.

SAFEGUARDS:

Locked file cabinets; locked archives; supervised office spaces and supervised computer tape library which is accessible only through the computer center (entry to computer center is controlled by a combination lock known by authorized personnel only).

RETENTION AND DISPOSAL:

Records are retained for five years after individual's retirement and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Policy Official: commander, Navy Resale and Services Support Office, 3rd Avenue and 29th Street, Brooklyn, New York 11232.

Record Holder: Director, Office of Military Personnel (OMP), Navy Resale and Services Support Office, 3rd Avenue and 29th Street, Brooklyn, New York 11232.

NOTIFICATION PROCEDURE:

Written contact may be made by addressing inquiries to: Commander, Navy Resale and Services Support Office, 3rd Avenue and 29th Street, Brooklyn, NY 11232. In the initial inquiry, the requester must provide full name, SSN, and military duty status. At the time of a personal visit, the requester must provide proof of identity containing the requester's signature.

RECORD ACCESS PROCEDURES:

The agency's rules for access to records may be obtained from the system manager.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

U.S. Navy Manpower Information System; the Naval Military Personnel Command; the individual; the individual's superior officer.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

N00250 CHK/DEBT-LIST

SYSTEM NAME:

Bad Checks and Indebtedness Lists (44 FR 74620) 17 Dec 79.

CHANGES:

SYSTEM LOCATION:

Delete the words "Commanding Officer, Navy Resale System Office . . ." in the first line and substitute to read: "Commander, Navy Resale and Services Support Office . . ."

ROUTINE USES OF RECORDS MAINTAINED IN SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete the entire first sentence and substitute with the following: "Used by Department of the Navy personnel in the performance of their duties to: record receipt of bad checks from patrons; monitor and avoid undue losses because of continued passing of bad checks; and to attempt to recover losses . . ."

SYSTEM MANAGER(S) AND ADDRESS:

Delete the words: "Commanding Officer, Navy Resale System Office . . ." in the second and third lines and substitute to read: "Commander, Navy Resale and Services Support Office . . ." Delete the words: "Manager, Recruitment and Employment (R3), Navy Resale System Office . . ." in the seventh and eighth lines and substitute to read: "Director, Treasury Division (TD), Navy Resale and Services Support Office . . ."

NOTIFICATION PROCEDURES:

Delete the words: "Director, Controller Division (FM), Navy Resale System Office . . ." in the second and third lines, and substitute with: "Commander, Navy Resale and Services Support Office . . ." Delete the last sentence and substitute with the following: "At the time of a personal visit, requesters must provide proof of identity containing the requester's signature."

N00250 CHK/DEBT-LIST

SYSTEM NAME:

Bad Checks and Indebtedness List.

SYSTEM LOCATION:

Commander, Navy Resale and Services Support Office, 3rd Avenue and 29th Street, Brooklyn, NY 11232 (for all Navy exchanges). Commissary store operations as listed in the directory of Department of the Navy mailing addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patrons of Navy exchanges and commisary stores who have passed checks which have proven bad; recruits who have open accounts with Navy exchanges; patrons who have made COD mail order transactions and those patrons who make authorized charge or credit purchases where their accounts are maintained on the basis of an identifying particular such as name, SSN, or service number.

CATEGORIES OF RECORDS IN THE SYSTEM:

Bad Check System (including: Returned Check Ledger; returned Check Report; copies of returned checks; bank advice relative to the returned check or checks; correspondence relative to attempt by the Navy exchange or commissary store to locate the patron and/or obtain payment; a printed report of names of those persons who have not made full restitution promptly, or who have had two or more checks returned through their own fault or negligence); Accounts Receivable Ledger, detailed by patron; COD Sales Ledger.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 10 USC 5031.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by Department of the Navy personnel in the performance of their official duties to record receipt of bad checks from patrons; to monitor and avoid undue losses because of continued passing of bad checks; and to attempt to recover losses. A bad check list is locally and centrally. This information is issued to all cashiers, exchange and commisary officers. The Accounts Receivable ledgers are used to properly record credit sales and the payment of these accounts.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The media in which these records are maintained vary, but include; magnetic tape; printed reports; file folders; file cards.

RETRIEVABILITY:

Name and social security number.

SAFEGUARDS:

Locked file cabinets; supervised office spaces; supervised computer tape library which is accessible only through the computer center (entry to the computer center is controlled by a combination lock known by authorized personnel only).

RETENTION AND DISPOSAL:

Records are retained for six years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Policy Holder, Commander, Navy Resale and Services Support Office, 3rd Avenue and 29th Street, Brooklyn, New York 11232.

RECORD HOLDER:

Director, Treasury Division (TD), Navy Resale and Services Support Office, 3rd Avenue and 29th Street, Brooklyn, New York 11232.

NOTIFICATION PROCEDURE:

Written contact may be made by addressing inquiries to: Commander, Navy Resale and Services Support Office, 3rd Avenue and 29th Street, Brooklyn, NY 11232. In the initial inquiry the requester must provide full name, SSN, activity where they had their dealings. A list of other offices the requester may visit will be provided after initial contact is made at the office listed above. At the time of a personal visit, requesters must provide proof of identity containing the requester's signature.

RECORD ACCESS PROCEDURE:

The agency's rules for access to records may be obtained from the system manager.

CONTESTING RECORDS PROCEDURES:

The agency's rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

The individual; the bank involved and the activity sales records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Department of the Navy, Deletions

N00022.56

SYSTEM NAME:

Navy Overseas Assignment Inventory System (44 FR 74586) 17 Dec 79

REASON:

This system has been discontinued.

[FR Doc. 80-15427 Filed 5-19-80; 8:45 am]
BILLING CODE 3810-71-M

## DEPARTMENT OF EDUCATION

### Community Education Advisory Council Planning Committee; Meeting

**AGENCY:** Department of Education, Community Education Advisory Council.

**ACTION:** This notice sets forth the schedule and proposed agenda for the forthcoming meeting of the Planning Committee of the Community Education Advisory Council. It also describes the functions of the Council from which this Planning Committee is formed. Notice of these meetings is required under 5 U.S.C. Appendix I of the Federal Advisory Committee Act, Pub. L. 92–463. This document is intended to notify the general public of their opportunity to attend.

**DATES:** Meeting: June 4, and 5, 1980.

**ADDRESS:** Annapolis Hilton Hotel, 80 Compromise Street, Annapolis, Maryland 21401.

**FOR FURTHER INFORMATION CONTACT:** Margaret Beavan, Department of Education, 7th and D Streets, SW., Regional Office Building Three, Room 5622, Washington, DC 20202. Telephone: (202) 245–0691.

**SUPPLEMENTARY INFORMATION:** The Community Education Advisory Council is authorized under Pub. L. 95–561. The Council is established to advise the Commissioner of Education on policy matters relating to the interest of community schools.

All sessions of this meeting are open to the public. The meeting will begin at 2:00 p.m. on June 4, 1980, and end at 6:00 p.m. On June 5, 1980, the meeting will begin at 9:00 a.m. and end at 3:00 p.m.

At the last full Council meeting held in Washington, DC on April 21, and 22, 1980, the Council reviewed the proceedings from the National Forum on School-Community-Home Relationships, discussed possible policy recommendations concerning an effective and appropriate Federal role relative to the relationship of school-community-home; interacted with other Federal Advisory Council representatives; and conducted an orientation for newly appointed Council members. The Council determined that the Planning Committee would continue to make plans concerning State Advisory Council and inter-intra agency collaboration efforts. Other proposed agenda items include:

(1) Discussion, review, and revision of Council's managment plan; and,

(2) Consideration of other administrative matters and review of Forum material to be presented to the Secretary of the Department of Education.

Records shall be kept of all Planning Committee proceedings and shall be available for public inspection in Regional Office Building Three, Room 5622, 7th and D Street, SW, Washington, DC 20202.

Signed at Washington, D.C. on May 12, 1980.

Ron Castaldi,

*Acting Director, Community Education Program.*

[FR Doc. 80-15319 Filed 5-19-80; 8:45 am]

BILLING CODE 4110-02-M

## DEPARTMENT OF ENERGY

### Office of Assistant Secretary for International Affairs

### Civil Uses of Atomic Energy; Proposed Subsequent Arrangement Between United States and Argentina

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Argentina.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following contract:

S–AR–14, United States to Argentina, 3.61 kilograms of uranium oxide enriched to 19.9% in U–235, 0.802 kilograms of uranium metal enriched to 45.4% in U–235 and 3.15 kilograms of depleted uranium to be used for development of reduced enriched fuel for research reactors.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security. It should be noted that an application for an export license for the material involved here was submitted to the Nuclear Regulatory Commission prior to September 10, 1979, and the NRC issued the export license on February 22, 1980.

This subsequent arrangement will take effect no sooner than June 4, 1980.

For the Department of Energy.

Dated: May 16, 1980.

Harold D. Bengelsdorf,

*Director for Nuclear Affairs, International Nuclear and Technical Programs.*

[FR Doc. 80-15457 Filed 5-19-80; 8:45 am]

BILLING CODE 6450-01-M

### Office of Energy Research

### Gas Research Institute Study Group of the Energy Research Advisory Board; Meeting

Notice is hereby given of the following meeting:

Name: Gas Research Institute Study Group of the Energy Research Advisory Board (ERAB). ERAB is a Committee constituted under the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770).

Date and Time: May 20, 1980—5:30 p.m. to 7:30 p.m. May 21, 1980—9:00 a.m. to 4:00 p.m.

Place: May 20—Marriott Hotel, 540 N. Michigan Avenue, Chicago, Illinois. May 21—Gas Research Institute, 10 West 35th Street, Chicago, Illinois.

Contact: Eudora M. Taylor, Staff Assistant. Energy Research Advisory Board, Department of Energy, Forrestal Building, Room GE–216, 1000 Independence Avenue, SW., Washington, D.C. 20585. Telephone: 202/252–8933.

*Purpose of the Parent Board:* To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department. The Gas Research Institute Study Group will make recommendations ot the parent Board.

*Tentative Agenda:* Briefing on Overall Research Programs of GRI; Briefings on Biomass, Conservation, Coal Gasification, Fuel Cell, and Cogeneration Program; and Organizational Matters.

*Public Participation:* The meeting is open to the public. Written statements may be filed with the Study Group either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Energy Research Advisory Board at the address or telephone number listed above. The Chairperson of the Study Group is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

*Transcripts:* Available for pubic review and copying at the Freedom of Information Public Reading Room, Room 5B–180, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 8:00 a.m. and 4:00 p.m. Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on May 8, 1980.

Edward A. Frieman,

*Director of Energy Research.*

[FR Doc. 80-15325 Filed 5-19-80; 8:45 am]

BILLING CODE 6450-01-M

## Economic Regulatory Administration

[ERA Docket No. 80-CERT-016]

### Long Island Lighting Co.; Certification of Eligible Use of Natural Gas To Displace Fuel Oil

Long Island Lighting Company (Long Island) filed an application for certification of an eligible use of natural gas to displace fuel oil at three of its electric generating facilities in New York: The E. F. Barrett Electric Plant in Island Park; the Greenwood Electric Plant in Glenwood Landing; and the Far Rockaway Electric Plant in Far Rockaway. The application was filed with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 on March 13, 1980, as amended on April 1 and April 18, 1980. Notice of that application was published in the Federal Register (45 FR 28415, April 29, 1980) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

The ERA has carefully reviewed Long Island's application in accordance with 10 CFR Part 595 and the policy considerations expresssed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that Long Island's application satisfies the criteria enumerated in 10 CFR Part 595, and therefore, has granted the certification and transmitted that certification to the Federal Energy Regulatory Commission. A copy of the transmittal letter and the actual certification are appended to this notice.

Issued in Washington, D.C., on May 13, 1980.

Doris J. Dewton,

*Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.*

Department of Energy,
*Washington, D.C. 20461*

Re ERA Certification of Eligible Use, ERA Docket No. 80-CERT-016, Long Island Lighting Company.

Mr. Kenneth F. Plumb,
*Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426*

Dear Mr. Plumb: Pursuant to the provisions of 10 CFR Part 595, I am hereby transmitting to the Commission the enclosed certification of an eligible use of natural gas to displace fuel oil. This certification is required by the Commission as a precondition to interstate transportation of fuel oil displacement gas in accordance with the authorizing procedures in 18 CFR Part 284, Subpart F. As noted in the certificate, it is effective for one year from the date of issuance, unless a shorter period of time is required by 18 CFR Part 284, Subpart F. A copy of the enclosed certification is also being published in the Federal Register and provided to the applicant.

Should the Commission have any further questions, please contact Mr. Finn K. Neilsen, Director, Import/Export Division, Economic Regulatory Administration, 2000 M Street, NW., Room 4126, Washington, D.C. 20461, telephone (202) 653-3859. All correspondence and inquiries regarding this certification should reference ERA Docket No. 80-CERT-016.

Sincerely,

Doris J. Dewton,

*Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.*

### Certification by the Economic Regulatory Administration to the Federal Energy Regulatory Commission of the Use of Natural Gas for Fuel Oil Displacement by the Long Island Lighting Company

[ERA Docket No. 80-CERT-016]

*Application for Certification*

Pursuant to 10 CFR Part 595, Long Island Lighting Company (Long Island) filed an application for certification of an eligible use of up to 50,000 dekatherms of natural gas per day at three of its electric generating facilities in New York: The E. F. Barrett Electric Plant in Island Park; the Glenwood Electric Plant in Glenwood Landing; and the Far Rockaway Electric Plant in Far Rockaway. The application was filed with the Administrator of the Economic Regulatory Administration (ERA) on March 13, 1980, as amended April 1 and April 18, 1980. The application states that the eligible seller of the natural gas is the Equitable Gas Company (Equitable), and the gas will be transported by the Texas Eastern Transmission Corporation. The application and supplemental information indicate that the use of this natural gas is estimated to displace approximately 20,000 barrels of No. 2 fuel oil (0.3 percent sulfur) and 500,000 barrels of residual fuel oil (1.50 percent sulfur) at the E. F. Barrett Electric Plant, and 165,000 barrels of residual fuel oil (1.00 percent sulfur) at the Glenwood Electric Plant, between May 1, 1980, and October 31, 1981. The application also indicates that neither the gas nor the displaced fuel oil will be used to displace coal in the applicant's facilities.

*Certification*

Based upon a review of the information contained in the application, as well as other information available to ERA, the ERA hereby certifies, pursuant to 10 CFR Part 595, that the use of up to 50,000 dekatherms of natural gas per day at Long Island's E. F. Barrett Electric Plant, Glenwood Electric Plant, and Far Rockaway Electric Plant, purchased from Equitable is an eligible use of gas within the meaning of 10 CFR Part 595.

*Effective Date*

This certification is effective upon the date of issuance, and expires one year from that date, unless a shorter period of time is required by 18 CFR Part 284, Subpart F. It is effective during this period of time for the use of up to the same certified volume of natural gas at the same facilities purchased from the same eligible seller.

Issued in Washington, D.C., on May 13, 1980.

Doris J. Dewton,

*Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.*

[FR Doc. 80-15341 Filed 5-19-80; 8:45 am]

BILLING CODE 6450-01-M

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[Docket No. ERA-FC-80-004; OFC Case No. 52902-6648-01-77 52902-6648-02-77]

### Texas Power & Light Co.; Determination To Classify Sandow Auxiliary Boilers as Existing Facilities

**AGENCY:** Economic Regulatory Administration Department of Energy.

**ACTION:** Determination to Classify the Texas Power and Light Company's Sandow Auxiliary Boilers as Existing Facilities.

**SUMMARY:** On December 28, 1979, the Texas Power and Light Company (TP&L) requested that the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) classify Auxiliary Boilers 4A and 4B to be constructed at its Sandow Steam Electric Station in Rockdale, Texas as existing facilities pursuant to § 515.13 of ERA's Final Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilites (44 FR 6090) and pursuant to the provisions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et. seq.* (FUA)

ERA has completed its analysis of TP&L's request for classification. TP&L has satisfactorily demonstrated that cancellation, rescheduling, or modification of the construction or acquisition of the boilers in question would cause it significant financial penalty as defined under § 515.13(a) of the Final Rule. Accordingly, ERA has determined that Auxiliary Boilers 4A and 4B at TP&L's Sandow Steam Electric Station in Rockdale, Texas are

"existing"facilities, and are therefore subject to the provisions of Title of FUA.

**FOR FURTHER INFORMATION CONTACT:**
William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room B-110, Washington, D.C. 20461, Phone (202) 653-4055.
Constance L Buckley, Chief, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room B-110, Washington, D.C. 20461, Phone (202) 653-3679.
Edward Jiran, Office of the General Counsel, Department of Energy, 1000 Independence Avenue SW., Room 6G-087, Washington, D.C. 20585, Phone (202) 252-2967.
Anthony M. Vaitekunas, Case Manager, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room 3126-B, Washington, D.C. 20461, Phone (202) 653-3645.

**SUPPLEMENTAL INFORMATION:** On December 28, 1979, the Texas Power and Light Company filed a request for classification, pursuant to ERA's Final Rule issued by ERA on October 19, 1979. TP&L requested ERA to classify its Sandow Steam Electric Station Auxiliary Boiler 4A and 4B as existing facilities.

ERA published a summary of TP&L's request for classification on March 24, 1980 (45 FR 19023) and requested comments by interested persons on or before April 14, 1980. No comments were received. A summary of the pertinent fact relied on by TP&L and submitted as part of its petition are as follows:

*Substantial Financial Penalty*—Pursuant to § 515.13(a) of the Final Rule, ERA will classify a facility as "existing" upon a satisfactory demonstration that at least 25 percent of the total projected cost of the project as of November 9, 1978, was expended in nonrecoverable outlays as of that date. TP&L relies on the figures below to meet this requirement.

*Boilers 4A and 4B*

Total projected project cost as of November 9, 1978, $1,812,000.

Total project expenditures, including obligation and cancellation charges as of December 9, 1978, $658,000.

Total recoverable expenditures, $4,000.

Total nonrecoverable outlays, $654,000.

Nonrecoverable outlays percent of total projected project cost as of December 9, 1978, 36.1 percent.

For the above reasons, ERA has determined to classify the two auxiliary boilers at TR&L's Sandow Steam Electric Station in Rockdale, Texas as existing facilities and subject to Title III of the Powerplant and Industrial Fule Use Act.

Since the analysis of informaiton in support of TP&L's claim relating to substantial financial penalty has proven sufficient to permit the classification of Sandow Unit 4A and 4B as existing installations, it has been unnecessary for ERA to analyze TP&L's alternative claim relating to significant operational detriment.

Issued in Washington, D.C., May 13, 1980.

Robert L. Davies,

*Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.*

[FR Doc. 80-15340 Filed 5-19-80; 8:45 am]
BILLING CODE 6450-01-M

## FEDERAL ENERGY REGULATORY COMMISSION

**[Project No. 3093]**

### Franklin Electric Light & Power Co.; Application for Short-Form License (Minor)

May 14, 1980.

Take notice that Franklin Electric Light and Power Company (Applicant) filed on March 20, 1980, an application for license [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for construction and operation of a water power project to be known as the Franklin Falls Project No. 3093. The project would be located on the Winnepesaukee River in Merrimack County, New Hampshire. Correspondence with the Applicant should be directed to: Edward J. and Ronald P. Forster, Franklin Electric Light and Power Company, River Bend Mill, 100 Memorial Street, Franklin, New Hampshire 03235.

*Project Description*—The proposed project would consist of: (1) an existing 203-foot long and 10-foot high timber-crib dam; (2) a new headworks and headgate structure; (3) a 250-foot long penstock to be reconditioned or replaced; (4) an existing powerhouse to be rehabilitated to contain a new turbine/generator having a total rated capacity of 1,400 kW; and (5) appurtenant works. The estimated average annual generation is 6,600 MWh.

*Purpose of Project*—Project energy would be sold to local public utilities.

*Agency Comments*—Federal, State, and local agencies that received this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

*Competing Applications*—Anyone desiring to file a competing application must submit to the Commission, on or before July 23, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than November 20, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (*as amended* 44 *Fed. Reg.* 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33 (a) and (d). (*as amended,* 44 *Fed. Reg.* 61328, October 25, 1979).

*Comments, Protests, or Petitions to Intervene*—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must by filed on or before July 23, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application

is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 80-15402 Filed 5-19-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3107]

## Henry Harris and John Finn; Application for Preliminary Permit

May 14, 1980.

Take notice that Mr. Henry Harris and Mr. John Finn, doing business as Newfound Hydroelectric (Applicant) filed on March 27, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for proposed Project No. 3107 to be known as the Newfound Hydroelectric Project located on the Newfound River in Grafton County, New Hampshire. Correspondence with the Applicant should be directed to: Mr. Henry Harris, Central Square, Bristol, New Hampshire 03222.

*Project Description*—The proposed project would consist of: (1) a diversion weir (presently breached) located adjacent to New Hampshire Route 3A in Bristol, New Hampshire; (2) a new 800-foot long water conveyance facility, leading to (3) a new powerhouse located approximately 800 foot downstream of the Water St. Bridge; and (4) appurtenant works. The installed capacity would be approximately 1,350 kW. Applicant estimates that the average annual generation would be 6,000 megawatt-hours.

*Purpose of Project*—Project energy would be sold to the Public Service Company of New Hampshire.

*Proposed Scope and Cost of Studies under Permit*—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would make preliminary and final designs and cost estimates, and investigate the environmental, hydraulic, power generation, construction, and economic aspects of the project. If the project is found to be feasible, Applicant would then prepare an application for FERC license, including an environmental report. Applicant estimates the cost of studies under the permit would be $7,500.

*Purpose of Preliminary Permit*—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

*Agency Comments*—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

*Competing Applications*—Anyone desiring to file a competing application must submit to the Commission, on or before July 21, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than September 19, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), (*as amended* 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33(a) and (d), (*as amended,* 44 FR 61328, October 25, 1979).

*Comments, Protests, or Petitions to Intervene*—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, buy a person who merely files a protest or comments does not become a party to a proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protests, or petition to intervene must be filed on or before July 21, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 80-15403 Filed 5-19-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 2401]

## Utah Power & Light Co.; Application for Amendment of License

May 14, 1980.

Take notice that on January 20, 1978, Utah Power & Light Company filed an application pursuant to the Federal Power Act, 16 U.S.C. §§ 791a-825r, for amendment of its license for its Grace-Cove Project, FERC No. 2401, located on the Bear River in Caribou County, Idaho. The Applicant requests authorization to retire and remove the Grace No. 1 flowline, generating units No. 1 and 2, and certain appurtenant facilities. Correspondence with the applicant should be directed to: Mr. Sidney G. Baucom, Senior Vice President and General Counsel, Utah Power & Light Company, Box 899, Salt Lake City, Utah 84110, with copies to Sam F. Chamberlain, Esquire, Utah Power & Light Company, Box 899, Salt Lake City, Utah 84110, and Mr. Lee S. Sherline, Leighton and Sherline, Suite 803, 1701 K Street NW., Washington D.C. 20006.

The Old Grace Plant, having an installed capacity of 11,000-kW, was constructed in 1908 and continuously operated until the flowline ruptured in 1973. The New Grace Plant was constructed in 1914, with an additional unit installed in 1923, and continues to be operated. The New Grace Plant, having an installed capacity of 33,000-kW, includes flowline No. 2 and generating units No. 3, 4, and 5, and may be operated independently of the Old Grace Plant.

Under the proposed amendment, the Licensee would remove flowline No. 1, generating units No. 1 and 2, and related appurtenances. The flowline No. 1 intake structure would be retained and used as a sluiceway for dewatering the reservoir when dam repairs are required. Powerhouse No. 1 (Old Grace) would be retained and used as a warehouse and repair shop.

*Comments, Protests, or Petitions to Intervene:* Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest

may also be submitted by conforming to the procedures specified in Section 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before June 30, 1980. The Commission's address is: 825 North Capitol Street NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 80-15405 Filed 5-19-80; 8:45 am]

BILLING CODE 6450-85-M

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[No. 201]

## Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

May 14, 1980.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Kansas Corporation Commission

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date received at FERC
10. Purchaser(s)

1. 80-30259/K-79-1533
2. 15-007-20713-0000
3. 103 000 000
4. Ferguson Oil & Gas Co Inc
5. Ricke #1
6. N Harbaugh
7. Barber County KS
8. 110.0 million cubic feet
9. April 28, 1980
10. Panhandle Eastern Pipeline Co

1. 80-30260/K-79-1529
2. 15-081-10179-0000
3. 108 000-000
4. Amoco Production Co
5. Wm Wilson B #2
6. Lemon NW
7. Haskell KS
8. 9.0 million cubic feet
9. April 28, 1980
10. Kansas Power and Light Co

1. 80-30261/K-79-1519
2. 15-189-10034-0000
3. 108 000 000
4. Amoco Production Co
5. Joslin Gas Unit B #2
6. West Perrill
7. Stevens KS
8. 18.2 million cubic feet
9. April 28, 1980
10. Cities Service Gas Co

1. 80-30262/K-79-1506
2. 15-151-20536-0000
3. 103 000 000
4. F G Holl
5. Lambert 1-29
6. JEM
7. Pratt KS
8. 84.0 million cubic feet
9. April 28, 1980
10. Central States Gas Co

1. 80-30263/K-79-1466
2. 15-187-20295-0000
3. 103 000 000
4. Amoco Production Co
5. Bennett Gas Unit Well #2
6. Panoma Council Grove
7. Stanton KS
8. 69.0 million cubic feet
9. April 28, 1980
10. Cities Service Gas Co

1. 80-30264/K-79-1462
2. 15-055-00000-0000
3. 108 000 000
4. Amoco Production Co
5. Jones Gas Unit C #1
6. Hugoton
7. Finney KS
8. 20.0 million cubic feet
9. April 28, 1980
10. Cities Service Gas Co

1. 80-30265/K-79-1433
2. 15-075-10113-0000
3. 108 000 000
4. Texaco Inc
5. Cheatum unit #1
6. Bradshaw Gas Area
7. Hamilton KS
8. 7.5 million cubic feet
9. April 28, 1980
10. Kansas Nebraska Natural Gas Co Inc

1. 80-30266/K-79-1394
2. 15-077-00000-0000
3. 108 000 000
4. Texaco Inc
5. Walter Miller unit #1
6. Mississippian
7. Harper KS
8. 11.0 million cubic feet
9. April 28, 1980
10. Kansas Power & Light Co

1. 80-30267/K-79-1284
2. 15-189-20438-0000
3. 103 000 000
4. Mobil Oil Corp
5. E S Raydure #2
6. Panoma
7. Stevens KS
8. 70.0 million cubic feet
9. April 28, 1980
10. Northern Natural Gas Co

1. 80-30268/K-79-1081
2. 15-187-20244-0000
3. 103 000 000
4. Amoco Production Co
5. Martin Gas Unit #1
6. Hugoton
7. Stanton KS
8. 70.0 million cubic feet
9. April 28, 1980
10. Colorado Interstate Gas Co

1. 80-30269/K-79-0285
2. 15-097-20421-0000
3. 102 000 000
4. Imperial Oil Co
5. Clark No 1-13
6. VOD
7. Kiowa KS
8. 25.0 million cubic feet
9. April 28, 1980
10. Kansas-Nebraska Natural Gas Co Inc

1. 80-30270/K-79-1683
2. 15-099-20793-0000
3. 102 000 000
4. Petrovest Inc
5. Clarke #1
6. East Coffeyville
7. Labette KS
8. 14.6 million cubic feet
9. April 28, 1980
10. Verdigris Energy Corp, Union Gas System Inc

1. 80-30271/K-79-1682
2. 15-099-00000-0000
3. 102 000 000
4. Petrovest Inc
5. Benning #1
6. East Coffeyville
7. Labette KS
8. 14.6 million cubic feet
9. April 28, 1980
10. Verdigris Energy Corp, Union Gas System Inc

1. 80-30272/K-79-1681
2. 15-099-20741-0000
3. 102 000 000
4. Petrovest Inc
5. Hann #3-M
6. East Coffeyville
7. Labette KS
8. 14.6 million cubic feet
9. April 28, 1980
10. Verdigris Energy Corp, Union Gas System Inc

1. 80-30273/K-79-1680
2. 15-099-20173-0000
3. 102 000 000
4. Petrovest Inc
5. Hayes #1-M
6. East Coffeyville
7. Labette KS
8. 14.6 million cubic feet
9. April 28, 1980
10. Verdigris Energy Corp, Union Gas System Inc

1. 80-30274/K-79-1679
2. 15-125-21745-0000
3. 102 000 000
4. Earth Scientists Ltd
5. Sshaw #8A
6. East Coffeyville Field
7. Montgomery KS
8. 18.2 million cubic feet
9. April 28, 1980
10. Verdigris Energy Corp, Union Gas System Inc

1. 80-30275/K-79-1552
2. 15-115-00000-0000
3. 108 000 000
4. Cleo Herman
5. Schlehuber
6. Lost Springs

7. Marion KS
8. 3.6 million cubic feet
9. April 28, 1980
10. Clover Pipeline Corp
1. 80-30276/K-79-1553
2. 15-115-00000-0000
3. 108 000 000
4. Cleo Herman
5. Theis
6. Lost Springs Antelope
7. Marion KS
8. .0 million cubic feet
9. April 28, 1980
10. Clover Pipeline Corp
1. 80-30277/K-79-1546
2. 15-129-20360-0000
3. 103 000 000
4. Kennedy & Mitchell Inc
5. Wilborn #18-306
6. Sparks (C SW 18-31S-41W)
7. Morton KS
8. 216.0 million cubic feet
9. April 28, 1980
10. Colorado Interstate Gas Co
1. 80-30278/K-79-1537
2. 15-175-00000-0000
3. 108 000 000
4. Amoco Production Co
5. Oyler Gas Unit A #1
6. Hugoton
7. Seward KS
8. 11.0 million cubic feet
9. April 28, 1980
10. Northern Natural Gas Co
1. 80-30279/K-79-79-1590
2. 15-129-20394-0000
3. 103 000 000
4. Anadarko Production Co
5. Fatzer A No 1
6. Panoma Council Grove
7. Morton KS
8. 64.0 million cubic feet
9. April 28, 1980
10. Anadarko Production Co
1. 80-30280/K-79-1589
2. 15-129-20396-0000
3. 103 000 000
4. Anadarko Production Co
5. Mingenback A #1
6. Panoma
7. Morton KS
8. 170.0 million cubic feet
9. April 28, 1980
10. Panhandle Eastern Pipe Line Co
1. 80-30281/K-79-1588
2. 15-107-20684-0000
3. 103 000 000
4. Graybol-Patton Co
5. R O Waters No 2
6. Undesignated
7. Linn KS
8. 36.0 million cubic feet
9. April 28, 1980
10. Mound City Gas Co Inc
1. 80-30282/K-79-1555
2. 15-055-00000-0000
3. 108 000 000
4. Amoco Production Co
5. Wright Gas Unit #1
6. Hugoton
7. Finney KS
8. 17.8 million cubic feet
9. April 28, 1980
10. Cities Service Gas Co
1. 80-30283/K-79-1554
2. 15-081-10148-0000
3. 108 000 000
4. Amoco Production Co
5. Leonard Gas Unit #1
6. Hugoton
7. Haskell KS
8. 19.9 million cubic feet
9. April 28, 1980
10. Cities Service Gas Co
1. 80-30284/K-79-1603
2. 15-115-20017-A000
3. 108 000 000
4. George A Reed
5. Scully D #1 (OWWO)
6. WC-1 MI S French Creek
7. Marion KS
8. 8.0 million cubic feet
9. April 28, 1980
10. Clover Pipeline Corp
1. 80-30285/K-79-1602
2. 15-115-20424-0000
3. 108 000 000
4. George A Reed
5. Fenske #1
6. Ratzlaff
7. Marion KS
8. 12.0 million cubic feet
9. April 28, 1980
10. Clover Pipeline Corp
1. 80-30286/K-79-1600
2. 15-115-20385-0000
3. 108 000 000
4. George A Reed
5. Klenda #1
6. Lost Springs
7. Marion KS
8. 6.0 million cubic feet
9. April 28, 1980
10. Clover Pipeline Corp
1. 80-30287/K-79-1599
2. 15-115-20367-0000
3. 108 000 000
4. George A Reed
5. Bateman #1
6. Ext/Lost Springs
7. Marion KS
8. 19.0 million cubic feet
9. April 28, 1980
10. Clover Pipeline Corp
1. 80-30288/K-79-1598
2. 15-119-20352-0000
3. 103 000 000
4. Mesa Petroleum Co
5. Adams #3-18 (St Louis)
6. Cimarron Bend
7. Meade KS
8. 70.0 million cubic feet
9. April 28, 1980
10. Kansas Power & Light Co
1. 80-30289/K-79-1597
2. 15-119-20352-0000
3. 103 000 000
4. Mesa Petroleum Co
5. Adams #3-18 (Chester)
6. Cimarron Bend
7. Meade KS
8. 155.0 million cubic feet
9. April 28, 1980
10. Kansas Power & Light Co
1. 80-30290/K-79-1594
2. 15-187-20249-0000
3. 103 000 000
4. National Oil Co
5. #1 Johns
6. Beauchamp
7. Stanton KS
8. 60.0 million cubic feet
9. April 28, 1980
10. Kansas-Nebraska Natural Gas Co Inc
1. 80-30291/K-79-1593
2. 15-187-20298-0000
3. 103 000 000
4. National Oil Co
5. #2 Johns
6. Beauchamp
7. Stanton KS
8. 72.0 million cubic feet
9. April 28, 1980
10. Kansas-Nebraska Natural Gas Co Inc
1. 80-30292/K-79-1592
2. 15-107-20684-0000
3. 103 000 000
4. Graybol-Patton Co
5. R O Waters No 1
6. Undesignated
7. Linn KS
8. 73.0 million cubic feet
9. April 28, 1980
10. Mound City Gas Co Inc
1. 80-30293/K-79-1591
2. 15-129-20382-0000
3. 103 000 000
4. Edgar W White
5. Williams Bros 1-4
6. Hugoton
7. Morton KS
8. 48.0 million cubic feet
9. April 28, 1980
10. Cities Service Gas Co
1. 80-30294/K-79-1621
2. 15-081-20156-0000
3. 103 000 000
4. Tema Oil Co
5. Winsted 3-22
6. Panoma Council Grove
7. Haskell KS
8. .0 million cubic feet
9. April 28, 1980
10. Cities Service Gas Co
1. 80-30295/K-79-1769
2. 15-151-20652-0000
3. 102 000 000
4. Texas Oil & Gas Corp
5. Blackwelder No. 1
6. Brandt
7. Pratt KS
8. 183.0 million cubic feet
9. April 28, 1980
10. Delhi Gas Pipeline Corp
1. 80-30296/K-79-1776
2. 15-007-20737-0000
3. 102 000 000
4. Texas Oil & Gas Corp
5. Allen C No. 1
6. Elsea
7. Barber KS
8. 475.0 million cubic feet
9. April 28, 1980
10. Cities Service Gas Co
1. 80-30297/K-79-1620
2. 15-067-20548-0000
3. 103 000 000
4. Tema Oil Co
5. Rogers 2-24
6. Panoma Council Grove
7. Grant KS
8. 58.4 million cubic feet
9. April 28, 1980
10. Panhandle Eastern Pipeline Co
1. 80-30298/K-79-1619

2. 15-119-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Adams-H No. 1
6. Adams Ranch Miss
7. Meade KS
8. 14.0 million cubic feet
9. April 28, 1980
10. Colorado Interstate Gas Co

1. 80-30229/K-79-1618
2. 15-049-00000-0000
3. 108 000 000
4. Pemex Inc/Elk County Gas Gathering
5. Judy #1
6. Ferguson
7. Elk KS
8. 12.7 million cubic feet
9. April 28, 1980
10. Cities Service Gas Co

1. 80-30300/K-79-1617
2. 15-049-00000-0000
3. 108 000 000
4. Pemex Inc/Elk County Gas Gathering
5. Judy #2
6. Feguson
7. Elk KS
8. 12.7 million cubic feet
9. April 28, 1980
10. Cities Service Gas Co

1. 80-30301/K-79-1616
2. 15-049-00000-0000
3. 108 000 000
4. Pemes Inc/Elk County Gas Gathering
5. Judy #3
6. Ferguson
7. Elk KS
8. 12.7 million cubic feet
9. April 28, 1980
10. Cities Service Gas Co

1. 80-30302/K-79-1615
2. 15-049-00000-0000
3. 108 000 000
4. Pemex Inc/Elk County Gas Gathering
5. Judy #4
6. Ferguson
7. Elk KS
8. 12.7 million cubic feet
9. April 28, 1980
10. Cities Service Gas Co

1. 80-30303/K-79-1614
2. 15-049-00000-0000
3. 108 000 000
4. Pemex Inc/Elk County Gas Gathering
5. Sleeper #1
6. Ferguson
7. Elk KS
8. 7.0 million cubic feet
9. April 28, 1980
10. Cities Service Gas Co

1. 80-30304/K-79-1634
2. 15-191-20945-0000
3. 103 000 000
4. Reserve Exploration Inc
5. McLaughlin No. 4
6. Unnamed
7. Sumner KS
8. 13.3 million cubic feet
9. April 28, 1980
10. Eufala Enterprises Inc Cities Service Gas Co

1. 80-30305/K-79-1633
2. 15-191-20944-0000
3. 103 000 000
4. Reserve Exploration Inc
5. McLaughlin No. 3
6. Unnamed
7. Sumner KS
8. 18.0 million cubic feet
9. April 28, 1980
10. Eufala Enterprises Inc Cities Service Gas Co

1. 80-30306/K-79-1632
2. 15-097-20548-0000
3. 103 000 000
4. TGT Petroleum Corp
5. Pyle-Taylor A No. 1
6. Einsel
7. Kiowa KS
8. .0 million cubic feet
9. April 28, 1980
10. Panhandle Eastern Pipe Line Co

1. 80-30307/K-79-1631
2. 15-093-20527-0000
3. 103 000 000
4. Amoco Production Co
5. White Gas Unit D Well #2
6. Panoma
7. Kearny KS
8. 60.0 million cubic feet
9. April 28, 1980
10. Cities Service Gas Co

1. 80-30308/K-79-1630
2. 15-055-00000-0000
3. 108 000 000
4. McKelvy Operating Corp
5. Spikes #29
6. Hugoton
7. Finney KS
8. 12.0 million cubic feet
9. April 28, 1980
10. Cities Service Gas Co

1. 80-30309/K-79-1629
2. 15-047-00000-0000
3. 103 000 000
4. Wheatland Oil & Gas Inc
5. Gatterman #1
6. Wil Extension
7. Edward County KS
8. .0 million cubic feet
9. April 28, 1980
10. Central States Gas Co

1. 80-30310/K-79-1628
2. 15-055-00000-0000
3. 103 000 000
4. Wheatland Oil & Gas Inc
5. Clair #1
6. Wil Extension
7. Edwards County KS
8. .0 million cubic feet
9. April 28, 1980
10. Central States Gas Co

1. 80-30311/K-79-1627
2. 15-055-00000-0000
3. 103 000 000
4. Wheatland Oil & Gas Inc
5. Welsch #1
6. Wil Extension
7. Edwards County KS
8. .0 million cubic feet
9. April 28, 1980
10. Central States Gas Co

1. 80-30312/K-79-1626
2. 15-081-00000-0000
3. 103 000 000
4. Tema Oil Co
5. D F Collingwood 4-30
6. Panoma Council Grove
7. Haskell KS
8. 172.3 million cubic feet
9. April 28, 1980
10. Cities Service Gas Co

1. 80-30313/K-79-1625
2. 15-081-00000-0000
3. 103 000 000
4. Tema Oil Co
5. Nicewander 2-31
6. Panoma Council Grove
7. Haskell KS
8. .0 million cubic feet
9. April 28, 1980
10. Cities Service Gas Co

1. 80-30314/K-79-1624
2. 15-031-20151-0000
3. 103 000 000
4. Tema Oil Co
5. T G Ungles 3-17
6. Panoma Council Grove
7. Haskell KS
8. 276.8 million cubic feet
9. April 28, 1980
10. Cities Service Gas Co

1. 80-30315/K-79-1623
2. 15-081-20130-0000
3. 103 000 000
4. Tema Oil Co
5. O V Ray 6-21
6. Council Grove
7. Haskell KS
8. .0 million cubic feet
9. April 28, 1980
10. Cities Service Gas Co

1. 80-30316/K-79-1622
2. 15-067-20553-0000
3. 103 000 000
4. Tema Oil Co
5. Walters 1-12
6. Panoma Council Grove
7. Grant KS
8. .0 million cubic feet
9. April 28, 1980
10. Cities Service Gas Co

1. 80-30317/K-79-1646
2. 15-067-20442-0000
3. 103 000 000
4. Tema Oil Co
5. C N King 6-20
6. Panoma Council Grove
7. Grant KS
8. 36.3 million cubic feet
9. April 28, 1980
10. Cities Service Gas Co

1. 80-30318/K-79-1644
2. 15-145-20591-0000
3. 103 000 000
4. Alpine Drilling Co Inc
5. Hammeke #2
6. Carpenter
7. Pawnee KS
8. 182.0 million cubic feet
9. April 28, 1980
10. Kansas-Nebraska Natural Gas Co Inc

1. 80-30319/K-79-1643
2. 15-075-20332-0000
3. 103 000 000
4. Ladd Petroleum Corp
5. HCU 2030-B
6. Bradshaw
7. Hamilton KS
8. 48.0 million cubic feet
9. April 28, 1980
10. Kansas-Nebraska Natural Gas Co Inc

1. 80-30320/K-79-1642
2. 15-075-20227-0000
3. 103 000 000

4. Ladd Petroleum Corp
5. HCU 0621-B
6. Bradshaw
7. Hamilton KS
8. 37.0 million cubic feet
9. April 28, 1980
10. Kansas-Nebraska Natural Gas Co Inc

1. 80-30321/K-79-1641
2. 15-075-20225-0000
3. 103 000 000
4. Ladd Petroleum Corp
5. HCU 1920-B
6. Bradshaw
7. Hamilton KS
8. 41.0 million cubic feet
9. April 28, 1980
10. Kansas-Nebraska Natural Gas Co Inc

1. 80-30322/K-79-1640
2. 15-075-20334-0000
3. 103 000 000
4. Ladd Petroleum Corp
5. HCU 0431-B
6. Bradshaw
7. Hamilton KS
8. 25.0 million cubic feet
9. April 28, 1980
10. Kansas-Nebraska Natural Gas Co Inc

1. 80-30323/K-79-1638
2. 15-077-00000-0000
3. 108 000 000
4. Phillips Petroleum Corp
5. Muir AB No 1
6. Spivey Grabs
7. Harper KS
8. 7.7 million cubic feet
9. April 28, 1980
10. Kansas Power & Light Co

1. 80-30324/K-79-1637
2. 15-095-00000-0000
3. 108 000 000
4. Phillips Petroleum Corp
5. Lukens AB No 2
6. Spivey Grabs
7. Kingman KS
8. 4.3 million cubic feet
9. April 28, 1980
10. Kansas Power & Light Co

1. 80-30325/K-79-1636
2. 15-191-20891-0000
3. 103 000 000
4. Reserve Exploration Inc
5. McLaughlin No 1
6. Unnamed
7. Sumner KS
8. 13.3 million cubic feet
9. April 28, 1980
10. Eufaula Enterprises Inc

1. 80-30326/K-79-1635
2. 15-191-20892-0000
3. 103 000 000
4. Reserve Exploration Inc
5. McLaughlin No 2
6. Unnamed
7. Sumner KS
8. 13.3 million cubic feet
9. April 28, 1980
10. Eufaula Enterprises Inc

1. 80-30327/K-79-1661
2. 15-095-20842-0000
3. 103 000 000
4. Rains & Williamson Oil Co Inc
5. Thompson A #1
6. Gilchrist N
7. Kingman KS
8. 15.0 million cubic feet
9. April 28, 1980
10. Kansas Gas Supply Corp

1. 80-30328/K-79-1660
2. 15-127-20298-0000
3. 108 000 000
4. Benson Mineral Group
5. Landon #1-22
6. Wilde-Veal
7. Morris KS
8. 9.3 million cubic feet
9. April 28, 1980
10. Mapco

1. 80-30329/K-79-1659
2. 15-127-20258-0000
3. 108 000 000
4. Benson Mineral Group Inc
5. Sheldon #3-8
6. Wilde-Veal
7. Morris KS
8. 2.4 million cubic feet
9. April 28, 1980
10. Mapco

1. 80-30330/K-79-1658
2. 15-125-21399-0000
3. 108 000 000
4. Benson Mineral Group Inc
5. Wheeler-Haddan #1-8
6. Jefferson-Sycamore
7. Montgomery KS
8. 25.0 million cubic feet
9. April 28, 1980
10. Union Gas Systems Inc

1. 80-30331/K-79-1657
2. 15-055-20259-0000
3. 108 000 000
4. Benson Mineral Group Inc
5. 1st Natl Bk of Hutchinson #1-8
6. Hugoton
7. Finney KS
8. 9.0 million cubic feet
9. April 28, 1980
10. Northern Natural Gas Co

1. 80-30332/K-79-1656
2. 15-127-20118-0000
3. 108 000 000
4. Benson Mineral Group Inc
5. Hutchinson 1-32
6. Wilde
7. Morris KS
8. 9.0 million cubic feet
9. April 28, 1980
10. Mapco

1. 80-30333/K-79-1655
2. 15-119-20151-0000
3. 108 000 000
4. Headco Production Co
5. Davis 1-24
6. Johannsen Veal
7. Meade KS
8. 9.0 million cubic feet
9. April 28, 1980
10. Northern Natural Gas Co

1. 80-30334/K-79-1654
2. 15-119-20008-0000
3. 108 000 000
4. Headco Production Co
5. Thonhoff No 1
6. Fincham
7. Meade County KS
8. 12.0 million cubic feet
9. April 28, 1980
10. Northern Natural Gas Co

1. 80-30335/K-79-1653
2. 15-079-20399-0000
3. 103 000 000
4. Sanders Oil Co
5. No 1 Harms
6. Alta Mills
7. Harvey KS
8. 7.2 million cubic feet
9. April 28, 1980
10. Clover Pipeline Co

1. 80-30336/K-79-1652
2. 15-079-20359-0000
3. 103 000 000
4. Sanders Oil Co
5. No 1 Thornton
6. Burrton
7. Harvey KS
8. 10.8 million cubic feet
9. April 28, 1980
10. Clover Pipeline Co

1. 80-30337/K-79-1651
2. 15-079-20360-0000
3. 103 000 000
4. Sanders Oil Co
5. #1 Heidebrecht
6. Alta Mills
7. Harvey KS
8. 10.8 million cubic feet
9. April 28, 1980
10. Clover Pipeline Co

1. 80-30338/K-79-1650
2. 15-079-20382-0000
3. 103 000 000
4. Sanders Oil Co
5. #1 August Unruh
6. Burrton
7. Harvey KS
8. 18.0 million cubic feet
9. April 28, 1980
10. Clover Pipeline Co

1. 80-30339/K-79-1648
2. 15-047-20510-0000
3. 103 000 000
4. Zenith Drilling Corp
5. Sette B-1
6. Wil
7. Edwards KS
8. 27.0 million cubic feet
9. April 28, 1980
10. Northern Natural Gas Co

1. 80-30340/K-79-1647
2. 15-145-20590-0000
3. 103 000 000
4. Zenith Drilling Corp
5. Zook Townsite #1
6. Zook
7. Pawnee KS
8. .0 million cubic feet
9. April 28, 1980
10. Kansas-Nebraska Natural Gas Co

1. 80-30341/K-79-1675
2. 15-077-00000-0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. Sanders E #1
6. Sullivan
7. Harper KS
8. 30.0 million cubic feet
9. April 28, 1980
10. Northern Gas Products

1. 80-30342/K-79-1674
2. 15-093-20575-0000
3. 103 000 000
4. Amoco Production Co
5. Branine Gas Unit #2
6. Hugoton
7. Kearny KS

8. 70.0 million cubic feet
9. April 28, 1980
10. Cities Service Gas Co

1. 80-30343/K-79-1673
2. 15-187-20308-0000
3. 103 000 000
4. Amoco Production Co
5. Malone Gas Unit Well #2
6. Panoma
7. Stanton KS
8. 110.0 million cubic feet
9. April 28, 1980
10. Cities Service Gas Co

1. 80-30344/K-79-1667
2. 15-007-20746-0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. Turnbull No. 1
6. Medicine River
7. Barber KS
8. 110.0 million cubic feet
9. April 28, 1980
10. Northern Gas Products

1. 80-30345/K-79-1666
2. 15-047-20482-0000
3. 103 000 000
4. D R Lauck Oil Co Inc
5. Etling A No. 1
6. Wil Pool Ext
7. Edwards KS
8. 54.0 million cubic feet
9. April 28, 1980
10. Central States Gas Co

1. 80-30346/K-79-1734
2. 15-097-20528-0000
3. 103 000 000
4. Oil Properties Co Inc
5. Taylor B No. 1
6. Greensburg
7. Kiowa KS
8. 35.0 million cubic feet
9. April 28, 1980
10. Panhandle Eastern Pipeline Co

1. 80-30347/K-79-1732
2. 15-025-20300-0000
3. 102 000 000
4. Mesa Petroleum Co
5. Moore 4-29
6. Lexington Morrow
7. Clark KS
8. 35.0 million cubic feet
9. April 28, 1980
10. Kansas Power and Light Co

1. 80-30348/K-79-1729
2. 15-187-20303-0000
3. 103 000 000
4. Beren Corp
5. Plummer #1
6. Hugoton
7. Stanton KS
8. 50.0 million cubic feet
9. April 28, 1980
10. Colorado Interstate Gas Co

1. 80-30349/K-79-1728
2. 15-189-20449-0000
3. 103 000 000
4. Mobil Oil Corp
5. S M Suddarth Unit #2
6. Panoma
7. Stevens KS
8. 70.0 million cubic feet
9. April 28, 1980
10. Cities Service Gas Co

1. 80-30350/K-79-1727
2. 15-189-20462-0000
3. 103 000 000
4. Mobil Oil Corp
5. Brubaker No 1 Unit #2
6. Panoma
7. Stevens KS
8. 70.0 million cubic feet
9. April 28, 1980
10. Northern Natural Gas Co

1. 80-30351/K-79-1726
2. 15-189-20454-0000
3. 103 000 000
4. Northern Natural Gas Producing Co
5. Swisher No 1 Unit #2
6. Panoma
7. Stevens KS
8. 70.0 million cubic feet
9. April 28, 1980
10. Northern Natural Gas Co

1. 80-30352/K-79-1725
2. 15-189-20463-0000
3. 103 000 000
4. Mobil Oil Corp
5. W B Crawford No 1 Unit #2
6. Panoma
7. Stevens KS
8. 70.0 million cubic feet
9. April 28, 1980
10. Northern Natural Gas Co

1. 80-30353/K-79-1724
2. 15-189-20447-0000
3. 103 000 000
4. Mobil Oil Corp
5. Clara Bell Unit B No 2
6. Panoma
7. Stevens KS
8. 70.0 million cubic feet
9. April 28, 1980
10. Cities Service Gas Co

1. 80-30354/K-79-1723
2. 15-189-20452-0000
3. 103 000 000
4. Northern Natural Gas Producing Co
5. Chaffin No 1 Unit No 2
6. Panoma
7. Stevens KS
8. 70.0 million cubic feet
9. April 28, 1980
10. Northern Natural Gas Co

1. 80-30355/K-79-1694
2. 15-129-20358-0000
3. 103 000 000
4. Pan Eastern Exploration Co
5. Interstate No. 2
6. Greenwood—SW NE Sec 20-34S-43W
7. Morton KS
8. 212.0 million cubic feet
9. April 28, 1980
10. Panhandle Eastern Pipe Line Co

1. 80-30356/K-79-1693
2. 15-129-20359-0000
3. 103 000 000
4. Pan Eastern Exploration Co
5. Barker 1-13
6. Hugoton—SE SE NW Sec 13-33S-41W
7. Morton KS
8. 100.0 million cubic feet
9. April 28, 1980
10. Panhandle Eastern Pipe Line Co

1. 80-30357/K-79-1692
2. 15-129-20335-0000
3. 103 000 000
4. Pan Eastern Exploration Co
5. Moore #1
6. Hugoton—Approx C NW SW SE Sec 22-
7. Morton KS
8. 27.0 million cubic feet
9. April 28, 1980
10. Panhandle Eastern Pipe Line Co

1. 80-30358/K-79-1691
2. 15-129-20336-0000
3. 103 000 000
4. Pan Eastern Exploration Co
5. Jones #1
6. Greenwood—SW NE Sec 10-35S-43W
7. Morton KS
8. 119.0 million cubic feet
9. April 28, 1980
10. Panhandle Eastern Pipe Line Co

1. 80-30359/K-79-1685
2. 15-047-20493-0000
3. 103 000 000
4. Oil Properties Co Inc
5. Wolfe No 1
6. WIL
7. Edwards KS
8. 100.0 million cubic feet
9. April 28, 1980
10. Central States Gas Co

1. 80-30360/K-79-1684
2. 15-119-20347-0000
3. 103 000 000
4. R Clay Underwood
5. H G Adams III E #16
6. Cimarron Bend
7. Meade KS
8. 23.0 million cubic feet
9. April 28, 1980
10. Kansas Power & Light Co

1. 80-30361/K-79-1678
2. 15-007-20758-0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. Z-Bar Cattle Co #4
6. Aetna
7. Barber KS
8. 182.5 million cubic feet
9. April 28, 1980
10.

1. 80-30362/K-79-1677
2. 15-007-20723-0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. Z-Bar Cattle Co #3
6. Z-Bar Cattle Co #3
7. Barber KS
8. 45.0 million cubic feet
9. April 28, 1980
10.

1. 80-30363/K-79-1676
2. 15-077-20523-0000
3. 103 000 000
4. George R. Jones
5. Lies No 1
6. C NW SW SEC 30-32S-9W
7. Harper KS
8. 70.0 million cubic feet
9. April 28, 1980
10. Panhandle Eastern Pipe Line Co

1. 80-30364/K-79-1704
2. 15-097-20558-0000
3. 103 000 000
4. Wells Energy Co
5. Nickelson Well No. 1
6.
7. Kiowa County KS
8. 183.0 million cubic feet
9. April 28, 1980
10. Delhi Gas Pipeline Corp

1. 80-30365/K-79-1703

2. 15-055-00000-0000
3. 103 000 000
4. Northern Pump Company
5. Garden City Co No. 10
6. Unnamed
7. Finney KS
8. .0 million cubic feet
9. April 28, 1980
10. Cities Service Gas Co

1. 80-30366/K-79-1702
2. 15-151-20588-0000
3. 103 000 000
4. Woolsey Petroleum Corp
5. Country Club No. 1
6. Pratt Field
7. Pratt KS
8. 82.1 million cubic feet
9. April 28, 1980
10. Central States Gas Co

1. 80-30367/K-79-1701
2. 15-189-20256-0000
3. 103 000 000
4. Anadarko Production Co
5. Stuart A No 1
6. Panoma
7. Stevens KS
8. 295.0 million cubic feet
9. April 28, 1980
10. Panhandle Eastern Pipe Line Co

1. 80-30368/K-79-1700
2. 15-007-20691-0000
3. 103 000 000
4. A Scott Ritchie
5. #1 Clarke
6. Aetna
7. Barber KS
8. 30.0 million cubic feet
9. April 28, 1980
10. Cities Service Gas Co

1. 80-30369/K-79-1698
2. 15-093-20481-0000
3. 102 000 000
4. Wagner & Brown
5. Marianne #1
6. Panoma
7. Kearny KS
8. 15.0 million cubic feet
9. April 28, 1980
10. Northern Natural Gas

1. 80-30370/K-79-1696
2. 15-175-00019-0000
3. 108 000 000
4. Cabot Corp
5. Cleo A Adamson #2
6. Undesignated
7. Seward KS
8. 16.0 million cubic feet
9. April 28, 1980
10. Cities Service Gas Co

1. 80-30371/K-79-1695
2. 15-189-00000-0000
3. 108 000 000
4. Hi Gar Petro Inc
5. Nix A Well No 2
6. Walkemeyer (Morrow)
7. Stevens KS
8. 74.0 million cubic feet
9. April 28, 1980
10. Northern Natural Gas Co

1. 80-30372/K-79-1709
2. 15-187-20230-0000
3. 108 000 000
4. Vega Oil & Gas Mgt Inc
5. Rollie Jack No 1-9
6. Hugoton
7. Stanton KS
8. 7.2 million cubic feet
9. April 28, 1980
10. Northern Natural Gas Co

1. 80-30373/K-79-1708
2. 15-187-20137-0000
3. 108 000 000
4. Vega Oil & Gas Mgt Inc
5. W R Puyear No 1
6. Hugoton
7. Stanton KS
8. 15.6 million cubic feet
9. April 28, 1980
10. Northern Natural Gas Co

1. 80-30374/K-79-1707
2. 15-187-20232-0000
3. 108 000 000
4. Vega Oil & Gas Mgt Inc
5. J J Johns No 1-30
6. Hugoton
7. Stanton KS
8. 2.4 million cubic feet
9. April 28, 1980
10. Northern Natural Gas

1. 80-30375/K-79-1706
2. 15-187-20229-0000
3. 108 000 000
4. Vega Oil & Gas Mgt Inc
5. Barber Farms No 1-20
6. Hugoton
7. Stanton KS
8. 10.0 million cubic feet
9. April 28, 1980
10. Northern Natural Gas

1. 80-30376/K-79-1710
2. 15-187-20226-0000
3. 108 000 000
4. Vega Oil & Gas Mgt Inc
5. W C Lynn No 1-29
6. Hugoton
7. Stanton KS
8. 18.0 million cubic feet
9. April 28, 1980
10. Northern Natural Gas

1. 80-30377/K-79-1712
2. 15-035-22123-0000
3. 102 000 000
4. Benson Mineral Group Inc
5. Olmstead #2-1
6. Walnut Bend
7. Cowley KS
8. 3.3 million cubic feet
9. April 28, 1980
10. Colonial Corp

1. 80-30378/K-79-1715
2. 15-035-22022-0000
3. 102 000 000
4. Benson Mineral Group Inc
5. Olmstead #2-1
6. Walnut Bend
7. Cowley KS
8. 33.9 million cubic feet
9. April 28, 1980
10. Colonial Corp

1. 80-30379/K-79-1716
2. 15-035-22117-0000
3. 102 000 000
4. Benson Mineral Group Inc
5. Walton #1-1
6. Walnut Bend
7. Cowley KS
8. 51.1 million cubic feet
9. April 28, 1980
10. Colonial Corp

1. 80-30380/K-79-1717
2. 15-035-22118-0000
3. 102 000 000
4. Benson Mineral Group
5. Walton #2-1#2-1
6. Walnut Bend
7. Cowley KS
8. 36.5 million cubic feet
9. April 28, 1980
10. Colonial Corp

1. 80-30381/K-79-1721
2. 15-095-00000-0000
3. 103 000 000
4. Graves Driling Co Inc
5. Nicklaus #1
6. NW NW SE Section 34-28S-6W Dalo
7. Kingman KS
8. 24.0 million cubic feet
9. April 28, 1980
10. Peoples Natural Gas

1. 80-30382/K-79-1722
2. 15-095-20812-0000
3. 103 000 000
4. Western Drilling &Exploration INc
5. Mark #1
6. Unnamed
7. Kingman KS
8. 28.0 million cubic feet
9. April 28, 1980
10. Kansas Gas Supply Corp

1. 80-30383/K-79-1718
2. 15-035-22279-0000
3. 102 000 000
4. Camio Oil Co
5. #1-G Hostetter
6. #Posey Field
7. Cowley KS
8. 20.0 million cubic feet
9. April 28, 1980
10. Colonial Corp

1. 80-30384/K-79-1711
2. 15-187-20252-0000
3. 108 000 000
4. Vega Oil & Gas Mgt Inc
5. Saunders No 1-4
6. Hugton
7. Stanton KS
8. 15.6 million cubic feet
9. April 28, 1980
10. Northern Natural Gas Co

1. 80-30385/K-79-1735
2. 15-077-20413-0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. Findley No 1
6. Wildcat
7. Harper KS
8. 55.0 million cubic feet
9. April 28, 1980
10. Northern Gas Products

1. 80-30386/K-79-1740
2. 15-189-20461-0000
3. 103 000 000
4. Mobil Oil Corp
5. E Carpenter No 2 Unit No 3
6. Panoma
7. Stevens KS
8. 70.0 million cubic feet
9. April 28, 1980
10. Northern Natural Gas Co

1. 80-30387/K-79-1739
2. 15-189-20451-0000
3. 103 000 000
4. Northern Natural Gas Producing Co
5. Logan No 1-A Unit #21
6. Panoma

7. Stevens KS
8. 70.0 million cubic feet
9. April 28, 1980
10. Northern Natural Gas Co

1. 80-30388/K-79-1738
2. 15-119-20200-0000
3. 108 000 000
4. Imperial Oil Co
5. Golliber #1-22
6. Angell
7. Meade KS
8. 11.0 million cubic feet
9. April 28, 1980
10. Panhandle Eastern Pipe Line Co

1. 80-30389/K-79-1737
2. 15-119-20339-0000
3. 103 000 000
4. MESA Petroleum Co
5. Adams 1-22
6. Horace South
7. Meade KS
8. 110.0 million cubic feet
9. April 28, 1980
10. Michigan Wisconsin Pipe Line Co

1. 80-30390/K-79-1745
2. 15-075-20162-0000
3. 102 000 000
4. W B Osborn Jr
5. Marmie #1
6. Hugoton
7. Hamilton KS
8. 25.0 million cubic feet
9. April 28, 1980
10. Peoples Natural Gas Co

1. 80-30391/K-79-1744
2. 15-007-20727-0000
3. 103 000 000
4. George R Jones
5. Herndon No 1
6. 430 NE of SE NE SW Sec 36-30S-12W
7. Barber KS
8. 18.2 million cubic feet
9. April 28, 1980
10. Kansas Gas Supply Corp

1. 80-30392/K-79-1762
2. 15-115-20465-0000
3. 103 000 000
4. Robert F Whiste
5. Heise B#2
6. East Antelope
7. Marion KS
8. 30.0 million cubic feet
9. April 28, 1980
10. Cities Service Gas Co

1. 80-30393/K-79-1760
2. 15-025-00000-0000
3. 108 000 000
4. Arco Oil & Gas Co
5. Theis Gas Unit III Well #1
6. McKinney
7. Clark KS
8. 22.7 million cubic feet
9. April 28, 1980
10. Northern Natural Gas Co

1. 80-30394/K-79-1759
2. 15-097-20532-0000
3. 103 000 000
4. Lee Banks
5. Dorsett No
6. Wilmore
7. Kiowa KS
8. 210.0 million cubic feet
9. April 28, 1980
10. Kansas Gas Supply

1. 80-30395/K-79-1758
2. 15-033-20267-0000
3. 103 000 000
4. Lee Banks
5. Booth No 1A
6. Wilmore
7. Comanche KS
8. 66.0 million cubic feet
9. April 28, 1980
10. Kansas Gas Supply

1. 80-30396/K-79-1757
2. 15-175-20379-0000
3. 103 000 000
4. Anadarko Production Co
5. Guttridge D No 1
6. Shuck
7. Seward KS
8. 100.0 million cubic feet
9. April 28, 1980
10. Anadarko Production Co

1. 80-30397/K-79-1756
2. 15-187-00000-0000
3. 108 000 000
4. Amoco Production Co
5. Parks Gas Unit B #1
6. Hugoton
7. Stanton KS
8. 19.4 million cubic feet
9. April 28, 1980
10. Cities Service Gas Co

1. 80-30398/K-79-1755
2. 15-055-00000-0000
3. 108 000 000
4. Amoco Production Co
5. Gerdes Gas Unit #1
6. Hugoton
7. Finney KS
8. 20.3 million cubic feet
9. April 28, 1980
10. Cities Service Gas Co

1. 80-30399/K-79-1754
2. 15-097-20534-0000
3. 103 000 000
4. Byron E Hummon Jr
5. Fisher #1
6. Unnamed
7. Kiowa KS
8. 183.0 million cubic feet
9. April 28, 1980
10. KS-NEB Natural Gas Co Inc

1. 80-30400/K-79-1753
2. 15-025-20310-0000
3. 103 000 000
4. Byron E Hummon Jr.
5. Hazen #1
6. North Harper Ranch
7. Clark KS
8. 91.0 million cubic feet
9. April 28, 1980
10. Northern Natural Gas Co

1. 80-30401/K-79-1752
2. 15-159-20792-0000
3. 103 000 000
4. Hummon Corp
5. Engelland No 1
6. 21 South Range 8 West
7. Rice KS
8. .0 million cubic feet
9. April 28, 1980
10. Northern Natural Gas Co

1. 80-30402/K-79-1748
2. 15-093-20459-0000
3. 103 000 000
4. W B Osborn Jr
5. Branine #1-A
6. Hugoton
7. Kearney KS
8. 30.0 million cubic feet
9. April 28, 1980
10. Peoples Natural Gas Co

1. 80-30403/K-79-1746
2. 15-093-20615-0000
3. 103 000 000
4. W B Osborn Jr
5. Paul #1
6. Hugoton (Chase)
7. Kearny KS
8. 25.0 million cubic feet
9. April 28, 1980
10. Colorado Interstate Gas Co

1. 80-30404/K-79-1786
2. 15-055-20209-0000
3. 108 000 000
4. Benson Mineral Group Inc
5. Landgrat D No. 1
6. Hugoton
7. Finney KS
8. 1.8 million cubic feet
9. April 28, 1980
10. Northern Natural Gas Co

1. 80-30405/K-79-1780
2. 15-175-20417-0000
3. 103 000 000
4. Burnett Corp
5. Carlile 2-23 well
6. Unnamed Field Chester Formation
7. Seward KS
8. 102.0 million cubic feet
9. April 28, 1980
10. Northern Natural Gas Co

1. 80-30406/K-79-1779
2. 15-023-20094-0000
3. 102 000 000
4. W R Murfin dba Murfin Drilling Co
5. Raile No. 1-24 Gas Unit
6. Cherry Creek Gas Area
7. Cheyenne KS
8. 22.0 million cubic feet
9. April 28, 1980
10. Kansas-Nebraska Natural Gas Co Inc

1. 80-30407/K-79-1778
2. 15-093-00000-0000
3. 108 000 000
4. Amoco Production Co
5. Linder Gas Unit #1
6. Hugoton
7. Kearny KS
8. 20.8 million cubic feet
9. April 28, 1980
10. Cities Service Gas Co

1. 80-30408/K-79-1775
2. 15-023-20093-0000
3. 102 000 000
4. W R Murfin dba Muffin Drilling Co
5. Hilt #1-11 Gas Unit
6. Cherry Creek Gas Area
7. Cheyenne KS
8. 22.0 million cubic feet
9. April 28, 1980
10. Kansas-Nebraska Natural Gas Co Inc

1. 80-30409/K-79-1534
2. 15-007-20716-0000
3. 103 000 000
4. Ferguson Oil & Gas Co Inc
5. Victor #1
6. N Harbaugh
7. Barber County KS
8. 90.0 million cubic feet
9. April 28, 1980
10. Panhandle Eastern Pipe Line Co

1. 80-30410/K-79-1802
2. 15-115-20477-0000
3. 102 000 000
4. Getty Oil Co
5. E & P Ratzloff No. 31-8
6. Canton North
7. Marion KS
8. 42.0 million cubic feet
9. April 28, 1980
10. Clover Pipeline Corp

1. 80-30411/K-79-1801
2. 15-115-20476-0000
3. 102 000 000
4. Getty Oil Co
5. J Donahue No. 29-13
6. Canton North
7. Marion KS
8. 54.0 million cubic feet
9. April 28, 1980
10. Clover Pipeline Corp

1. 80-30412/K-79-1535
2. 15-007-20677-0000
3. 103 000 000
4. Ferguson Oil & Gas Co Inc
5. McDaniel #1
6. N Harbaugh
7. Barber KS
8. 182.0 million cubic feet
9. April 28, 1980
10. Panhandle Eastern Pipe Line Co

1. 80-30413/K-79-1799
2. 15-189-20469-0000
3. 103 000 000
4. Mobile Oil Corp
5. J Burrows Unit No. 1
6. Panoma
7. Stevens KS
8. 70.0 million cubic feet
9. April 28, 1980
10. Northern Natural Gas Co

1. 80-30414/K-79-1798
2. 15-189-20460-0000
3. 103 000 000
4. Mobile Oil Corp
5. Pride No. 1 Unit Well No. 2
6. Panoma
7. Stevens KS
8. 70.0 million cubic feet
9. April 28, 1980
10. Northern Natural Gas Co

1. 80-30415/K-79-1797
2. 15-189-20453-0000
3. 103 000 000
4. Northern Natural Gas Producing Co
5. Jordan Unit No. 2
6. Panoma
7. Stevens KS
8. 70.0 million cubic feet
9. April 28, 1980
10. Northern Natural Gas Co

1. 80-30416/K-79-1796
2. 15-171-20164-0000
3. 102 000 000
4. The Maurice L Brown Co
5. Fairleigh A No. 1
6. Undesignated
7. Scott KS
8. 14.6 million cubic feet
9. April 28, 1980
10. Kansas-Nebraska Natural Gas Pipeline

1. 80-30417/K-79-1795
2. 15-171-20174-0000
3. 102 000 000
4. The Maurice L Brown Co
5. Harkness #1
6. Undesignated
7. Scott KS
8. 21.9 million cubic feet
9. April 28, 1980
10. Kansas-Nebraska Natural Gas Co

1. 80-30418/K-79-1794
2. 15-171-20172-0000
3. 102 000 000
4. The Maurice L Brown Co
5. Rhoda Crist A #1
6. Undesignated
7. Scott KS
8. 146.0 million cubic feet
9. April 28, 1980
10. Kansas-Nebraska Natural Gas Pipeline

1. 80-30419/K-79-1793
2. 15-189-20467-0000
3. 103 000 000
4. Northern Natural Gas Producing Co
5. Mann No 2. Unit No. 3
6. Panoma
7. Stevens KS
8. 70.0 million cubic feet
9. April 28, 1980
10. Northern Natural Gas Co

1. 80-30420/K-79-1792
2. 15-189-20458-0000
3. 103 000 000
4. Mobile Oil Corp
5. Cunningham #2 Unit #4
6. Hanke
7. Stevens KS
8. 200.0 million cubic feet
9. April 28, 1980
10. Northern Natural Gas Co

1. 80-30421/K-79-1791
2. 15-189-20470-0000
3. 103 000 000
4. Mobile Oil Corp
5. Hamilton No. 1 Farm No. 2
6. Panoma
7. Stevens KS
8. 70.0 million cubic feet
9. April 28, 1980
10. Northern Natural Gas Co

1. 80-30422/K-79-1790
2. 15-129-20338-0000
3. 108 000 000
4. Lowrys Lease Management Inc
5. Barnes #1
6. Greenwood
7. Morton KS
8. 15.0 million cubic feet
9. April 28, 1980
10. Panhandle Eastern Pipeline Co

1. 80-30423/K-79-1788
2. 15-093-20521-0000
3. 103 000 000
4. Amoco Production Co
5. Stallman Gas Unit B #2
6. Panoma-Council Grove
7. Kearny KS
8. 160.0 million cubic feet
9. April 28, 1980
10. Cities Service Gas Co

1. 80-30424/K-79-1800
2. 15-115-20472-0000
3. 102 000 000
4. Getty Oil Co
5. D Ratzloff No. 31-2
6. Canton North
7. Marion KS
8. 20.0 million cubic feet
9. April 28, 1980
10. Clover Pipeline Corp

1. 80-30425/K-79-1774
2. 15-023-20085-0000
3. 102 000 000
4. W R Murfin dba Murfin Drilling Co
5. Riggs-Vincent No. 1-23 Gas Unit
6. Cherry Creek Gas Area
7. Cheyenne KS
8. 11.0 million cubic feet
9. April 28, 1980
10. Kansas-Nebraska Natural Gas Co Inc

1. 80-30426/K-79-1773
2. 15-125-21833-0000
3. 108 000 000
4. Benson Mineral Group Inc
5. C M Coons No. 1-20
6. Jefferson Sycamore
7. Montgomery KS
8. 11.7 million cubic feet
9. April 28, 1980
10. Union Gas Systems Inc

1. 80-30427/K-79-1776
2. 15-125-21525-0000
3. 108 000 000
4. Benson Mineral Group Inc
5. Groh #1-14
6. Jefferson Sycamore
7. Montgomery KS
8. 5.1 million cubic feet
9. April 28, 1980
10. Union Gas Systems Inc

1. 80-30428/K-79-1765
2. 15-035-22163-0000
3. 102 000 000
4. Energy Exploration Inc
5. Salem-Lewis #1
6. Shannon North
7. Cowley KS
8. 423.4 million cubic feet
9. April 28, 1980
10. Cities Service Gas Co Camino Oil Co

1. 80-30429/K-79-1764
2. 15-115-20487-0000
3. 103 000 000
4. Robert F White
5. Klassen-Keil Unit #1
6. East Antelope Field
7. Marion KS
8. 24.0 million cubic feet
9. April 28, 1980
10. Clover Pipeline Corp

1. 80-30430/K-79-1763
2. 15-115-20466-0000
3. 103 000 000
4. Robert F White
5. Pritz A-#2
6. East Antelope
7. Marion KS
8. 30.0 million cubic feet
9. April 28, 1980
10. Cities Service Gas Co

1. 80-30431/K-79-1769
2. 15-125-21258-0000
3. 108 000 000
4. Benson Mineral Group Inc
5. Wheeler Hedden #1-4
6. Jefferson Sycamore
7. Montgomery KS
8. 1.9 million cubic feet
9. April 28, 1980
10. Union Gas Systems Inc

1. 80-30432/K-79-1767
2. 15-125-21566-0000
3. 108 000 000
4. Benson Mineral Group Inc
5. Groh #2-14

6. Jefferson Sycamore
7. Montgomery KS
8. 5.1 million cubic feet
9. April 28, 1980
10. Union Gas Systems Inc

1. 80-30494/K-79-1604
2. 15-115-20378-0000
3. 108 000 000
4. George A Reed
5. Heinz #1
6. Ratzlaff
7. Marion KS
8. 3.0 million cubic feet
9. April 28, 1980
10. Clover Pipeline Corp

1. 80-30495/K-79-1605
2. 15-189-20457-0000
3. 103 000 000
4. Mohawk Energy Corp
5. Elerding #1
6. Ski
7. Stevens KS
8. 180.0 million cubic feet
9. April 30, 1980
10. Panhandle Eastern Pipe Line Co

1. 80-30496/K-79-1606
2. 15-175-20290-0000
3. 102 000 000
4. Anadarko Production Co
5. Hitch C No 3
6. Shuck
7. Seward KS
8. 133.0 million cubic feet
9. April 30, 1980
10. Panhandle Eastern Pipe Line Co

1. 80-30497/K-79-1607
2. 15-119-20349-0000
3. 103 000 000
4. Calvin Exploration Inc
5. #1-24 Harrington
6. McKinney
7. Meade KS
8. 182.0 million cubic feet
9. April 30, 1980
10.

1. 80-30498/K-79-1608
2. 15-047-20522-0000
3. 103 000 000
4. F G Holl
5. Bill Schartz 1-12
6. Wayne North
7. Edwards KS
8. 255.0 million cubic feet
9. April 30, 1980
10. Republic Natural Gas Co

1. 80-30499/K-79-1611
2. 15-047-20477-0000
3. 103 000 000
4. F G Holl
5. Brensing B 1-12
6. Wayne North
7. Edwards KS
8. .0 million cubic feet
9. April 30, 1980
10. Northern Natural Gas Co

1. 80-30500/K-79-1613
2. 15-049-00000-0000
3. 108 000 000
4. Pemex Inc
5. Sleeper #3
6. Ferguson
7. Elk KS
8. 7.0 million cubic feet
9. April 30, 1980
10. Cities Service Gas Co

1. 80-30501/K-79-1665
2. 15-007-20777-0000
3. 103 000 000
4. Ferguson Oil & Gas Co Inc
5. Schiff #1
6. No Harbaugh
7. Barber KS
8. 182.0 million cubic feet
9. April 30, 1980
10. Panhandle Eastern Pipe Line Co

**Ohio Department of Natural Resources, Division of Oil and Gas**

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)

1. 80-30562
2. 34-169-22237-0014
3. 103 000 000
4. Earth Resources Expl Dev Corp
5. Cross #2
6.
7. Wayne OH
8. 30.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp

1. 80-30563
2. 34-169-22214-0014
3. 103 000 000
4. Kenoil
5. Arleene Jackson #1
6.
7. Wayne OH
8. 55.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp

1. 80-30564
2. 34-169-22200-0014
3. 103 000 000
4. Amtex Oil and Gas Inc
5. Hatfield Well No 2
6.
7. Wayne OH
8. 250.0 million cubic feet
9. April 30, 1980
10.

1. 80-30565
2. 34-133-22100-0014
3. 103 000 000
4. Viking Resources Corp
5. Foster #1
6.
7. Portage OH
8. 30.0 million cubic feet
9. April 30, 1980
10.

1. 80-30566
2. 34-133-21937-0014
3. 103 000 000
4. Poi Energy Inc
5. Swartz #1
6.
7. Portage OH
8. 35.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co

1. 80-30567
2. 34-133-21915-0014
3. 103 000 000
4. Poi Energy Inc
5. Hach #1
6.
7. Portage OH
8. 10.0 million cubic feet
9. April 30, 1980
10.

1. 80-30568
2. 34-133-21914-0014
3. 103 000 000
4. Poi Energy Inc
5. Hach #2
6.
7. Portage OH
8. 10.0 million cubic feet
9. April 30, 1980
10.

1. 80-30569
2. 34-133-21889-0014
3. 103 000 000
4. Poi Energy Inc
5. Tramont #1
6.
7. Portage OH
8. 55.0 million cubic feet
9. April 30, 1980
10.

1. 80-30570
2. 34-133-21755-0014
3. 103 000 000
4. Poi Energy Inc
5. Moore-Bowers-Peters #3
6.
7. Portage OH
8. 10.0 million cubic feet
9. April 30, 1980
10.

1. 80-30571
2. 34-133-22164-2001-4
3. 103 000 000
4. Poi Energy Inc
5. Howitt #3
6.
7. Portage OH
8. 50.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co

1. 80-30572
2. 34-133-21615-0014
3. 103 000 000
4. Poi Energy Inc
5. Sweet #1
6.
7. Portage OH
8. 22.0 million cubic feet
9. April 30, 1980
10.

1. 80-30573
2. 34-133-21601-0014
3. 103 000 000
4. Poi Energy Inc
5. Smith-Meade #1
6.
7. Portage OH
8. 12.0 million cubic feet
9. April 30, 1980
10.

1. 80-30574
2. 34-121-21980-0140
3. 103 000 000
4. Oneal Productions Inc
5. R Gregory #1
6.
7. Noble OH

8. 100.0 million cubic feet
9. April 30, 1980
10. Brooker Bros Forging Co
1. 80-30575
2. 34-121-22181-0014
3. 103 000 000
4. R A K Development Co
5. Ralph Bettinger #1
6.
7. Noble OH
8. 15.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp
1. 80-30576
2. 34-121-21542-0014
3. 108 000 000
4. Tiger Oil Inc
5. Ohio Power #2
6.
7. Noble OH
8. 6.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30577
2. 34-121-21343-0014
3. 108 000 000
4. Noble Gas Co
5. Gant-Parks #2
6.
7. Noble OH
8. 10.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30578
2. 34-121-21312-0014
3. 108 000 000
4. Noble Gas Co
5. Waite James #1
6.
7. Noble OH
8. 7.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30579
2. 34-121-21299-0014
3. 108 000 000
4. Noble Gas Co
5. Davis Dwight #2
6.
7. Noble OH
8. 9.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30580
2. 34-119-25203-0014
3. 103 000 000
4. Sheldon L Turrill
5. #1 J Ralph Brand
6.
7. Muskingum OH
8. 100.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30581
2. 34-119-25095-0014
3. 103 000 000
4. Callander & Kimbrel Inc
5. J & R McCall 1
6.
7. Muskingum OH
8. 109.0 million cubic feet
9. April 30, 1980
10.
1. 80-30582
2. 34-119-25024-0014
3. 103 000 000
4. Irvin Producing Co
5. Loren Camp #2
6.
7. Muskingum OH
8. 12.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp
1. 80-30583
2. 34-119-25023-0014
3. 103 000 000
4. Irvin Producing Co
5. Loren Camp #1
6.
7. Muskingum OH
8. 12.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp
1. 80-30584
2. 34-119-24983-0014
3. 103 000 000
4. Zenith Oil & Gas Inc
5. McKee #1
6.
7. Muskingum OH
8. .0 million cubic feet
9. April 30, 1980
10.
1. 80-30585
2. 34-119-24976-0014
3. 103 000 000
4. Harry A Holtom
5. #3 John Vansickle Estate
6. Vansickle-Clinton
7. Muskingum OH
8. 10.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp
1. 80-30586
2. 34-119-24975-0014
3. 103 000 000
4. Harry A Holtom
5. #4 John Vansickle Estate
6. Vansickle-Clinton
7. Muskingum OH
8. 10.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp
1. 80-30587
2. 34-119-24960-0014
3. 103 000 000
4. Berea Oil and Gas Corp
5. Miller et al #2
6.
7. Muskingum OH
8. 36.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp
1. 80-30588
2. 34-119-24959-0014
3. 103 000 000
4. Berea Oil and Gas Corp
5. Miller et al #4
6.
7. Muskingum OH
8. 24.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp
1. 80-30589
2. 34-119-24958-0014
3. 103 000 000
4. Berea Oil and Gas Corp
5. Ball #2
6.
7. Muskingum OH
8. 36.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp
1. 80-30590
2. 34-119-24953-0014
3. 103 000 000
4. Callander & Kimbrel Inc
5. Clemenson Unit #2
6.
7. Muskingum OH
8. 65.0 million cubic feet
9. April 30, 1980
10.
1. 80-30591
2. 34-119-24928-0014
3. 103 000 000
4. L A Moore & Son Inc
5. Highfield #1
6.
7. Muskingum OH
8. 6.0 million cubic feet
9. April 30, 1980
10. National Gas & Oil Corp
1. 80-30592
2. 34-119-24727-0014
3. 103 000 000
4. Petro Oil Co
5. Turner Well #1
6.
7. Muskingum OH
8. 5.0 million cubic feet
9. April 30, 1980
10.
1. 80-30593
2. 34-119-24272-0014
3. 103 000 000
4. The Oxford Oil Co
5. Murphy—Farm #2
6.
7. Muskingum OH
8. 15.0 million cubic feet
9. April 30, 1980
10.
1. 80-30594
2. 34-119-23905-0014
3. 103 000 000
4. The Benatty Corp
5. Delmar Harlan #1
6.
7. Muskingum OH
8. 15.0 million cubic feet
9. April 30, 1980
10. Williston Oil Corp
1. 80-30595
2. 34-119-23683-0014
3. 103 000 000
4. Rowley & Brown Petroleum Corp
5. Kilpatrick #2
6.
7. Muskingum OH
8. 72.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp
1. 80-30596
2. 34-119-23681-0014
3. 103 000 000
4. Rowley & Brown Petroleum Corp
5. Kilpatrick #1
6.
7. Muskingum OH
8. 59.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp
1. 80-30597

2. 34-189-22888-0014
3. 108 000 000
4. Enney Oilfield Rental Co
5. Westbrook #2
6.
7. Muskingum OH
8. 1.2 million cubic feet
9. April 30, 1980
10. National Gas Corp

1. 80-30598
2. 34-119-22545-0014
3. 108 000 000
4. Tiger Oil Inc
5. Huber #1
6.
7. Muskingum OH
8. 10.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co

1. 80-30599
2. 34-119-22502-0014
3. 108 000 000
4. Enney Oilfield Rental Co
5. Forsythe #1
6.
7. Muskingum OH
8. 1.8 million cubic feet
9. April 30, 1980
10. National Gas Corp

1. 80-30600
2. 34-119-22467-0014
3. 108 000 000
4. Enney Oilfield Rental Co
5. McCutcheon #2
6.
7. Muskingum OH
8. .6 million cubic feet
9. April 30, 1980
10. National Gas Corp

1. 80-30601
2. 34-119-22425-0014
3. 108 000 000
4. Enney Oilfield Rental Co
5. Wilson-Miller-Perkins #1
6.
7. Muskingum OH
8. .5 million cubic feet
9. April 30, 1980
10. National Gas Corp

1. 80-30602
2. 34-119-22422-0014
3. 108 000 000
4. Enney Oilfield Rental Co
5. Perkins #2
6.
7. Muskingum OH
8. .7 million cubic feet
9. April 30, 1980
10. National Gas Corp

1. 80-30603
2. 34-119-22395-0014
3. 108 000 000
4. Enney Oilfield Rental Co
5. McCutcheon #1
6.
7. Muskingum OH
8. 3.0 million cubic feet
9. April 30, 1980
10. National Gas Corp

1. 80-30604
2. 34-119-22237-0014
3. 108 000 000
4. Enney Oilfield Rental Co
5. Baker #1
6.
7. Muskingum OH
8. 2.5 million cubic feet
9. April 30, 1980
10. National Gas Corp

1. 80-30605
2. 34-119-22235-0014
3. 108 000 000
4. Enney Oilfield Rental Co
5. Saunders #1
6.
7. Muskingum OH
8. 1.3 million cubic feet
9. April 30, 1980
10. National Gas Corp

1. 80-30606
2. 34-115-22056-0014
3. 103 000 000
4. The Benatty Corp
5. A Stewart #3
6.
7. Morgan OH
8. 25.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co

1. 80-30607
2. 34-115-22039-0014
3. 102 000 000
4. Oneal Productions Inc
5. #1 Daniel
6.
7. Morgan OH
8. 80.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp

1. 80-30608
2. 34-151-23134-0014
3. 103 000 000
4. Viking Resources Corp
5. Thompson Unit #1
6.
7. Stark OH
8. 30.0 million cubic feet
9. April 30, 1980
10.

1. 80-30609
2. 34-151-23133-0014
3. 103 000 000
4. Viking Resources Corp
5. Monhemius-Snyder Unit #2
6.
7. Stark OH
8. 30.0 million cubic feet
9. April 30, 1980
10.

1. 80-30610
2. 34-151-23132-0014
3. 103 000 000
4. Viking Resources Corp
5. Monhemius-Snyder Unit #1
6.
7. Stark OH
8. 30.0 million cubic feet
9. April 30, 1980
10.

1. 80-30611
2. 34-151-23129—0014
3. 103 000 000
4. Viking Resources Corp
5. Monhemius-Snyder #3
6.
7. Stark OH
8. 30.0 million cubic feet
9. April 30, 1980
10.

1. 80-30612
2. 34-151-23123-0014
3. 103 000 000
4. New Frontier Exploration Inc
5. Harvey Creighton #1
6.
7. Stark OH
8. 24.0 million cubic feet
9. April 30, 1980
10.

1. 80-30613
2. 34-151-23120-0014
3. 103 000 000
4. Amtex Oil and Gas Inc
5. Jessup Unit No 1 et al
6.
7. Stark OH
8. 300.0 million cubic feet
9. April 30, 1980
10.

1. 80-30614
2. 34-151-23050-0014
3. 103 000 000
4. MB Operating Co Inc
5. C Rose U #1
6.
7. Stark OH
8. 31.0 million cubic feet
9. April 30, 1980
10. Republic Steel Corp
Columbia Gas Transmission Corp

1. 80-30615
2. 34-151-23047-0014
3. 103 000 000
4. MB Operating Co Inc
5. The Flintkote Co #13
6.
7. Stark OH
8. 9.9 million cubic feet
9. April 30, 1980
10. Republic Steel Corp
Columbia Gas Transmission Corp

1. 80-30616
2. 34-151-23046-0014
3. 103 000 000
4. MB Operating Co Inc
5. The Flintkote Co #12
6.
7. Stark OH
8. 14.6 million cubic feet
9. April 30, 1980
10. Republic Steel Corp
Columbia Gas Transmission Corp

1. 80-30617
2. 34-151-22992-0014
3. 103 000 000
4. New Frontier Exploration Inc
5. Henning-Kiko Unit #3
6.
7. Stark OH
8. 18.0 million cubic feet
9. April 30, 1980
10.

1. 80-30618
2. 34-151-22980-0014
3. 103 000 000
4. MB Operating Co Inc
5. The Flintkote Co U #15
6.
7. Stark OH
8. 14.6 million cubic feet
9. April 30, 1980
10. Republic Steel Corp
Columbia Gas Transmission Corp

1. 80-30619
2. 34-151-22977-0014

3. 103 000 000
4. MB Operating Co Inc
5. R & T Senften U #1
6.
7. Stark OH
8. 127.8 million cubic feet
9. April 30, 1980
10. Republic Steel Corp, Colúmbia Gas Transmission Corp

1. 80-30620
2. 34-151-22965-0014
3. 103 000 000
4. MB Operating Co Inc
5. J & C Blend #1-A
6.
7. Stark OH
8. 29.2 million cubic feet
9. April 30, 1980
10. Republic Steel Corp, Columbia Gas Transmission Corp

1. 80-30621
2. 34-151-22941-0014
3. 103 000 000
4. New Frontier Exploration Inc
5. Herbert Kiko #1
6.
7. Stark OH
8. 25.0 million cubic feet
9. April 30, 1980
10.

1. 80-30622
2. 34-133-22195-0014
3. 103 000 000
4. Viking Resources Corp
5. Wallbrown Unit #1
6.
7. Portage OH
8. 30.0 million cubic feet
9. April 30, 1980
10.

1. 80-30623
2. 34-133-22194-0014
3. 103 000 000
4. Viking Resources Corp
5. Wallbrown Unit #3
6.
7. Portage OH
8. 30.0 million cubic feet
9. April 30, 1980
10.

1. 80-30624
2. 34-133-22193-0014
3. 103 000 000
4. Viking Resources Corp
5. Wallbrown Unit #2
6.
7. Portage OH
8. 30.0 million cubic feet
9. April 30, 1980
10.

1. 80-30625
2. 34-133-20281-0014
3. 108 000 000
4. Odessa Natural Corp
5. Rinehart No 1
6.
7. Portage OH
8. 12.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co

1. 80-30626
2. 34-133-20280-0014
3. 108 000 000
4. Odessa Natural Corp
5. Craig No 1
6.
7. Portage OH
8. 5.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co

1. 80-30627
2. 34-133-20211-0014
3. 108 000 000
4. Odessa Natural Corp
5. Lang No 1
6.
7. Portage OH
8. 4.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co

1. 80-30628
2. 34-133-20181-0014
3. 108 000 000
4. Odessa Natural Corp
5. Dixon No 1
6.
7. Portage OH
8. 4.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co

1. 80-30629
2. 34-133-20140-0014
3. 108 000 000
4. Odessa Natural Corp
5. Pervot No 1
6.
7. Portage OH
8. 6.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co

1. 80-30630
2. 34-133-20139-0014
3. 108 000 000
4. Odessa Natural Corp
5. Murphy No 1
6.
7. Portage OH
8. 12.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co

1. 80-30631
2. 34-127-24637-0014
3. 103 000 000
4. John Tansky
5. Donald Westfall #1
6.
7. Perry OH
8. 8.0 million cubic feet
9. April 30, 1980
10.

1. 80-30632
2. 34-127-24560-0014
3. 103 000 000
4. Zenith Oil & Gas Inc
5. McGaughey #1
6.
7. Perry OH
8. .0 million cubic feet
9. April 30, 1980
10.

1. 80-30633
2. 34-127-24521-0014
3. 103 000 000
4. Irvin Producing Co
5. Anna Haynal #2
6.
7. Perry OH
8. 12.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp

1. 80-30634
2. 34-127-24519-0014
3. 103 000 000
4. Irvin Producing Co
5. Anna Haynal #3
6.
7. Perry OH
8. 12.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp

1. 80-30635
2. 34-127-45180-0140
3. 103 000 000
4. Irvin Producing Co
5. Anna Haynal #1
6.
7. Perry OH
8. 12.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp

1. 80-30636
2. 34-127-24514-0014
3. 103 000 000
4. Irvin Producing Co
5. Walter Pettet #4
6.
7. Perry OH
8. 12.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp

1. 80-30637
2. 34-127-24512-0014
3. 103 000 000
4. Hortin & Huffman
5. John K & Mary E Schmelzer #3
6. Junction City
7. Perry OH
8. 10.0 million cubic feet
9. April 30, 1980
10. National Gas and Oil Corp

1. 80-30638
2. 34-127-24411-0014
3. 103 000 000
4. Petro Oil Co
5. McGarvey Well #1
6.
7. Perry OH
8. 10.0 million cubic feet
9. April 30, 1980
10.

1. 80-30639
2. 34-127-23743-0014
3. 108 000 000
4. L&M Operating Inc
5. Charles Sode #1
6.
7. Perry OH
8. 8.0 million cubic feet
9. April 30, 1980
10. Newzane Gas Co

1. 80-30640
2. 34-133-22109-0014
3. 103 000 000
4. Viking Resources Corp
5. Foster #2
6.
7. Portage OH
8. 30.0 million cubic feet
9. April 30, 1980
10.

1. 80-30641
2. 34-169-22199-0014
3. 103 000 000
4. Amtex Oil and Gas Inc
5. Hatfield Well No 1 (Robert D & Kath)

6.
7. Wayne OH
8. 250.0 million cubic feet
9. April 30, 1980
10.

1. 80-30642
2. 34-167-24994-0014
3. 103 000 000
4. C W Riggs Inc
5. R Miller R Hall Unit #1
6. Reno Field
7. Wash OH
8. 10.0 million cubic feet
9. April 30, 1980
10.

1. 80-30643
2. 34-167-24933-0014
3. 103 000 000
4. L&M Operating Inc
5. Paul Lane #4
6.
7. Washington OH
8. 12.8 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp

1. 80-30644
2. 34-167-24917-0014
3. 103 000 000
4. C W Riggs Inc
5. Long-Hasley Unit #1
6. Reno Field
7. Wash OH
8. 13.5 million cubic feet
9. April 30, 1980
10.

1. 80-30645
2. 34-167-24817-0014
3. 103 000 000
4. L&M Operating Inc
5. Paul Lane #1
6.
7. Washington OH
8. 12.8 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp

1. 80-30646
2. 34-167-24780-0014
3. 103 000 000
4. C W Riggs Inc
5. Olive Sanford 2
6. Reno Field
7. Washington OH
8. 14.5 million cubic feet
9. April 30, 1980
10.

1. 80-30647
2. 34-167-24779-0014
3. 103 000 000
4. C W Riggs Inc
5. R Swarte #1
6. Reno Field
7. Washington OH
8. 13.9 million cubic feet
9. April 30, 1980
10.

1. 80-30648
2. 34-167-24590-0014
3. 103 000 000
4. L&M Operating Inc
5. James Bauerbach #2
6.
7. Washington OH
8. 12.8 million cubic feet
9. April 30, 1980
10. Gas Transport Inc

1. 80-30649
2. 34-167-24581-0014
3. 103 000 000
4. C W Riggs Inc
5. Kenneth Lane #1
6. Reno Field
7. Washington OH
8. 9.2 million cubic feet
9. April 30, 1980
10.

1. 80-30650
2. 34-167-24445-0014
3. 103 000 000
4. C W Riggs Inc
5. Wheeler Dearth #3
6. Reno Field
7. Washington OH
8. 31.0 million cubic feet
9. April 30, 1980
10.

1. 80-30651
2. 34-167-24444-0014
3. 103 000 000
4. C W Riggs Inc
5. Wheeler Dearth #2
6. Reno Field
7. Washington OH
8. 29.0 million cubic feet
9. April 30, 1980
10.

1. 80-30652
2. 34-167-24396-0014
3. 103 000 000
4. Lauderman Oil & Gas Drilling
5. Hazel G Edwards #1 well
6.
7. Washington OH
8. .0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp

1. 80-30653
2. 34-167-24241-0014
3. 103 000 000
4. C W Riggs Inc
5. J Jordan Unit #1
6. Reno Field
7. Washington OH
8. 5.5 million cubic feet
9. April 30, 1980
10.

1. 80-30654
2. 34-167-24228-0014
3. 103 000 000
4. C W Riggs Inc
5. R. Swartz #4
6. Reno Field
7. Washington OH
8. 3.7 million cubic feet
9. April 30, 1980
10.

1. 80-30655
2. 34-167-24226-0014
3. 103 000 000
4. C W Riggs Inc
5. R Swartz #2
6. Reno Field
7. Washington OH
8. 6.0 million cubic feet
9. April 30, 1980
10.

1. 80-30656
2. 34-167-23804-0014
3. 108 000 000
4. Winston Oil Co
5. Esther Boyer #2
6.
7. Washington OH
8. 8.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp

1. 80-30657
2. 34-165-23822-0014
3. 103 000 000
4. Lauderman Oil & Gas Drilling
5. Lewis Lang #1
6. Flemming
7. Warren OH
8. 225.0 million cubic feet
9. April 30, 1980
10. River Gas Co

1. 80-30658
2. 34-157-23452-0014
3. 103 000 000
4. William N Tipka
5. John-Butcher Unit #1
6.
7. Tuscarawas OH
8. 30.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp

1. 80-30659
2. 34-157-23451-0014
3. 103 000 000
4. William N Tipka
5. Charles Marlatt #1
6.
7. Tuscarawas OH
8. 30.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp

1. 80-30660
2. 34-157-23429-0014
3. 103 000 000
4. Floyd E Kimble
5. R Seikel #1
6.
7. Tuscarawas OH
8. 24.0 million cubic feet
9. April 30, 1980
10.

1. 80-30661
2. 34-157-23375-0014
3. 103 000 000
4. MB Operating Co Inc
5. T & F Felgenhauer U #1
6.
7. Tuscarawas OH
8. 18.3 million cubic feet
9. April 30, 1980
10. Republic Steel Corp, Columbia Gas Transmission Corp

1. 80-30662
2. 34-157-23365-0014
3. 103 000 000
4. Wayne Hammond
5. Lucille Uhl Unit No 1
6.
7. Tuscarawas OH
8. .0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp

1. 80-30663
2. 34-157-23353-0014
3. 103 000 000
4. MB Operating Co Inc
5. J & M Leatherman #3
6.
7. Tuscarawas OH
8. 36.5 million cubic feet
9. April 30, 1980

10. Republic Steel Corp, Columbia Gas Transmission
1. 80-30664
2. 34-157-23352-0014
3. 103 000 000
4. MB Operating Co Inc
5. Windsor U #2
6.
7. Tuscarawas OH
8. 25.6 million cubic feet
9. April 30, 1980
10. Republic Steel Corp, Columbia Gas Transmission
1. 80-30665
2. 34-157-23301-0014
3. 103 000 000
4. MB Operating Co Inc
5. R & J Burfield U #1
6.
7. Tuscarawas OH
8. 292.0 million cubic feet
9. April 30, 1980
10. Buckeye Franklin
1. 80-30666
2. 34-157-23289-0014
3. 103 000 000
4. MB Operating Co Inc
5. Markley Estate U #8
6.
7. Tuscarawas OH
8. 12.8 million cubic feet
9. April 30, 1980
10. Buckeye Franklin
1. 80-30667
2. 34-157-23233-0014
3. 103 000 000
4. Joe L Schrimsher
5. Renicker (Wallace) #1
6.
7. Tuscarawas OH
8. 20.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30668
2. 34-157-23153-0014
3. 103 000 000
4. Stocker & Sitler Inc
5. No 2 Sproul Unit
6.
7. Tuscarawas OH
8. 12.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30669
2. 34-157-23152-0014
3. 103 000 000
4. Stocker & Sitler Inc
5. No 1 Sproul Unit
6.
7. Tuscarawas OH
8. 8.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30670
2. 34-157-21700-0014
3. 108 000 000
4. H D Collins Trust
5. Insley #1
6.
7. Tuscarawas OH
8. 9.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30671
2. 34-157-21620-0014
3. 108 000 000
4. H D Collins Trust
5. Superior Clay #1
6.
7. Tuscarawas OH
8. 12.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30672
2. 34-157-21618-0014
3. 108 000 000
4. H D Collins Trust
5. Evans #2
6.
7. Tuscarawas OH
8. 5.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30673
2. 34-157-21514-0014
3. 108 000 000
4. The Mutual Oil & Gas Co
5. Ira G Reip #4
6.
7. Tuscarawas OH
8. 12.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30674
2. 34-157-21354-0014
3. 108 000 000
4. The Mutual Oil & Gas Co
5. W H Brug #1
6.
7. Tuscarawas OH
8. 15.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30675
2. 34-157-21171-0014
3. 108 000 000
4. The Mutual Oil & Gas Co
5. Lawver-Trapp Community #1
6.
7. Tuscarawas OH
8. 18.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30676
2. 34-155-21410-3001-4
3. 103 000 000
4. Ohio Oil & Gas Co
5. Timber Creek Estates #1
6.
7. Trumbull OH
8. 25.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp
1. 80-30677
2. 34-155-21092-0014
3. 103 000 000
4. Pyramid Oil & Gas Co
5. Matei Unit #1
6.
7. Trumbull OH
8. 20.0 million cubic feet
9. April 30, 1980
10.
1. 80-30678
2. 34-153-20788-0014
3. 103 000 000
4. Bartlo Oil & Gas Co
5. Spalding #1
6.
7. Summit OH
8. 20.0 million cubic feet
9. April 30, 1980
10. Libbey-Owens-Ford Co
1. 80-30679
2. 34-153-20720-0014
3. 103 000 000
4. POI Energy Inc
5. Cline #1
6.
7. Summit OH
8. 3.8 million cubic feet
9. April 30, 1980
10.
1. 80-30680
2. 34-153-20716-0014
3. 103 000 000
4. POI Energy Inc
5. Olson #1
6.
7. Summit OH
8. 30.0 million cubic feet
9. April 30, 1980
10.
1. 80-30681
2. 34-153-20711-0014
3. 103 000 000
4. POI Energy Inc
5. Fortuna #2
6.
7. Summit OH
8. 30.0 million cubic feet
9. April 30, 1980
10.
1. 80-30682
2. 34-153-20693-0014
3. 103 000 000
4. POI Energy Inc
5. Luther #3
6.
7. Summit OH
8. 15.0 million cubic feet
9. April 30, 1980
10.
1. 80-30683
2. 34-153-20682-0014
3. 103 000 000
4. POI Energy Inc
5. Case #4
6.
7. Summit OH
8. 30.0 million cubic feet
9. April 30, 1980
10.
1. 80-30684
2. 34-151-23135-0014
3. 103 000 000
4. Viking Resources Corp
5. Thompson Unit #2
6.
7. Stark OH
8. 30.0 million cubic feet
9. April 30, 1980
10.
1. 80-30685
2. 34-031-23637-0014
3. 103 000 000
4. Elkhead Gas & Oil Co
5. Mumaw #1
6.
7. Coshocton OH
8. 50.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp
1. 80-30686

2. 34-019-21282-0014
3. 103 000 000
4. MB Operating Co Inc
5. L & A Bettinger U #1
6.
7. Carroll OH
8. 11.0 million cubic feet
9. April 30, 1980
10. Republic Steel Corp, Columbia Gas Transmission

1. 80-30687
2. 34-019-21279-0014
3. 103 000 000
4. MB Operating Co Inc
5. L Toole U #1
6.
7. Carroll OH
8. 9.1 million cubic feet
9. April 30, 1980
10. Republic Steel Corp, Columbia Gas Transmission

1. 80-30688
2. 34-019-21271-0014
3. 103 000 000
4. MB Operating Co Inc
5. L Burt Jr U #1
6.
7. Carroll Oh
8. 3.7 million cubic feet
9. April 30, 1980
10. Republic Steel Corp, Columbia Gas Transmission

1. 80-30689
2. 34-019-21259-0014
3. 103 000 000
4. L&M Petroleum
5. Conotton Land Co #4
6.
7. Carroll OH
8. 1.5 million cubic feet
9. April 30, 1980
10. Bonanza Gas Line

1. 80-30690
2. 34-019-21145-0014
3. 103 000 000
4. L&M Operating
5. Otte #6
6.
7. Carroll OH
8. 2.0 million cubic feet
9. April 30, 1980
10. Bonanza Gas Line

1. 80-30691
2. 34-007-21291-0014
3. 103 000 000
4. Giant Petroleum Corp
5. Frank & Jennie Gorjanc Unit Well #1
6.
7. Ashtabula OH
8. 20.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co

1. 80-30692
2. 34-007-21282-0014
3. 103 000 000
4. Giant Petroleum Corp
5. F & J Gorjanc Unit Well 2
6.
7. Ashtabula OH
8. 20.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co

1. 80-30693
2. 34-007-21272-0014
3. 103 000 000
4. Giant Petroleum Corp
5. G & H Thullen-Unit-Well 1
6.
7. Ashtabula OH
8. 20 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co

1. 80-30694
2. 34-007-21226-0014
3. 103 000 000
4. POI Energy Inc
5. Wesolowski #1
6.
7. Ashtabula OH
8. 20.0 million cubic feet
9. April 30, 1980
10.

1. 80-30695
2. 34-007-21116-0014
3. 103 000 000
4. POI Energy Inc
5. Brass #1
6.
7. Ashtabula OH
8. 45.0 million cubic feet
9. April 30, 1980
10.

1. 80-30696
2. 34-007-21084-0014
3. 103 000 000
4. POI Energy Inc
5. RHOA #2
6.
7. Ashtabula OH
8. 5.0 million cubic feet
9. April 30, 1980
10.

1. 80-30697
2. 34-007-21081-0014
3. 103 000 000
4. POI Energy Inc
5. RHOI #1
6.
7. Ashtabula OH
8. 5.0 million cubic feet
9. April 30, 1980
10.

1. 80-30698
2. 34-031-23303-0014
3. 102 000 000
4. Jerry Moore Inc
5. R Martin Daugherty No 2
6. Keene
7. Coshocton OH
8. 10.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp, Columbia Gas Transmission

1. 80-30699
2. 34-031-23078-0014
3. 102 000 000
4. Jerry Moore Inc
5. Ben V Beachy Unit #1
6. Keene
7. Coshocton OH
8. 5.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp

1. 80-30700
2. 34-031-23246-0014
3. 102 000 000
4. Jerry Moore Inc
5. John C Eberly Well #1
6. Keene
7. Coshocton OH
8. 7.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp, Columbia Gas Transmission

1. 80-30701
2. 34-031-23128-0014
3. 102 000 000
4. Jerry Moore Inc
5. R Martin Daugherty Unit #1
6. Keene
7. Coshocton OH
8. 8.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp, Columbia Gas Transmission

1. 80-30702
2. 34-031-23264-0014
3. 102 000 000
4. Jerry Moore Inc
5. Richard Gilmore #1
6. Keene
7. Coshocton OH
8. 8.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp, Columbia Gas Transmission Corp

1. 80-30703
2. 34-031-23307-0014
3. 102 000 000
4. Jerry Moore Inc
5. Richard Gilmore Unit #1
6. Keene
7. Coshocton OH
8. 6.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp, Columbia Gas Transmission

1. 80-30704
2. 34-031-23176-0014
3. 102 000 000
4. Jerry Moore Inc
5. Jerry P Nini Unit #1
6. Keene
7. Coshocton OH
8. 7.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp, Columbia Gas Transmission

1. 80-30705
2. 34-099-20137-0014
3. 108 000 000
4. Odessa Natural Corp
5. Ring No 1
6.
7. Mahoning OH
8. 9.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co

1. 80-30706
2. 34-099-20134-0014
3. 108 000 000
4. Odessa Natural Corp
5. Carver No 1
6.
7. Mahoning OH
8. 1.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co

1. 80-30707
2. 34-099-20123-0014
3. 108 000 000
4. Odessa Natural Corp
5. Brenner No 1
6.
7. Mahoning OH

8. 16.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30708
2. 34-089-23612-0014
3. 103 000 000
4. Guy Sitler
5. No 1 Joan Sitler
6.
7. Licking OH
8. 146.0 million cubic feet
9. April 30, 1980
10.
1. 80-30709
2. 34-081-20413-0014
3. 103 000 000
4. Amtex Oil & Gas Inc
5. Grable Well No 1
6.
7. Jefferson OH
8. 250.0 million cubic feet
9. April 30, 1980
10.
1. 80-30710
2. 34-075-22320-0014
3. 103 000 000
4. Rowley & Brown Petroleum Corp
5. Brumme #2
6.
7. Holmes OH
8. 67.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp
1. 80-30711
2. 34-075-22306-0000
3. 103 000 000
4. Rowley & Brown Petroleum Corp
5. Hickory Lake #2
6.
7. Holmes OH
8. 64.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp
1. 80-30712
2. 34-075-22300-1400
3. 103 000 000
4. Wenner Petroleum Corp
5. Andy J Mast No 1
6. Holmesville Field
7. Holmes OH
8. 54.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp
1. 80-30713
2. 34-075-22221-0014
3. 103 000 000
4. W H Patten Drilling Co
5. Gloria Miller #1
6. Hardy Township
7. Holmes OH
8. 5.0 million cubic feet
9. April 30, 1980
10.
1. 80-30714
2. 34-073-22243-0014
3. 103 000 000
4. Callander & Kimbrel Inc
5. C & R Myers #1
6.
7. Hocking OH
8. 7.0 million cubic feet
9. April 30, 1980
10.
1. 80-30715
2. 34-067-20366-0014
3. 103 000 000
4. Red Hill Development
5. R Heil #1
6.
7. Harrison OH
8. 30.0 million cubic feet
9. April 30, 1980
10.
1. 80-30716
2. 34-067-20358-0014
3. 103 000 000
4. Stocker & Sitler Inc
5. No 1 Wells Unit
6.
7. Harrison OH
8. 9.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30717
2. 34-067-20357-0014
3. 103 000 000
4. Stocker & Sitler Inc
5. No 1 Bond Lease
6.
7. Harrison OH
8. 42.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30718
2. 34-067-20356-0014
3. 103 000 000
4. Stocker & Sitler Inc
5. No 1 Sayre Lease
6.
7. Harrison OH
8. 15.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30719
2. 34-059-22682-0014
3. 103 000 000
4. Partners Oil Co
5. #1-79C MEWHA
6.
7. Guernsey OH
8. 100.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp
1. 80-30720
2. 34-059-22586-0014
3. 103 000 000
4. Stocker & Sitler Inc
5. No 2 Emery Unit
6.
7. Guernsey OH
8. 10.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30721
2. 34-059-22585-0014
3. 103 000 000
4. Stocker & Sitler Inc
5. No 2 Perdue Unit
6.
7. Guernsey OH
8. 35.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30722
2. 34-059-22584-0014
3. 103 000 000
4. Stocker & Sitler Inc
5. No 1 Paden Lease
6.
7. Guernsey OH
8. 16.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30723
2. 34-059-22422-0014
3. 103 000 000
4. Stocker & Sitler Inc
5. No 1 R Bertine Lease
6.
7. Guernsey OH
8. 45.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30724
2. 34-059-21534-0014
3. 108 000 000
4. Tiger Oil Inc
5. Marshall #1
6.
7. Guernsey OH
8. 7.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30725
2. 34-059-21216-0014
3. 108 000 000
4. Tiger Oil Inc
5. Israel #2
6.
7. Guernsey OH
8. 6.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30726
2. 34-059-21150-0014
3. 108 000 000
4. Tiger Oil Inc
5. Israel #1
6.
7. Guernsey OH
8. 6.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30727
2. 34-059-21111-0014
3. 108 000 000
4. Tiger Oil Inc
5. Kahn #3
6.
7. Guernsey OH
8. 3.5 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30728
2. 34-059-21110-0014
3. 108 000 000
4. Tiger Oil Inc
5. Kahn #2
6.
7. Guernsey OH
8. 4.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30729
2. 34-059-21052-0014
3. 108 000 000
4. Noble Gas Co
5. Roberts Clyde #2
6.
7. Guernsey OH
8. 6.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30730

2. 34-059-21007-0014
3. 108 000 000
4. Tiger Oil Inc
5. Secrest #1
6.
7. Guernsey OH
8. 19.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co

1. 80-30731
2. 34-059-20957-0014
3. 108 000 000
4. Tiger Oil Inc
5. Kahn #1
6.
7. Guernsey OH
8. 4.0 million cubic feet
9. March 19, 1980
10. East Ohio Gas Co

1. 80-30732
2. 34-055-20299-0014
3. 103 000 000
4. Collins-McGregor Operating Co
5. P & B Braff #1
6.
7. Geauga OH
8. 18.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co

1. 80-30733
2. 34-045-20620-0014
3. 103 000 000
4. Hortin & Huffman
5. John K & Mary E Schmelzer #2
6.
7. Fairfield OH
8. 10.0 million cubic feet
9. April 30, 1980
10. National Gas & Oil Corp

1. 80-30734
2. 34-045-20619-0014
3. 103 000 000
4. Hortin & Huffman
5. John K & Mary E Schmelzer #1
6.
7. Fairfield OH
8. 10.0 million cubic feet
9. April 30, 1980
10. National Gas & Oil Corp

1. 80-30736
2. 34-031-23758-0014
3. 103 000 000
4. Bill D Vaught DBA Vaught Oil Co
5. Grey-Homes Limestone Co #1
6.
7. Coshocton OH
8. 1.5 million cubic feet
9. April 30, 1980
10. Columbia Gas Trans Corp

1. 80-30737
2. 34-131-23661-0000
3. 103 000 000
4. W E Shrider Co
5. Robert Sager #1
6.
7. Coshocton OH
8. 3.0 million cubic feet
9. April 30, 1980
10. National Gas & Oil Corp

1. 80-30738
2. 34-031-23757-0014
3. 103 000 000
4. Bill D Vaught d.b.a. Vaught Oil Co
5. Williamson-Holmes Limestone Co #1
6.
7. Coshocton OH
8. 1.5 million cubic feet
9. April 30, 1980
10.

1. 80-30739
2. 34-115-20300-0140
3. 103 000 000
4. The Benatty Corp
5. W McDaniel #1
6.
7. Morgan OH
8. 25.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co

1. 80-30740
2. 34-115-22011-0014
3. 102 000 000
4. Oneal Productions Inc
5. M Sears #1
6.
7. Morgan OH
8. 40.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp

1. 80-30741
2. 34-115-22010-0014
3. 102 000 000
4. Oneal Productions Inc
5. M Sears #2
6.
7. Morgan OH
8. 20.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp

1. 80-30742
2. 34-115-21980-0014
3. 103 000 000
4. The Benatty Corp
5. C Moore #3
6.
7. Morgan OH
8. 25.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co

1. 80-30743
2. 34-115-21924-0014
3. 102 000 000
4. Oneal Productions Inc
5. Patterson #1
6.
7. Morgan OH
8. 20.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp

1. 80-30744
2. 34-115-21765-0014
3. 103 000 000
4. The Benatty Corp
5. K Robinson #1
6.
7. Morgan OH
8. 25.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co

1. 80-30745
2. 34-115-21720-0014
3. 102 000 000
4. Oneal Productions Inc
5. Walter Wortman #1
6.
7. Morgan OH
8. 15.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp

1. 80-30746
2. 34-115-21702-0014
3. 102 000 000
4. Oneal Productions Inc
5. J F Hill #1
6.
7. Morgan OH
8. 20.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp

1. 80-30747
2. 34-115-21643-0014
3. 102 000 000
4. Oneal Productions Inc
5. Paul Childs #2
6.
7. Morgan OH
8. 120.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp

1. 80-30748
2. 34-115-21610-0014
3. 103 000 000
4. Dusty Drilling Co Inc
5. Price #1
6.
7. Morgan OH
8. 1.3 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp

1. 80-30749
2. 34-115-21578-0014
3. 102 000 000
4. Oneal Productions Inc
5. Wm H Barnett #1
6.
7. Morgan OH
8. 20.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp

1. 80-30750
2. 34-115-21256-0014
3. 108 000 000
4. NOble Gas Co
5. Reed Roxie #1
6.
7. Morgan OH
8. 22.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co

1. 80-30751
2. 34-111-21967-0014
3. 103 000 000
4. Lauderman Oil & Gas Drilling
5. Norman Andor #1 Well
6.
7. Monroe OH
8. 11.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp

1. 80-30752
2. 34-111-21942-0014
3. 103 000 000
4. Washington Energy Ltd
5. USA #2
6.
7. Monroe OH
8. 25.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp

1. 80-30753
2. 34-111-21927-0014
3. 103 000 000
4. Hopewell Oil & Gas Dev Co
5. Leroy Hanson #1
6.

7. Monroe OH
8. .0 million cubic feet
9. April 30, 1980
10.
1. 80-30754
2. 34-105-21902-0014
3. 103 000 000
4. Kramer Exploration Co
5. Kramer Exploration Co #1 Carper
6. Not Named
7. Meigs OH
8. 3.6 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp
1. 80-30755
2. 34-103-21762-0014
3. 103 000 000
4. R M McMillen
5. Stone Well No 5
6.
7. Medina OH
8. 21.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30756
2. 34-103-21760-0014
3. 103 000 000
4. R M McMillen
5. Stone Well No 4
6.
7. Medina OH
8. 21.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30757
2. 34-103-21729-0014
3. 103 000 000
4. R M McMillen
5. Stone Well No 3
6.
7. Medina OH
8. 21.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30758
2. 34-103-21720-0014
3. 103 000 000
4. R M McMillen
5. Stone Well No 2
6.
7. Medina OH
8. 21.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30759
2. 34-103-21696-0014
3. 103 000 000
4. Northeastern Energy
5. Stone Well No 1
6.
7. Medina OH
8. 21.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30760
2. 34-103-21665-0014
3. 103 000 000
4. Northeastern Energy
5. Hinkle Well No 1
6.
7. Medina OH
8. 21.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30761
2. 34-099-21057-0014
3. 103 000 000
4. Weston Petroleum Inc
5. Kostoglou #1
6.
7. Mahoning OH
8. 25.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30762
2. 34-099-20654-0014
3. 108 000 000
4. Odessa Natural Corp
5. Ring No 3
6.
7. Mahoning OH
8. 16.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30763
2. 34-099-20652-0014
3. 108 000 000
4. Odessa Natural Corp
5. Herren No 5
6.
7. Mahoning OH
8. 19.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30764
2. 34-099-20284-0014
3. 108 000 000
4. Noble Gas Co
5. Centofanti James #2
6.
7. Mahoning OH
8. 15.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30765
2. 34-099-20185-0014
3. 108 000 000
4. Odessa Natural Corp
5. Smith No 1
6.
7. Mahoning OH
8. 4.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30766
2. 34-099-20172-0014
3. 108 000 000
4. Odessa Natural Corp
5. Herren No 4
6.
7. Mahoning OH
8. 9.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30767
2. 34-099-20169-0014
3. 108 000 000
4. Odessa Natural Corp
5. Fox No 1
6.
7. Mahoning OH
8. 10.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30768
2. 34-099-20166-0014
3. 108 000 000
4. Odessa Natural Corp
5. Herren No 3
6.
7. Mahoning OH
8. 14.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30769
2. 34-099-20155-0014
3. 108 000 000
4. Odessa Natural Corp
5. L Belin No 1
6.
7. Mahoning OH
8. 8.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30770
2. 34-099-20153-0014
3. 108 000 000
4. Odessa Natural Corp
5. Woolman No 1
6.
7. Mahoning OH
8. 4.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30771
2. 34-099-20141-0014
3. 108 000 000
4. Odessa Natural Corp
5. Hubbard No 1
6.
7. Mahoning OH
8. 12.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30772
2. 34-007-20111-0014
3. 108 000 000
4. Flanigan Brothers
5. Mary J Adamski No 1
6.
7. Ashtabula OH
8. 5.0 million cubic feet
9. April 30, 1980
10. East Ohio Gas Co
1. 80-30773
2. 34-031-23499-0014
3. 102 000 000
4. Jerry Moore Inc
5. Alvin Staufer No 1
6. Keene
7. Coshocton OH
8. 5.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp
1. 80-30774
2. 34-031-23520-0014
3. 102 000 000
4. Jerry Moore Inc
5. William Osborne No 1
6. Keene
7. Coshocton OH
8. 6.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp
1. 80-30775
2. 34-031-23473-0014
3. 102 000 000
4. Jerry Moore Inc
5. Oatie Kise Unit No 1
6. Keene
7. Coshocton OH
8. 8.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp
1. 80-30776

2. 34-031-23274-0014
3. 102 000 000
4. Jerry Moore Inc
5. Huber A Brenly Unit No 2
6. Keene
7. Coshocton OH
8. 6.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp

1. 80-30777
2. 34-031-23337-0014
3. 102 000 000
4. Jerry Moore Inc
5. Margaret W Roemer No 2
6. Keene
7. Coshocton OH
8. 6.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp

1. 80-30778
2. 34-031-23333-0014
3. 102 000 000
4. Jerry Moore Inc
5. Margaret W Roemer No 1
6. Keene
7. Coshocton OH
8. 10.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp

1. 80-30779
2. 34-031-23279-0014
3. 102 000 000
4. Jerry Moore Inc
5. Nellie M Miller No 1-16
6. Keene
7. Coshocton OH
8. 10.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp

1. 80-30780
2. 34-031-23278-0014
3. 102 000 000
4. Jerry Moore Inc
5. Eddie Schrader Unit No 1
6. Keene
7. Coshocton OH
8. 6.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp

1. 80-30781
2. 34-075-21757-0014
3. 108 000 000
4. William F Hill
5. Warren Massie No 1-A
6.
7. Holmes OH
8. .0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp

Oklahoma Corporation Commission

1. Control number (FERC/State)
2. API well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimate annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-29003/034484
2. 35-093-00000-0000
3. 103 000 000
4. Warren Drilling Co Inc.
5. Specht #1
6.
7. Major, OK
8. 50.0 million cubic feet
9. May 8, 1980
10. Phillips Petroleum Co.

1. 80-30433/01984
2. 35-071-00000-0000
3. 102 103 000
4. Unit Operations
5. School Land Gas Unit No 1
6. Dilworth
7. Kay, OK
8. 8.0 million cubic feet
9. April, 30 1980
10. Cities Service Gas Co.

1. 80-30502/02706
2. 35-007-00000-0000
3. 108 000 000
4. Samson Resources Co
5. Dillion Lonker No 1
6. Mocane-LaVerne
7. Beaver, OK
8. 19.0 million cubic feet
9. April, 30 1980
10. Cities Service Gas Co.

1. 80-30503/02705
2. 35-007-20206-0000
3. 108 000 000
4. Samson Resources Co
5. Barby Unit No 1-19
6. Mocane
7. Beaver, OK
8. 13.3 million cubic feet
9. April, 30 1980
10. Michigan Wisconsin Pipe Line Co.

1. 80-30504/03392
2. 35-059-00000-0000
3. 102 000 000
4. Kennedy & Mitchell Inc
5. Best #16-311
6. (C NE 16-27N-23W)
7. Harper, OK
8. 33.0 million cubic feet
9. April, 30 1980
10. Northern Gas Co.

1. 80-30505/03477
2. 35-009-20264-0000
3. 103 000 000
4. Apache Corp
5. Potter State #1-20
6.
7. Beckham County, OK
8. 730.0 million cubic feet
9. April, 30 1980
10. Michigan Wisconsin Pipeline Co.

1. 80-30506/03477
2. 35-009-20264-0000
3. 102 000 000
4. Apache Corp
5. Potter State #1-20
6. Carpenter West (Morrow)
7. Beckham, OK
8. 730.0 million cubic feet
9. April, 30 1980
10. Michigan Wisconsin Pipeline Co.

1. 80-30507/06599
2. 35-015-20836-0000
3. 107 000 000
4. Ricks Exploration Co
5. State 1-13
6. Laverty
7. Caddo, OK
8. 2860.0 million cubic feet
9. April, 30 1980
10. Michigan Wisconsin Pipe Line Co.

1. 80-30508/03417
2. 35-009-20267-0000
3. 103 000 000
4. Cap Oil Co
5. Meador No 1
6. South Erick Field Area
7. Beckham, OK
8. 30.0 million cubic feet
9. April, 30 1980
10. El Paso Natural Gas Co.

1. 80-30509/03476
2. 35-007-21596-0000
3. 103 000 000
4. Elder & Vaughn
5. Russell #1
6. Mocane (Chester-Pool No 95)
7. Beaver, OK
8. 250.0 million cubic feet
9. April, 30 1980
10. Northern Natural Gas Co.

1. 80-30510/03416
2. 35-009-20263-0000
3. 103 000 000
4. Cap Oil Co
5. White No 2
6. South Erick Field Area
7. Beckham, OK
8. 18.0 million cubic feet
9. April, 30 1980
10. El Paso Natural Gas Co.

1. 80-30511/03413
2. 35-139-21121-0000
3. 103 000 000
4. Anadarko Production Co
5. Bonner A No 2 Well
6. South Hough
7. Texas, OK
8. 218.0 million cubic feet
9. April, 30 1980
10. Phillips Petroleum Co.

1. 80-30512/03478
2. 35-039-00000-0000
3. 103 000 000
4. Ferguson Oil & Gas Co Inc
5. Elaine #1
6. Anthon
7. Custer, OK
8. 200.0 million cubic feet
9. April, 30 1980
10. Michigan-Wisconsin Pipe Line Co.

1. 80-30513/03410
2. 35-019-21864-0000
3. 103 000 000
4. Jones & Pellow Oil Co
5. Keith #34-1
6.
7. Carter, OK
8. 50.0 million cubic feet
9. April, 30 1980
10. Aminoil USA Inc.

1. 80-30514/03039
2. 35-043-20073-0000
3. 108 000 000
4. Kirkpatrick Oil Co
5. Zieber #1
6. South Taloga
7. Dewey, OK
8. 16.0 million cubic feet
9. April, 30 1980
10. Pan Handle Eastern Pipeline Co.

1. 80-30515/02809
2. 35-019-30059-0000
3. 108 000 000

4. Amoco Production Co
5. Simpson-Fell Oil Company #1
6. Southwest Sholem Alechem
7. Carter, OK
8. 12.0 million cubic feet
9. April, 30 1980
10. Aminol USA Inc.
1. 80-30516/02555
2. 35-081-00000-0000
3. 108 000 000
4. Royal Oil & Gas Corp
5. Dennis English Unit #2
6. Lincreek
7. Lincoln, OK
8. 11.5 million cubic feet
9. April, 30 1980
10. Kerr-McGee Corp.
1. 80-30517/02731
2. 35-109-00000-0000
3. 108 000 000
4. Preston Carter Drilling Co
5. Maggie Perkins #1
6. Wildcat
7. Oklahoma City, OK
8. 17.1 million cubic feet
9. April, 30 1980
10. Champlin Petroleum Co.
1. 80-30518/03405
2. 35-047-21823-0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. Hollar #1
6. Sooner
7. Garfield, OK
8. 94.0 million cubic feet
9. April, 30 1980
10.
1. 80-30519/02633
2. 35-007-21540-0000
3. 103 000 000
4. H & L Operating Co
5. Miller-Paasch #1
6. Mocane Morrow
7. Beaver, OK
8. .0 million cubic feet
9. April, 30 1980
10. Northern Natural Gas Co.; Michigan-Wisconsin Pipeline Co:
1. 80-30520/03135
2. 35-129-20348-0000
3. 103 000 000
4. Helmerich & Payne Inc
5. State 2-10 Unit No 1
6. West Cheyenne
7. Roger Mills, OK
8. 730.0 million cubic feet
9. April, 30 1980
10. Michigan Wisconsin Pipeline Co.
1. 80-30521/03281
2. 35-047-21643-0000
3. 103 000 000
4. Arco Oil and Gas Co
5. Dick Toedtman #2
6. Sooner Trend
7. Garfield, OK
8. 18.2 million cubic feet
9. April, 30 1980
10.
1. 80-30522/00621
2. 35-007-21476-0000
3. 103 000 000
4. Natural Gas Anadarko Inc
5. McDaniel-Cates #1-32
6. Mocane LaVerne
7. Beaver, OK
8. 30.0 million cubic feet
9. April, 30 1980
10. Northern Natural Gas Company
1. 80-30523/02061
2. 35-063-20768-0000
3. 103 000 000
4. W D Newsom and Associates
5. Meadors No 1-36
6. West Wetumka
7. Hughes, OK
8. 182.0 million cubic feet
9. April, 30 1980
10. Public Service Co of Oklahoma
1. 80-30524/03470
2. 35-093-21607-0000
3. 103 000 000
4. Heston Oil Co
5. Frank No 7-1
6. Sooner Trend
7. Major, OK
8. 36.5 million cubic feet
9. April, 30 1980
10. Oklahoma Natural Gas Gathering Corp.
1. 80-30525/03471
2. 35-007-21598-0000
3. 103 000 000
4. Mewbourne Oil Co
5. Jines #1 21923-1
6. Como (Upper Morrow)
7. Beaver, OK
8. 132.0 million cubic feet
9. April, 30 1980
10. Phillips Petroleum Co.
1. 80-30539/02501
2. 35-007-00000-0000
3. 102 000 000
4. Lear Petroleum Corp
5. Naylor No 1
6. So Balko
7. Beaver, OK
8. 7.3 million cubic feet
9. May 1, 1980
10. Northern Natural Gas Co.
1. 80-30540/01045
2. 35-137-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Baker-B #4
6. S E Doyle
7. Stephens, OK
8. .6 million cubic feet
9. May 1, 1980
10. Aminoil USA Inc.
1. 80-30541/01499
2. 35-051-20618-0000
3. 102 000 000
4. Hadson Ohio Oil Co
5. Lantz-Moss #1-5
6. Pocassett Field
7. Grady, OK
8. 61.0 million cubic feet
9. May 1, 1980
10. Oklahoma Gas & Electric Co.
1. 80-30542/03141
2. 35-017-21157-0000
3. 102 000 000
4. Key Operating Co Inc
5. Musshafen #1
6. SW El Reno
7. Canadian OK
8. 400.0 million cubic feet
9. May 1, 1980
10. Michigan Wisconsin Pipe Line Co
1. 80-30543/02395
2. 35-111-00000-0000
3. 108 000 000
4. Lester Daniels
5. Daniels #1
6.
7. Okmulgee OK
8. 11.0 million cubic feet
9. May 1, 1980
10. Phillips Petroleum Co
1. 80-30544/02713
2. 35-111-00000-0000
3. 108 000 000
4. James C Meade
5. Hudson #1-31
6. Virginia
7. Okmulgee OK
8. 5.0 million cubic feet
9. May 1, 1980
10. Oklahoma Natural Gas Co
1. 80-30545/03129
2. 35-137-00000-0000
3. 108 000 000
4. Arco Oil & Gas Company
5. Beulah A Warden #6
6. Sho-Vel-Tum
7. Stephens OK
8. 12.0 million cubic feet
9. May 1, 1980
10. Getty Oil Co
1. 80-30546/03133
2. 35-045-20424-0000
3. 108 000 000
4. Premier Resources Ltd
5. Hardy B041
6.
7. Ellis OK
8. 15.4 million cubic feet
9. May 1, 1980
10. Northern Natural Gas Co
1. 80-30547/03012
2. 35-139-20278-0000
3. 108 000 000
4. Decalta International Corp
5. Craver #1 00183270500380
6. Tyrone
7. Texas OK
8. 14.0 million cubic feet
9. May 1, 1980
10. Kansas-Nebraska Natural Gas Co Inc
1. 80-30548/03370
2. 35-059-00000-0000
3. 102 000 000
4. Kennedy & Mitchell Inc
5. Lauer #18-301
6. Undesignated Field (C SE 9-27N-23W)
7. Harper OK
8. 360.0 million cubic feet
9. May 1, 1980
10. Northern Natural Gas Co
1. 80-30549/03057
2. 35-051-20781-0000
3. 103 000 000
4. An-Son Corp
5. Coleman #1-14
6. Coleman #1-14
7. Caddo OK
8. 548.0 million cubic feet
9. May 1, 1980
10. Arkansas-Louisiana Gas Co
1. 80-30550/03127
2. 35-017-21041-0000
3. 103 000 000
4. Donald C Slawson Oil Producer
5. Feddersen B #1
6. Watonga Trend

7. Canadian OK
8. 2750.0 million cubic feet
9. May 1, 1980
10. Michigan Wisconsin Pipe Line Co; Transok Pipeline Co

1. 80-30551/02974
2. 35-085-20272-0000
3. 103 000 000
4. Lincoln Rock Corp
5. Draughn #1
6. Northeast Marietta
7. Love OK
8. 15.0 million cubic feet
9. May 1, 1980
10. Cimarron Transmission Co

1. 80-30552/03140
2. 35-017-20938-0000
3. 102 000 000
4. Nova Energy Corp
5. Petree #1-17
6.
7. Canadian OK
8. 300.0 million cubic feet
9. May 1, 1980
10. Michigan Wisconsin Pipe Line Co

1. 80-30553/02249
2. 35-059-00000-0000
3. 102 000 000
4. Kennedy & Mitchell Inc
5. Mayberry #13-130
6. Undesignated Field (NE NW 19-27N-20)
7. Harper OK
8. 200.0 million cubic feet
9. May 1, 1980
10. Northern Natural Gas Co

1. 80-30554/02251
2. 35-059-00000-0000
3. 102 000 000
4. Kennedy & Mitchell Inc
5. Annis #10-105
6. Undesignated Field (NW SW 33-27N-21)
7. Harper OK
8. 24.0 million cubic feet
9. May 1, 1980
10. Michigan Wisconsin Pipeline Co

1. 80-30555/03492
2. 35-073-22188-0000
3. 103 000 000
4. Hamm Production Co
5. Lillibridge #1
6. Sooner Trend
7. Kingfisher OK
8. 250.0 million cubic feet
9. May 1, 1980
10. Phillips Petroleum Co

1. 80-30556/02252
2. 35-059-00000-0000
3. 102 000 000
4. Kennedy & Mitchell Inc
5. Weaver #14-104
6. Undesignated Field (SW SW 28-27N-21)
7. Harper OK
8. 300.0 million cubic feet
9. May 1, 1980
10. Northern Natural Gas Co

1. 80-30557/02256
2. 35-059-00000-0000
3. 102 000 000
4. Kennedy & Mitchell Inc
5. Epp #14-143
6. Undesignated Field (C NW 15-27N-23W)
7. Harper OK
8. 160.0 million cubic feet
9. May 1, 1980
10. Northern Natural Gas Co

1. 80-30558/02259
2. 35-059-00000-0000
3. 102 000 000
4. Kennedy & Mitchell Inc
5. Proctor #15-100
6. Undesignated Field (C SE 35-28N-23W)
7. Harper OK
8. 160.0 million cubic feet
9. May 1, 1980
10. Northern Natural Gas Co

1. 80-30559/01052
2. 35-049-50407-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Hart Unit No 01-28
6. Golden Trend
7. Garvin OK
8. 3.4 million cubic feet
9. May 1, 1980
10. Warren Petroleum Corp

1. 80-30560/03465
2. 35-051-20811-0000
3. 102 000 000
4. Samson Resources Co
5. Humphrey Heirs Unit No 1
6. S W Pocasset
7. Grady OK
8. 820.0 million cubic feet
9. May 1, 1980
10. Arkansas Louisiana Gas Co; Cities Service Gas Co

1. 80-30561
2. 35-137-30756-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Doyle 2-1
6. W Doyle
7. Stephens OK
8. 12.0 million cubic feet
9. May 1, 1980
10. Aminoil USA

Tennessee Oil and Gas Board, Division of Geology

1. Control Number (FERC/State)
2. API Well Number
3. Section NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-30526/A-298
2. 41-129-20526-0000
3. 102 000 000
4. Cumberland Oil Producing Co Inc
5. Whitehead Et Al #1
6. Glades East
7. Morgan TN
8. 10.0 million cubic feet
9. May 1, 1980
10. East Tennessee Natural Gas Co

1. 80-30527/A-329
2. 41-031-20007-0000
3. 102 000 000
4. Cumberland Oil Producing Co Inc
5. W C Cunningham Unit #1
6. Hickory Creek
7. Coffee TN
8. 10.0 million cubic feet
9. May 1, 1980
10.

1. 80-30528/A-328
2. 41-031-20008-0000
3. 102 000 000
4. Cumberland Oil Producing Co Inc
5. Simon Roberts Unit #1
6. Hickory Creek
7. Coffee TN
8. 10.0 million cubic feet
9. May 1, 1980
10.

1. 80-30529/A-327
2. 41-129-20454-0000
3. 102 000 000
4. Cumberland Oil Producing Co Inc
5. Ralph Pemberton-D Lavender #1
6. Douglas Branch
7. Morgan TN
8. 10.0 million cubic feet
9. May 1, 1980
10. East Tennessee Natural Gas Co

1. 80-30530/A-326
2. 41-129-20556-0000
3. 102 000 000
4. Cumberland Oil Producing Co Inc
5. O Cole #2
6. Douglas Branch
7. Morgan TN
8. 10.0 million cubic feet
9. May 1, 1980
10. East Tennessee Natural Gas Co

1. 80-30531/A-325
2. 41-031-20005-0000
3. 102 000 000
4. Cumberland Oil Producing Co Inc
5. Carl Millraney #1
6. Hickory Creek
7. Coffee TN
8. 10.0 million cubic feet
9. May 1, 1980
10.

1. 80-30532/A-324
2. 41-031-20006-0000
3. 102 000 000
4. Cumberland Oil Producing Co Inc
5. Blanton Sain #1
6. Hickory Creek
7. Coffee TN
8. 10.0 million cubic feet
9. May 1, 1980
10.

1. 80-30533/A-323
2. 41-031-20004-0000
3. 102 000 000
4. Cumberland Oil Producing Co Inc
5. Dick Spears #1
6. Hickory Creek
7. Coffee TN
8. 10.0 million cubic feet
9. May 1, 1980
10.

1. 80-30534/A-322
2. 41-031-20003-0000
3. 102 000 000
4. Cumberland Oil Producing Co Inc
5. Edgar Spears #1
6. Hickory Creek
7. Coffee TN
8. 10.0 million cubic feet
9. May 1, 1980
10.

1. 80-30535/A-321
2. 41-129-20002-0000
3. 102 000 000
4. Cumberland Oil Producing Co Inc
5. D Beasley #1
6. Hickory Creek

7. Coffee TN
8. 10.0 million cubic feet
9. May 1, 1980
10.

1. 80-30536/A-318
2. 41-133-20063-0000
3. 102 000 000
4. Lowell E Baxter
5. W J Smith #1
6. Flatt Creek Field
7. Overton TN
8. 7.3 million cubic feet
9. May 1, 1980
10.

1. 80-30537/A-334
2. 41-049-20306-0000
3. 103 000 000
4. S Thomas Burnett
5. Est of Bruno Gernt #3
6. Big Branch
7. Fentress TN
8. 5.0 million cubic feet
9. May 1, 1980
10. East Tennessee Natural Gas Co
Jamestown City of (TN)

1. 80-30538/A-333
2. 41-049-20323-0000
3. 103 000 000
4. S Thomas Burnett
5. Bruno Gernt Est Inc #4
6. Big Branch
7. Fentress TN
8. 5.0 million cubic feet
9. May 1, 1980
10. East Tennessee Natural Gas Co
Jamestown City of (TN)

**Texas Railroad Commission, Oil and Gas Division**

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-29002/11371
2. 42-461-31398-0000
3. 102 000 000
4. Hunt Oil Co
5. Amacker-Halff 61 No 2
6. Amacker-Tippett SW (9000)
7. Upton, TX
8. 108.0 million cubic feet
9. May 8, 1980
10. El Paso Natural Gas Co

**West Virginia Department of Mines, Oil and Gas Division**

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-30447
2. 47-097-01817-0000
3. 103 000 000
4. Union Drilling Inc
5. J B & Nina S Marsh #1 1432
6. Meade District
7. Upshur County WV
8. .0 million cubic feet
9. April 29, 1980
10. Columbia Gas Transmission Corp

1. 80-30448
2. 47-097-01818-0000
3. 103 000 000
4. Union Drilling Inc
5. Glen & Janis Marsh #1 1433
6. Meade District
7. Upshur WV
8. .0 million cubic feet
9. April 29, 1980
10. Columbia Gas Transmission Corp

1. 80-30449
2. 47-097-01833-0000
3. 103 000 000
4. Union Drilling Inc
5. Ercie M Bennett #1 1451
6. Banks District
7. Upshur WV
8. .0 million cubic feet
9. April 29, 1980
10. Columbia Gas Transmission Corp

1. 80-30450
2. 47-097-01835-0000
3. 103 000 000
4. Union Drilling Inc
5. Mrs Merle Baisden #1 1424
6. Union District
7. Upshur WV
8. .0 million cubic feet
9. April 29, 1980
10. Columbia Gas Transmission Corp

1. 80-30451
2. 47-097-01840-0000
3. 103 000 000
4. Union Drilling Inc
5. Wayne Lear et al #1 1450
6. Meade District
7. Upshur WV
8. .0 million cubic feet
9. April 29, 1980
10. Columbia Gas Transmission Corp

1. 80-30452
2. 47-097-01852-0000
3. 103 000 000
4. Union Drilling Inc
5. Martin & Wallace #1 1459
6. Meade District
7. Upshur WV
8. .0 million cubic feet
9. April 29, 1980
10. Columbia Gas Transmission Corp

1. 80-30453
2. 47-097-01857-0000
3. 103 000 000
4. Union Drilling Inc
5. Marvin Marsh #1 1455
6. Meade District
7. Upshur WV
8. .0 million cubic feet
9. April 29, 1980
10. Columbia Gas Transmission Corp

1. 80-30454
2. 47-097-01858-0000
3. 103 000 000
4. Union Drilling Inc
5. Earl O Marsh #1 1456
6. Banks District
7. Upshur WV
8. .0 million cubic feet
9. April 29, 1980
10. Columbia Gas Transmission Corp

1. 80-30455
2. 47-097-01859-0000
3. 103 000 000
4. Union Drilling Inc
5. Louise R McCook #1 1454
6. Meade District
7. Upshur WV
8. .0 million cubic feet
9. April 29, 1980
10. Columbia Gas Transmission Corp

1. 80-30456
2. 47-097-01867-0000
3. 103 000 000
4. Union Drilling Inc
5. Mrs Merle Baisden et al #2 1465
6. Union District
7. Upshur WV
8. .0 million cubic feet
9. April 29, 1980
10. Columbia Gas Transmission Corp

1. 80-30457
2. 47-097-01871-0000
3. 103 000 000
4. Union Drilling Inc
5. Benjamin B Reese #1 1426
6. Union District
7. Upshur WV
8. .0 million cubic feet
9. April 29, 1980
10. Columbia Gas Transmission Corp

1. 80-30458
2. 47-001-00968-0000
3. 103 000 000
4. Union Drilling Inc
5. John A & Mary K Mosesso #1 1437
6. Pleasant District
7. Barbour WV
8. .0 million cubic feet
9. April 29, 1980
10. Consolidated Gas Supply Corp

1. 80-30459
2. 47-097-01815-0000
3. 103 000 000
4. Union Drilling Inc
5. R S Smallridge et ux #1 1434
6. Banks District
7. Upshur WV
8. .0 million cubic feet
9. April 29, 1980
10. Columbia Gas Transmission Corp

1. 80-30460
2. 47-083-00226-0000
3. 103 000 000
4. Union Drilling Inc
5. Francis E & Erma Riley #1 1430
6. Roaring Creek District
7. Randolph County WV
8. .0 million cubic feet
9. April 29, 1980
10. Columbia Gas Transmission Corp

1. 80-30461
2. 47-001-00969-0000
3. 103 000 000
4. Union Drilling Inc
5. John A & Mary K Mosesso #2 1438
6. Pleasant District
7. Barbour WV
8. .0 million cubic feet
9. April 29, 1980
10. Consolidated Gas Supply Corp

1. 80-30462
2. 47-097-01831-0000

3. 103 000 000
4. Union Drilling Inc
5. Cecile West Hymes #1 1444
6. Meade District
7. Upshur WV
8. .0 million cubic feet
9. April 29, 1980
10. Equitable Gas Co

1. 80-30463
2. 47-097-01862-0000
3. 103 000 000
4. Union Drilling Inc
5. R R Colerider #1 1464
6. Meade District
7. Upshur WV
8. .0 million cubic feet
9. April 29, 1980
10. Equitable Gas Co

1. 80-30464
2. 47-001-01022-0000
3. 103 000 000
4. Union Drilling Inc
5. William Sheme #1 1445
6. Pleasant District
7. Barbour WV
8. .0 million cubic feet
9. April 29, 1980
10. Consolidated Gas Supply Corp

1. 80-30465
2. 47-001-01023-0000
3. 103 000 000
4. Union Drilling Inc
5. William Sheme #2 1446
6. Pleasant District
7. Barbour WV
8. .0 million cubic feet
9. April 29, 1980
10. Consolidated Gas Supply Corp

1. 80-30466
2. 47-001-01035-0000
3. 103 000 000
4. Union Drilling Inc
5. Virgil Marks #1 1441
6. Pleasant District
7. Barbour WV
8. .0 million cubic feet
9. April 29, 1980
10. Consolidated Gas Supply Corp

1. 80-30467
2. 47-097-01820-0000
3. 103 000 000
4. Union Drilling Inc
5. Fay Harper #2 1449
6. Union District
7. Upshur WV
8. .0 million cubic feet
9. April 29, 1980
10. Consolidated Gas Supply Corp

1. 80-30468
2. 47-097-01826-0000
3. 103 000 000
4. Union Drilling Inc
5. Fay Harper #1 1448
6. Union District
7. Upshur WV
8. .0 million cubic feet
9. April 29, 1980
10. Consolidated Gas Supply Corp

1. 80-30469
2. 47-083-00180-0000
3. 103 000 000
4. Union Drilling Inc
5. John C Cain #2 1394
6. Roaring Creek District
7. Randolph WV
8. .0 million cubic feet
9. April 29, 1980
10. Columbia Gas Transmission Corp

1. 80-30470
2. 47-103-01008-0000
3. 108 000 000
4. Pennzoil Co
5. Ruth Jolliff #1
6. Grant
7. Wetzel WV
8. .4 million cubic feet
9. April 29, 1980
10. Consolidated Gas Supply Corp

1. 80-30471
2. 47-103-01013-0000
3. 108 000 000
4. Pennzoil Company
5. J A Lantz #5
6. Grant
7. Wetzel WV
8. .4 million cubic feet
9. April 29, 1980
10. Consolidated Gas Supply Corp

1. 80-30472
2. 47-103-01015-0000
3. 108 000 000
4. Pennzoil Co
5. J A Lantz #7
6. Grant
7. Wetzel WV
8. .4 million cubic feet
9. April 29, 1980
10. Consolidated Gas Supply Corp

1. 80-30473
2. 47-103-01022-0000
3. 108 000 000
4. Pennzoil Co
5. Mary B Long #1
6. Grant
7. Wetzel WV
8. .3 million cubic feet
9. April 29, 1980
10. Consolidated Gas Supply Corp

1. 80-30474
2. 47-103-01023-0000
3. 108 000 000
4. Pennzoil Co
5. Mary B Long #2
6. Grant
7. Wetzel WV
8. .3 million cubic feet
9. April 29, 1980
10. Consolidated Gas Supply Corp

1. 80-30475
2. 47-103-01025-0000
3. 108 000 000
4. Pennzoil Co
5. Mary B Long #4
6. Grant
7. Wetzel WV
8. .3 million cubic feet
9. April 29, 1980
10. Consolidated Gas Supply Corp

1. 80-30476
2. 47-103-01044-0000
3. 108 000 000
4. Pennzoil Co
5. A T Morris #1
6. Center
7. Wetzel WV
8. .4 million cubic feet
9. April 29, 1980
10. Consolidated Gas Supply Corp

1. 80-30477
2. 47-103-01049-0000
3. 108 000 000
4. Pennzoil Co
5. Sarah Newman #10
6. Clay
7. Wetzel WV
8. .4 million cubic feet
9. April 29, 1980
10. Consolidated Gas Supply Corp

1. 80-30478
2. 47-103-01080-0000
3. 108 000 000
4. Pennzoil Co
5. William Newman #3
6. Clay
7. Wetzel WV
8. .4 million cubic feet
9. April 29, 1980
10. Consolidated Gas Supply Corp

1. 80-30479
2. 47-103-01027-0000
3. 108 000 000
4. Pennzoil Co
5. S C Long #2
6. Grant
7. Wetzel WV
8. .4 million cubic feet
9. April 29, 1980
10. Consolidated Gas Supply Corp

1. 80-30480
2. 47-103-01029-0000
3. 108 000 000
4. Pennzoil Co
5. S J Long #5
6. Grant
7. Wetzel WV
8. .4 million cubic feet
9. April 29, 1980
10. Consolidated Gas Supply Corp

1. 80-30481
2. 47-085-03250-0000
3. 108 000 000
4. E. W. McNulty
5. T-6 Well
6. Grant
7. Ritchie WV
8. 3.1 million cubic feet
9. April 29, 1980
10. Consolidated Gas Supply Corp

1. 80-30482
2. 47-085-03251-0000
3. 108 000 000
4. E. W. McNulty
5. T-8 Well
6. Grant
7. Ritchie WV
8. 3.1 million cubic feet
9. April 29, 1980
10. Consolidated Gas Supply Corp

1. 80-30483
2. 47-085-03252-0000
3. 108 000 000
4. E. W. McNulty
5. T-7 Well
6. Grant
7. Ritchie WV
8. 3.1 million cubic feet
9. April 29, 1980
10. Consolidated Gas Supply Corp

1. 80-30484
2. 47-085-03253-0000
3. 108 000 000
4. E. W. McNulty
5. T-9 Well
6. Grant

7. Ritchie WV
8. 3.1 million cubic feet
9. April 29, 1980
10. Consolidated Gas Supply Corp

1. 80-30485
2. 47-085-03258-0000
3. 108 000 000
4. E. W. McNulty
5. T-11 Well
6. Grant
7. Ritchie WV
8. 3.1 million cubic feet
9. April 29, 1980
10. Consolidated Gas Supply Corp

1. 80-30486
2. 47-085-03263-0000
3. 108 000 000
4. E. W. McNulty
5. T-10 Well
6. Grant
7. Ritchie WV
8. 3.1 million cubic feet
9. April 29, 1980
10. Consolidated Gas Supply Corp

1. 80-30487
2. 47-085-03291-0000
3. 108 000 000
4. E. W. McNulty
5. T-13 Well
6. Grant
7. Ritchie WV
8. 2.0 million cubic feet
9. April 29, 1980
10. Consolidated Gas Supply Corp

1. 80-30488
2. 47-013-20149-0000
3. 108 000 000
4. Milton Cain Owner
5. McConaughey Well No. 13
6. Sheridan
7. Calhoun WV
8. 11.0 million cubic feet
9. April 29, 1980
10. Cabot Corp

1. 80-30489
2. 47-013-20351-0000
3. 108 000 000
4. Milton Cain Owner
5. Mollie Cain Well No. 2
6. Sheridan District
7. Calhoun WV
8. 11.0 million cubic feet
9. April 29, 1980
10. Cabot Corp

1. 80-30490
2. 47-013-20486-0000
3. 108 000 000
4. Milton Cain Owner
5. Mollie Cain Well No. 3
6. Sheridan District
7. Calhoun WV
8. 11.0 million cubic feet
9. April 29, 1980
10. Cabot Corp

1. 80-30491
2. 47-013-20693-0000
3. 108 000 000
4. Milton Cain Owner
5. McConaughey Well No. 10
6. Sheridan
7. Calhoun WV
8. 11.0 million cubic feet
9. April 29, 1980
10. Cabot Corp

1. 80-30492
2. 47-013-20924-0000
3. 108 000 000
4. Milton Cain Owner
5. McConaughey Well No. 15
6. Sheridan
7. Calhoun WV
8. 11.0 million cubic feet
9. April 29, 1980
10. Cabot Corp

1. 80-30493
2. 47-013-20990-0000
3. 108 000 000
4. Milton Cain Owner
5. McConaughey Well No. 16
6. Sheridan
7. Calhoun WV
8. 11.0 million cubic feet
9. April 29, 1980
10. Cabot Corp

**United States Geological Survey, Albuquerque, New Mexico**

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-30735
2. 34-031-23761-1100-1
3. 103 000 000
4. H & S Operating Co
5. Sturtz #1
6. Linton
7. Coshocton OH
8. 15.0 million cubic feet
9. April 30, 1980
10. Columbia Gas Transmission Corp

**United States Geological Survey, Casper, Wyoming**

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-30434/CC 489-9
2. 05-103-08257-0000-0
3. 102 000 000
4. Provident Resources Inc
5. Government 10-31-4-102
6. Evacuation Creek Unit
7. Rio Blanco CO
8. 40.0 million cubic feet
9. April 29, 1980
10. Northwest Pipeline Corp

1. 80-30435/CC 561-9
2. 05-103-07244-0000-0
3. 108 000 000
4. American Resources Management Corp
5. Trail Canyon Cascade #8
6. Trail Canyon
7. Rio Blanco CO
8. 1.7 million cubic feet
9. April 29, 1980
10. Northwest Pipeline Corp

1. 80-30436/CC 562-9
2. 05-103-07259-0000-0
3. 108 000 000
4. American Resources Management Corp
5. Cascade #12
6. Trail Canyon Field
7. Rio Blanco County CO
8. 15.7 million cubic feet
9. April 29, 1980
10. Northwest Pipeline Corp

1. 80-30437/CC 624-9
2. 05-103-07968-0000-0
3. 108 000 000
4. American Resources Management Corp
5. Govt 14-1
6. Trail Canyon
7. Rio Blanco CO
8. 3.8 million cubic feet
9. April 29, 1980
10. Northwest Pipeline Corp

1. 80-30440/CC 763-9
2. 05-103-08210-0000-0
3. 102 000 000
4. Pool Oil & Gas
5. Indian Wells 21-2S-95W
6. Timber Gulch Sec 21-2S-95W
7. Rio Blanco CO
8. 50.0 million cubic feet
9. April 29, 1980
10. Mountain Fuel Supply Co

1. 80-30441/CC 819-9
2. 05-045-07747-0000-0
3. 108 000 000 denied
4. Tipperary Oil & Gas
5. USA 33-D-1
6. Soldier Canyon Unit
7. Garfield CO
8. 18.0 million cubic feet
9. April 29, 1980
10. Northwest Pipeline Corp

1. 80-30442/CC 822-9
2. 05-103-07078-0000-0
3. 108 000 000
4. Tipperary Oil & Gas Corp
5. USA 3-32-D
6. Soldier Canyon Unit (unnamed field)
7. Rio Blanco CO
8. 17.0 million cubic feet
9. April 29, 1980
10. Northwest Pipeline Corp

1. 80-30443/CC 1316-9
2. 05-077-08105-0000-0
3. 103 000 000
4. Norris Oil Co
5. Federal 21-2
6. Plateau
7. Mesa CO
8. 50.0 million cubic feet
9. April 29, 1980
10. Rocky Mountain Nataural Gas Co Inc

1. 80-30438/VC 669-9
2. 43-019-30395-0000-0
3. 102 000 000
4. Ambra Oil & Gas Co
5. Browndirt #1
6. Cisco Springs
7. Grand UT
8. 125.0 million cubic feet
9. April 29, 1980
10. Northwest Pipeline Corp

1. 80-30444/UC 872-9
2. 43-019-05280-0000-0
3. 108 000 000
4. Rex Monahan
5. #II-1 Union Government well

6. Cisco Dome Field
7. Grand UT
8. 12.0 million cubic feet
9. April 29, 1980
10. Northwest Pipeline Corp

1. 80-30446/UC 758-9
2. 43-047-20308-0000-0
3. 102 000 000 denied
4. Mapco Production Co
5. Old Squaws Crossing No 1
6. Island Field
7. Uinta UT
8. 160.0 million cubic feet
9. April 29, 1980
10. Mountain Fuel Supply Co

1. 80-30439/W 700 9R
2. 49-037-20250-0000-0
3. 102 000 000
4. Juniper Petroleum Corp
5. #1-4 Federal
6. Lost Creek
7. Sweetwater WY
8. .0 million cubic feet
9. April 29, 1980
10. Cities Service Gas Co

1. 80-30445/W 1354-9
2. 49-023-20201-0000-0
3. 102 000 000
4. Amoco Production Co
5. Whiskey Buttes Unit Well #5
6. Whiskey Buttes Unit-Second Frontier
7. Lincoln WY
8. 639.0 million cubic feet
9. April 29, 1980
10. Cities Service Gas Co
Mountain Fuel Supply Co
Stauffer Chemical Co

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 276.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission within fifteen (15) days of the date of publication of this notice in the Federal Register.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 80-15404 Filed 5-19-80; 8:45 am]

BILLING CODE 6450-85-M

## Office of Hearings and Appeals

### Cases Filed Week of March 28 Through April 4, 1980

Notice is hereby given that during the week of March 28, 1980 through April 4, 1980 the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Melvin Goldstein,

*Director, Office of Hearings and Appeals.*

May 8, 1980.

**List of Cases Received by the Office of Hearings and Appeals**

[Week of Mar. 28 through Apr 4, 1980]

| Date | Name and location of applicant | Case No. | Type of submission |
|---|---|---|---|
| Mar. 25, 1980 | Agawam Bus Co., Inc., West Springfield, Massachusetss. | BEA-0296 | Appeal of an Assignment Order. If granted: The January 4, 1980, Assignment Order issued to Agawam Bus Co., Inc., by the Economic Regulatory Administration, Region I, regarding Gulf Oil Co., USA's supply obligations to Agawam Bus Co., Inc., would be rescinded. |
| Mar. 28, 1980 | Atlantic Richfield Company, Washington, D.C. | BRZ-0024 | Interlocutory Order. If granted: An Interlocutory Order would be issued to Atlantic Richfield Co. (ARCO) with respect to the firm's Motion for Discovery (BRD-0001). |
| Mar. 28, 1980 | Aztec Energy Company, Washington, D.C. | BST-0004 | Request for Temporary Stay. If granted: Aztec Energy Company would receive a temporary stay of the March 21, 1980, temporary assignment order issued to Sexton Oil Co. by the Economic Regulatory Administration, Region IV, regarding Aztec's supply obligations to Sexton pending final determination of Aztec's Application for Stay and Appeal which the firm intends to file. |
| Mar. 28, 1980 | Fritts, Janis Tabor, Knoxville, Maryland | BMR-0033 | Request for Modification/Rescission. If granted: The March 21, 1980, Decision and Order issued to International Biomass Institute regarding the firm's Freedom of Information Appeal would be modified. |
| Mar. 28, 1980 | Gulf Oil Corporation, Washington, DC | BRZ-0025 | Interlocutory Order. If granted: An Interlocutory Order would be issued to Gulf Oil Corporation in connection with the Motion for Discovery filed by the firm (Case No. DRD-0194). |
| Mar. 28, 1980 | Louisiana Land and Exploration Company, Washington, D.C. | BRZ-0026 | Interlocutory Order. If granted: An Interlocutory Order would be issued to Louisiana Land and Exploration Company in connection with the Motion for Discovery filed by the firm (Case No. DRD-0199). |
| Mar. 28, 1980 | Marathon Oil Company, Washington, DC | BRZ-0027 | Interlocutory Order. If granted: An Interlocutory Order would be issued to Marathon Oil Company in connection with the Motion for Discovery filed by the firm (Case No. DRD-0195). |
| Mar. 28, 1980 | Pester Refining Company, Des Moines, Iowa | BMR-0034 | Request for Modification/Rescission. If granted: The December 10, 1979, Decision and Order issued to Highway Oil Company regarding Pester Refining Company's supply obligations to Highway Oil Company would be modified. |
| Mar. 28, 1980 | Southland Oil Co./VGS Corp., Jackson, Mississippi. | BXE-1021 | Exception from Entitlements Program. If granted: Southland Oil Co./VGS Corporation would continue to receive an exception from the provisions of 10 CFR 211.67, which would modify its entitlements purchase obligations in any month commencing June 1, 1980. |
| Mar. 28, 1980 | Standard Oil Company of California, Washington, D.C. | BRZ-0029 | Interlocutory Order. If granted: An Interlocutory Order would be issued to Standard Oil Company of California in connection with the Motion for Discovery filed by the firm (Case No. DRD-0196). |
| Mar. 28, 1980 | Standard Oil Company (Ohio), Washington, D.C. | BRZ-0030 | Interlocutory Order. If granted: An Interlocutory Order would be issued to Standard Oil Company (Ohio) in connection with the Motion for Discovery filed by the firm (Case No. DRD-0025 and DRD-0026). |
| Mar. 28, 1980 | Texaco Inc., Washington, D.C. | BRZ-0028 | Interlocutory Order. If granted: An interlocutory Order would be issued to Texaco Inc., in connection with the Motion for Discovery filed by the firm (Case No. DRD-0098). |
| Mar. 28, 1980 | Wadsworth Oil Co., Inc., Clanton, Alabama | BEE-1022 | Allocation Exception. If granted: Wadsworth Oil Co., Inc., would receive an exception from the provisions of 10 CFR, Part 211, which would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol. |
| Mar. 28, 1980 | Warrior Asphalt Company of Alabama, Washington, D.C. | BXE-1052 | Extension of relief granted in *Warrior Asphalt Company of Alabama, Inc.* 4 DOE Par. (December 27, 1979). If granted: Warrior Asphalt Co. of Alabama would receive an exception from 10 CFR 211.67, which would modify its entitlements purchase obligations through March 31, 1980. |

## List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Mar. 28 through Apr. 4, 1980]

| Date | Name and location of applicant | Case No. | Type of submission |
|---|---|---|---|
| Mar. 28, 1980 | Foster Refining Company, Des Moines, Iowa | BMR-0034 | Request for Modification/Rescission. If granted: The December 10, 1979 Decision and Order issued to Highway Oil Company regarding Foster Refining Company's supply obligations to Highway Oil Company would be modified. |
| Mar. 31, 1980 | Austral Oil Company, Washington, D.C | BRH, BRD-0044. | Motion for Discovery, and Evidentiary Hearing. If granted: Discovery would be granted to Austral Oil Company and an evidentiary hearing would be convened in connection with the Statement of Objections submitted in response to the October 29, 1979, Proposed Remedial Order issued to Austral Oil Company (Case No. DRO-0141). |
| Mar. 31, 1980 | Energy Action Educational Foundation, Washington, D.C. | BFA-0297 | Appeal of an Information Request Denial. If granted: The March 14, 1980, Information Request Denial issued by the Energy Information Administration would be rescinded, and the Energy Action Educational Foundation would receive access to two draft reports entitled, "Data Validation Study of the Prime Suppliers Monthly Report, and "Validation of the Joint Petroleum Reporting System." |
| Mar. 31, 1980 | Exxon Company, U.S.A., Washington, D.C | BED-0045 | Motion for Discovery. If granted: Discovery would be granted to Exxon Company, U.S.A., in connection with the Statement of Objections submitted by the firm in response to the February 19, 1980, Proposed Decision & Order (Case No. DEE-7805) issued to Big D & W Refining Solvents Company, Inc. |
| Mar. 31, 1980 | Consumer Energy Council *et al.*, Washington, D.C | BSG-0019 | Petition for Special Redress. If granted: The DOE would formulate and implement a process of administering funds collected in connection with petroleum price violation cases. |
| Mar. 31, 1980 | Giant Industries, Inc., Los Angeles, California | BFA-0293 | Appeal of an Information Request Denial. If granted: The February 7, 1980, Information Request Denial issued by the Office of the Counsel for Enforcement would be rescinded and Giant Industries, Inc., would receive access to certain DOE information. |
| Mar. 31, 1980 | Gulf Oil and Marketing Co./Union Oil Co. of California, Washington, D.C. | BEX-0038 | Supplemental Order. If granted: The March 13, 1980, Protective Order issued to Gulf Oil and Marketing Company and Union Oil Company of California would be rescinded and a new Stipulation for Protective Order would be issued. |
| Mar. 31, 1980 | Mobil Oil Corporation, New York, New York | BRS-1148 | Request for Stay. If granted: The February 20, 1980, Proposed Order of Disallowance issued by the Office of Special Counsel for Compliance to Mobil Oil Corporation would be stayed. |
| Mar. 31, 1980 | Power Management, Inc., Fort Worth, Texas | BRH-0019 | Motion for Evidentiary Hearing. If granted: An evidentiary hearing would be convened in connection with the Statement of Objections submitted by Power Management, Inc., in response to the Proposed Remedial Order issued to the firm (Case No. BRO-0010). |
| Mar. 31, 1980 | Pride Refining/Texaco, Inc., Abilene, Texas | BEJ-0076 | Motion for Protective Order. If granted: Pride Refining, Inc. (Pride) and Texaco, Inc., would enter into a Protective Order in connection with Pride's Application for Exception (Case No. BEE-0561). |
| Apr. 1, 1980 | Alco Energy, Inc., Leawood, Kansas | BEE-1034 | Allocation Exception. If granted: Alco Energy, Inc., would receive an exception from the provisions of 10 CFR, Part 211, which would permit the firm to receive an allocation of unleaded motor gasoline for the purpose of blending gasohol. |
| Apr. 1, 1980 | Alcohol Fuels, Inc., Lanett, Alabama | BEE-1030 | Allocation Exception: If granted: Alcohol Fuels, Inc., would receive an exception from the provisions of 10 CFR, Part 211, which would permit the firm to receive an allocation of unleaded motor gasoline for the purpose of blending gasohol. |
| Apr. 1, 1980 | Center for Constitutional Rights, New York, New York. | BFA-0301 | Appeal of an Information Request Denial. If granted: The March 7, 1980, Information Request Denial issued by the Department of Energy would be rescinded and the Center for Constitutional Rights would receive access to Department of Energy information concerning the July 27, 1956, crash of a U.S. Strategic Air Command B-47 in Lakenheath, England. |
| Apr. 1, 1980 | Cibro Petroleum Products, Washington, D.C | BEE-1036 | Exception to the Buy/Sell Program. If granted: Cibro Petroleum Products would receive an exception from the provisions of 10 CFR 211.65, regarding the Crude Oil Buy/Sell Program. |
| Apr. 1, 1980 | Craft Petroleum Co. (J. W. Robinson), Jackson, Mississippi. | BEE-1035 | Price Exception (212.73). If granted: Craft Petroleum Company would be permitted to sell the crude oil produced from the J. W. Robinson Well, located in Lincoln County, Mississippi, at upper tier ceiling prices. |
| Apr. 1, 1980 | Marathon Oil Company, Findlay, Ohio | BEA, BES-0299 | Appeal of an Assignment Order, Request for Stay. If granted: The February 19, 1980, Assignment Order issued to Marathon Oil Company (Marathon), by the Economic Regulatory Administration, Region IV, regarding Marathon's supply obligation to Publix Oil Co., would be rescinded and Marathon would receive a stay of the order pending a final determination on its Appeal. |
| Apr. 1, 1980 | Quik Stop Food Stores, Inc., Dallas, Texas | BED-0978 | Motion for Discovery. If granted: Discovery would be granted to Quik Stop Food Stores, Inc., in connection with the Statement of Objections submitted by the firm in response to the Proposed Decision and Order issued to Quik Stop (Case No. BEO-0978). |
| Apr. 1, 1980 | Texaco, Inc., White Plains, New York | BEA-0302 | Appeal of an Assignment Order If granted: The February 5, 1980, Assignment Order issued to Commonwealth Oil Refining Company (Corco) by the Economic Regulatory Administration granting CORCO an emergency allocation of crude oil would be rescinded. |
| Apr. 1, 1980 | Texaco, Inc. (Clark Oil), White Plains, New York | BEA-0300 | Appeal of an Assignment Order. If granted: The February 15, 1980, Assignment Order issued to Clark Oil and Refining Corp. (Clark) by the Economic Regulatory Administration regarding the emergency allocation of crude oil granted to Clark Oil & Refining Corp. would be rescinded. |
| Apr. 2, 1980 | Ashland Oil, Inc., Washington, D.C | BEA-0311 | Appeal of Entitlements Notice. If granted: The December 1979 Entitlements Notice issued by the Economic Regulatory Administration would be modified. |
| Apr. 2, 1980 | Chevron, U.S.A., Washington, D.C | BEA-0312 | Appeal of Entitlements Notice. If granted: The December 1979 Entitlements Notice issued by the Economic Regulatory Administration would be modified. |
| Apr. 2, 1980 | Dorchester Gas Corporation, Washington, D.C | BEA-0310 | Appeal of Entitlements Notice. If granted: The December 1979 Entitlements Notice issued by the Economic Regulatory Administration would be modified. |
| Apr. 2, 1980 | Energy Cooperatives, Inc., Washington, D.C | BEA-0309 | Appeal of Entitlements Notice If granted: The December 1979 Entitlements Notice issued by the Economic Regulatory Administration would be modified |
| Apr. 2, 1980 | Research Fuels, Inc., Washington, D.C | BED, BEH-0047. | Motion for Evidentiary Hearing and Discovery If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with Research Fuel's Petition for Special Redress (Case No BSG-0015) |
| Apr. 2, 1980 | Sun Oil Company of Pennsylvania/Publicker Industries, Washington, D.C. | BED-0046, BEJ-0077. | Motion for Protective Order and Discovery If granted: Discovery would be granted to Sun Oil Company of Pennsylvania in connection with Publicker Industries' comments on the Application for Exception (Case No DEE-7203) filed by American Motohol Supply Corporation. Sun Oil Co & Publicker Industries would enter into a protective order whereby Publicker Industries would provide Sun Oil Company with certain proprietary information. |
| Apr 2, 1980 | Texaco, Inc (U.S. Oil), White Plains, New York | BEA-0307 | Appeal of an Assignment Order If granted: The February 11, 1980, Assignment Order issued to U.S. Oil Co., by the Economic Regulatory Administration, Region V, regarding Texaco, Inc 's supply obligations to U S Oil Co., would be rescinded |

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Mar 28 through Apr 4, 1980]

| Date | Name and location of applicant | Case No. | Type of submission |
|---|---|---|---|
| Apr 2, 1980 | Williams & Connolly, Washington, D.C. | BFA-0308 | Appeal of an Information Request Denial. If granted: The March 11, 1980, Information Request Denial issued by the Economic Regulatory Administration would be rescinded and Williams & Connolly would receive acesss to information relating to the multi-tiered pricing scheme for crude oil and the related entitlements program for crude oil refiners. |
| Apr. 2, 1980 | Young Refining Corporation, Washington, D.C | BEE-1038 | Allocating Exception. If granted: Young Refining Corporation would receive an exception from 10 CFR 211.67, which would modify its entitlements purchase obligations for the period April 1, 1980, through September 30, 1980. |
| Apr. 3, 1980 | Conoco/Plum Bush, Houston, Texas | BEE-1043 | Price Exception. If granted: Conco, Inc., would be permitted to sell the crude oil produced from the Plum Bush Creek Unit located in Washington County, Colorado, at market prices. |

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

*Week of March 28, 1980 to April 4, 1980*

If granted: The following firms would be granted relief which would increase their base period allocation of motor gasoline.

*Name, Case Number and State*

March 28, 1980

Abshire Oil Company, BEE-1023, Indiana.
Pennzoil Company, BEE-1024, West Virginia.

April 1, 1980

Captain Andy's Marina, BEE-1031, New Jersey.
C.C. Anacker Chevron Service, BEE-1037, California.

March 31, 1980

Tom Kennedy Chevron, BEE-1029, California.
Jackson, Cyrus Jr., BEE-1028, Oklahoma.
Hillside Chevron, BEE-1027, Maryland.

April 2, 1980

Astro Car Wash, BEE-1041, Kentucky.

April 4, 1980

Valdez-Veloz Mobil, BEE-0044, New Jersey.

March 31, 1980

County of Martin, BEE-1025, Florida.
St. Lucie County, Florida, BEE-1026, Florida.

Notices of Objection Received

*Week of March 28, to April 4, 1980*

*Name and Location of Applicant and Case Number*

April 1, 1980

Church & Son Oil Co., Clayton, GA, BEE-0377.
Gulf I-20 Service, Havre De Grace, ME, DEE-4926.

March 31, 1980

Akron/Canton Truck Plaza, North Canton, OH, DEE-7052.

April 3, 1980

Bowman Petroleum Company, Inc., Los Angeles, CA, BEE-0363.

April 1, 1980

Welsh Oil Inc., Bartlesville, OK BEE-0360.

April 4, 1980

Southern Colorado Agri-Fuel Co., Washington, DC, DEE-7079.

March 28, 1980

Caribou Four Corners, Inc. Denver, CO, BEE-0234.

April 1, 1980

Don's 3 Star Service, Altonna, PA, BEO-1156.

[FR Doc. 80-15342 Filed 5-19-80; 8:45 am]

BILLING CODE 6450-01-M

## Cases Filed Week of April 11 Through April 18, 1980

Notice is hereby given that during the week of April 11, 1980 through April 18, 1980 the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Dated: May 8, 1980.

Melvin Goldstein,

*Director, Office of Hearings and Appeals.*

List of Cases Received by the Office of Hearings and Appeals

[Week of Apr 11 through Apr 18, 1980]

| Date | Name and location of applicant | Case No | Type of submission |
|---|---|---|---|
| Apr. 11, 1980 | Atlantic Oil Company and Chester F Dolley, Pasadena, California. | BRS-0038 | Request for Stay. If granted: Chester F Dolley and Atlantic Oil Company would receive a stay of the March 13, 1979, Remedial Order issued to the firms pending a final determination on their Applications for Exception (Case Nos. DEE-1020 and DEE-1032) |
| Apr 11, 1980 | Caribou Four Corners, Inc., Afton, Wyoming | BEE-1067 | Exception from the Entitlements Program. If granted: Caribou Four Corners, Inc., would receive an exception from the provisions of 10 CFR 211.67 which would modify its entitlements purchase obligations. |
| Apr 11, 1980 | Rex Monahan, Sterling, Colorado | BXE-1077, BXE-1078 | Extension of Relief Granted in *Rex Monahan*, 4 DOE ¶ 81,040 (1979), and *Rex Monahan*, 4 DOE ¶ 81,068 (1979) If granted: Rex Monahan would be permitted to continue to sell at upper tier ceiling prices the crude oil produced from the Collums Muddy Sand Unit and the Sprague Ranch Unit located in Campbell County, Colorado. |
| Apr 11, 1980 | Terrace Mobil, Binghamton, New York | ERX-0040 | Supplemental Order. If granted: The Proposed Remedial Order which was finalized by the March 25, 1980, Decision and Order (Case No. BRW-0037) would be rescinded. |
| Apr 11, 1980 | Winston Refining Company, Fort Worth, Texas | BEA-0321 | Appeal of Assignment Order. If granted: The March 13, 1980, Assignment Order issued to Winston Refining Company by the Economic Regulatory Administration denying the firm's request for an emergency allocation of crude oil would be rescinded. |
| Apr 13, 1980 | W E. Schroeder, Houston, Texas | BXE-1076 | Extension of Relief Granted in *W E Schroeder*, 5 DOE ¶ BEE-0088 (April 23, 1980) If granted: W E Schroeder would be permitted to continue to sell at upper tier ceiling prices the crude oil produced from the J B Ferguson Lease, located in Wharton County, Texas. |
| Apr 14, 1980 | Butler, Binion, Rice, Cook and Knapp, Washington, D.C. | BFA-0323 | Appeal of Information Request Denial. If granted: The March 11, 1980, Information Request Denial issued by the Southwest District Manager, Office of Enforcement, Economic Regulatory Administration, would be rescinded, and Butler, Binion, Rice, Cook, and Knapp would received access to certain DOE information. |
| Apr 14, 1980 | David R Comeau, Sterling, Massachusetts | BFA-0322 | Appeal of Information Request Denial. If granted: David R. Comeau would receive access to certain DOE information. |

## List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Apr. 11 through Apr. 18, 1980]

| Date | Name and location of applicant | Case No. | Type of submission |
|---|---|---|---|
| Apr. 14, 1980 | F. L. Roberts and Company, Inc., Springfield, Massachusetts. | BEE-1070 | Allocation Exception. If granted: F. L. Roberts and Company, Inc., would receive an exception from the provisions of 10 CFR 211, which would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol. |
| Apr. 14, 1980 | Flippo's Co., Harrisonburg, Virginia | BEE-1071 | Allocation Exception. If granted: Flippo's Oil Co. would receive an exception from the provisions 10 CFR 211, which would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol. |
| Apr. 14, 1980 | Independent Distributing Service, Washington, Pennsylvania. | BEE-1072 | Allocation Exception. If granted: Independent Distributing Service would receive an exception from the provisions of 10 CFR 211, which would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol. |
| Apr. 14, 1980 | Publix Oil Company, Washington, D.C. | BED-0299 | Motion for Discovery. If granted: Discovery would be granted to Publix Oil Company in connection with Marathon Oil Company's Appeal (Case No. BEA-0299) of the February 19, 1980, Assignment Order issued to Marathon by the Economic Regulatory Administration, Region IV. |
| Apr. 14, 1980 | Stadler Corporation Carlisle, Massachusetts | BEE-1074 | Exception from the Energy Conservation Program for Consumer Products. If granted: Stadler Corporation would not be required to test its multi-fuel boilers in accordance with the energy efficiency test procedures specified in 10 CFR 430. |
| Apr. 15, 1980 | Edgington Oil Company, Inc., Washington, D.C. | BEX-0042 | Supplemental Order. If granted: The DOE would review the entitlements exception relief granted to Edgington Oil Company, Inc., during its fiscal year 1979 in order to determine whether the level of relief accorded the firm was appropriate. |
| Apr. 1, 1980 | Industrial Fuel and Asphalt of Indiana, Inc., Hammond, Indiana. | BEE-0962 | Exception from the Buy/Sell Program. If granted: Industrial Fuel and Asphalt of Indiana, Inc., would receive an exception from the provisions of 10 CFR 211.69, regarding the firm's participation in the Crude Oil Buy/Sell Program. |
| Apr. 15, 1980 | Ohio Independents for Survival, Washington, D.C. | BEE-1075, BEL-1075. | Exception from the Entitlements Program and Temporary Exception. If granted: Ohio Independents for Survival would receive an exception and temporary exception from the provisions of 10 CFR 211.67, regarding the treatment of Alaskan North Slope crude oil under the Entitlements Program. |
| Apr. 15, 1980 | Red Rock Petroleum Company, Inc., Washington, D.C. | BEN-0337 | Request for Interim Order. If granted: Red Rock Petroleum, Inc., would receive exception relief on an interim basis pending a final determination on its Application for Exception (Case No. BEE-0337). |
| Apr. 15, 1980 | Sherer Oil Company, Inc., Johnstown, Pennsylvania | BEE-1084 | Allocation Exception. If granted: Sherer Oil Company, Inc., would receive an exception from the provisions of 10 CFR 211, which would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol. |
| Apr. 15, 1980 | Southland Oil Company, Jackson, Mississippi | BEX-0043 | Supplemental Order. If granted: The DOE would review the entitlements exception relief granted to Southland Oil Company in order to determine whether the level of relief accorded the firm was appropriate. |
| Apr. 15, 1980 | Sun Oil Company of Pennsylvania, Philadelphia, Pennsylvania. | BED-0082, BEJ-0082. | Motion for Discovery and Protective Order. If granted: Discovery would be granted to Sun Oil Company of Pennsylvania in connection with an Application for Exception filed by Vantage Petroleum Corporation (Case No. DEE-7988). Sun Oil Company of Pennsylvania would enter into a Protective Order with Vantage Petroleum Company regarding the release of proprietary information to Sun in connection with Vantage's Application for Exception. |
| Apr. 15, 1980 | Texaco, Inc., Washington, D.C. | BED-0081, BEJ-0081. | Motion for Discovery and Protective Order. If granted: Discovery would be granted to Texaco, Inc., in connection with the Statement of Objections submitted by the firm in response to the Proposed Decision and Order (Case No. BEE-0593) issued to Laketon Asphalt Refining, Inc. Texaco would enter into a Protective Order with Laketon regarding the release of proprietary information to Texaco in connection with Laketon's Application for Exception. |
| Apr. 16, 1980 | American Federation of Government Employees, Grand Forks, North Dakota. | BFA-0324 | Appeal of Information Request Denial. If granted: The March 10, 1980, Information Request Denial issued by the DOE Grand Forks Energy Technology Center would be rescinded, and the American Federation of Government Employees would receive access to certain DOE records relating to Technology Center contracts. |
| Apr. 16, 1980 | Texas Standard Refining Company, Inc., Dickinson, Texas. | BEE-1088 | Exception from Entitlements Program. If granted: Texas Standard Refining Company, Inc., would receive an exception from the provisions of 10 CFR 211.67, which would modify its entitlements purchase obligations. |
| Apr. 16, 1980 | U V Industries, Inc., Salt Lake City, Utah | BEE-1085 | Exception to the Reporting Requirements. If granted: U V Industries would not be required to file Form EIA-23, Part II ("Annual Survey of Domestic Oil and Gas Reserves"). |
| Apr. 17, 1980 | Beacon Oil Company, Washington, D.C. | BEX-0051 | Supplemental Order. If granted: The DOE would review the entitlements exception relief granted to Beacon Oil Company during its fiscal year 1979 to determine whether the level of relief accorded the firm was appropriate. |
| Apr. 17, 1980 | Bell's Service, Rialto, Georgia | BEN-0023 | Request for Interim Order. If granted: Bell's Service would receive exception relief on an interim basis pending a final determination on its Application for Exception (Case No. DEE-5293). |
| Apr. 17, 1980 | Commonwealth Oil Refining Company, Inc., San Antonio, Texas. | BEE-1089, BEL-0048. | Exception and Temporary Exception from Presidential Proclamation 4474. If granted: Commonwealth Oil Refining Company, Inc., would receive an exception and temporary exception from the provisions of Presidential Proclamation 4474 which require that firms post bond to insure payment of the gasoline conservation fee. |
| Apr. 17, 1980 | Crown Central Petroleum Corporation *et al*, Middletown, New Jersey. | BEX-0044 through 0046. | Supplemental Order. If granted: The DOE would issue a supplemental order regarding a February 15, 1980, Decision and Order issued to Crown Central Petroleum Corporation and Kentel Realty Corporation by the Northeast Regional Center of the Office of Hearings and Appeals. |
| Apr. 17, 1980 | Miller & Chevalier, Washington, D.C. | BFA-0328 | Appeal of Information Request Denial. If granted: The March 17, 1980, Information Request Denial issued by the Office of Enforcement and Litigation would be rescinded, and Miller & Chevalier would receive access to the names of the 50 firms referred to in 39 FR 44407 and 44409 as engaged in the sale of propane. |
| Apr. 17, 1980 | Panasonic Company, Secaucus, New Jersey | BEE-1093, BES-1093. | Exception from Energy Conservation Program for Consumer Products; Request for Stay. If granted: Panasonic would not be required to perform energy efficiency tests of its small capacity electric refrigerators. Panasonic would receive a stay of the provisions of 10 CFR 430, pending a final determination on its Application for Exception. |
| Apr. 17, 1980 | Southwestern Refining Co. Inc., Washington, D.C. | BEX-0047 | Supplemental Order. If granted: The DOE would stay a portion of Southwest Refining Co., Inc.'s entitlements purchase obligations pending a final decision on the firm's Application for Exception (Case No. BEE-0136). |
| Apr. 17, 1980 | Sun Oil Company of Pennsylvania, Washington, D.C. | BEJ-0084 | Request for Protective Order. If granted: Sun Oil Company of Pennsylvania would enter into a Protective Order with Chronister Oil Company Regarding the release of proprietary information to Sun in connection with Chronister's Application for Exception (Case No. BEE-0475). |
| Apr. 17, 1980 | The Idaho Statesman, Boise, Idaho | BFA-0325 | Appeal of Information Request Denial. If granted: The April 7, 1980, denial of a request for waiver of search fees issued by the DOE Idaho Operations Office would be rescinded, and The Idaho Statesman would receive access to certain DOE documents without charge. |

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Apr. 11 through Apr 18, 1980]

| Date | Name and location of applicant | Case No. | Type of submission |
|---|---|---|---|
| Apr. 17, 1980 | Vickers Petroleum Corporation, Wichita, Kansas | BEA-0327, BES-0327. | Appeal of Assignment Order, Request for Stay. If granted: The March 12, 1980, Assignment Order issued to Vickers Petroleum Corporation by the Economic Regulatory Administration, Region VI, regarding the firm's supply obligations to Best-Way Marketing would be rescinded. Vickers would receive a stay of the Assignment Order pending a final determination on its Appeal. |

List of Cases Involving the Standby Petroleum Produce Allocation Regulations for Motor Gasoline

*Week of April 11–18, 1980*

If Granted: The following firms would receive an increase in their base period allocation of motor gasoline.

*Name, Case Number, and State*

April 17, 1980

Charles' Chevron, BEE–1091, Kentucky.

April 14, 1980

City of Philadelphia, BEE–1080, Pennsylvania.

April 16, 1980

Covington, Joe A., BEE–1087, Mississippi.

April 17, 1980

Cumberland Standard Service, BEE–1090, Georgia.
Farmer's High Grocery, BEE–1092, Georgia.

April 19, 1980

Fields Exxon, BEE–1079, Georgia.

April 15, 1980

Howard Dickerson Chevron, BEE–1086, California.

April 11, 1980

Joseph's Service Center, BEE–1054, Michigan.
Lakepoint Mobil, BEE–1032, Michigan.

April 14, 1980

Ron's Village Garage, BEE–1073, Massachusetts.

April 15, 1980

Ryder Truck Rental, BEE–1082, Pennsylvania.

April 14, 1980

Sexton Oil Company, BEE–1068, Tennessee.

April 11, 1980

Sportsman's One Stop, BEE–1069, Virginia.

April 15, 1980

Van Hoesen, Keith, BEE–1083, California.

Notices of Objection Received

*Week of April 11–18, 1980*

*Name and Location of Applicant and Case Number*

April 11, 1980

Bert's Exxon, Potomac, MD, DEE–2496.
Bullard Plaza Union, Fresno, CA, DEE–5207.

April 8, 1980

Clark's—Ferry Auto/Truck Stop, Duncannon, PA, DEE–2954.

April 14, 1980

Consumer Gasoline Stations, Inc., Washington, DC, DEE–3698.

April 15, 1980

Fullers' 66, Salt Lake City, UT, DEE–2520.

April 16, 1980

Gas 'N Groceries, Waynesville, NC, DEE–7523 through DEE–7526.

April 14, 1980

General Stations, Inc., Beckley WV, DEE–5090.
Hadley Car Wash, Whittier, CA, DEE–6225.

April 15, 1980

Hurst Chevron, Plant City, FL, DEE–6280.
Long Island Lighting Company, Mineola, NY, BEE–0929.

April 16, 1980

Mumford, Inc., Atlanta, GA, DEE–4516.
Oasis Trading Post, Oasis, NV, BEE–5369.

April 15, 1980

Page, Ben, El Camino, CA, DEE–4180.
Phil's Gulf Service, Blue Hill, ME, DEE–5806.

April 16, 1980

Raymer Oil Company, Washington, DC, BEE–0404.

April 14, 1980

Rice-Linquist, Inc., Minot, ND, DEE–5312.
Wise Oil and Fuel Company, Cambridge, MD, DEE–7564.

[FR Doc. 80-15343 Filed 5-19-80; 8:45 am]

BILLING CODE 6450-01-M

## DEPARTMENT OF ENERGY

## Energy Information Administration

## Publication of Alternative Fuel Price Ceilings and Incremental Price Threshold for High Cost Natural Gas

The Natural Gas Policy Act of 1978 (NGPA) (Public Law 95–621), signed into law on November 9, 1978, mandated a new framework for the regulation of most facets of the natural gas industry. In general, under Title II of the NGPA, interstate natural gas pipeline companies are required to pass through certain portions of their acquisition costs for natural gas to industrial users in the form of a surcharge. The statute requires that the ultimate cost of gas to the industrial facility does not exceed the cost of the fuel oil which the facility could use as an alternative.

Pursuant to Title II of the NGPA of 1978, Section 204(e), the Energy Information Administration (EIA) herewith publishes for the Federal Energy Regulatory Commission (FERC) alternative fuel price ceilings and a high cost gas incremental pricing threshold, which are to be effective June 1, 1980.

For further information contact: Kenneth M. Levine, Energy Information Administration, Federal Building, 12th and Pa. Ave., N.W., Rm. 4121, Washington, D.C. 20461, (202) 633–9710.

### *Section I. Alternative Fuel Price Ceilings*

As required by FERC Order No. 50, prices are shown for the 48 contiguous states. The District of Columbia's ceiling is included with the ceiling for the State of Maryland. The price ceiling is expressed in dollars per million British Thermal Units (BTU's). The method used to determine the price ceilings is described in Section III.

| State | Dollars per million BTU's |
|---|---|
| Alabama | 2.22 |
| Arizona | 1.94 |
| Arkansas | 2.25 |
| California | 2.34 |
| Colorado | 2.17 |
| Connecticut | 2.89 |
| Delaware | 2.92 |
| Florida | 2.13 |
| Georgia | 2.36 |
| Idaho | 2.17 |
| Illinois | 2.17 |
| Indiana | 2.48 |
| Iowa | 2.23 |
| Kansas | 2.25 |
| Kentucky | 2.81 |
| Louisiana | 1.87 |
| Maine | 2.88 |
| Maryland | 2.62 |
| Massachusetts | 2.53 |
| Michigan | 2.76 |
| Minnesota | 2.61 |
| Mississippi | 1.92 |
| Missouri | 1.81 |
| Montana | 2.20 |
| Nebraska | 2.35 |
| Nevada | 2.39 |
| New Hampshire | 2.99 |
| New Jersey | 2.53 |
| New Mexico | 2.17 |
| New York | 2.55 |
| North Carolina | 2.73 |
| North Dakota | 2.73 |
| Ohio | 2.54 |
| Oklahoma | 2.02 |
| Oregon | 2.80 |
| Pennsylvania | 2.62 |
| Rhode Island | 3.17 |
| South Carolina | 2.61 |
| South Dakota | 2.62 |
| Tennessee | 2.58 |
| Texas | 2.00 |
| Utah | 2.53 |
| Vermont | 2.97 |
| Virginia | 2.61 |
| Washington | 2.43 |
| West Virginia | 2.58 |
| Wisconsin | 2.68 |
| Wyoming | 1.90 |

### *Section II. Incremental Pricing Threshold for High Cost Natural Gas*

The EIA has determined that the volume-weighted price for No. 2

distillate fuel oil landed in the greater New York City Metropolitan area during March 1980 was $35.88 per barrel. In order to establish the incremental pricing threshold for high cost natural gas, as identified in the NGPA, Title II, Section 203(a)(7), this price was multiplied by 1.3 and converted to its equivalent in millions of BTU's by dividing by 5.8. Therefore, the incremental pricing threshold for high cost natural gas, effective June 1, 1980, is $8.04 per million BTU's.

*Section III. Method Used to Compute Price Ceilings*

The FERC, by Order No. 50, issued on September 28, 1979, in Docket No. RM-79-21, established the basis for determining the price ceilings required by the NGPA. FERC also, by Order No. 51, issued in the same docket on the same date, established that only the price paid for No. 6 high sulfur content residual fuel oil would be used to determine the price ceilings until November 1, 1980.

*A. Data Collected*

The following data were required from all companies identified by the EIA as sellers of No. 6 high sulfur content (greater than 1% sulfur content by weight) residual fuel oil: for each selling price, the number of gallons sold to large industrial users in the months of January 1980, February 1980, and March 1980.[1] All reports of volume sold and price were identified by the State into which the oil was sold.

*B. Method Used to Determine Alternative Price Ceilings*

(1) *Calculation of Weighted-Average Price.* The prices which will become effective June 1, 1980, (shown in Section I) are based on the volume weighted-average price of No. 6 high sulfur content residual fuel oil, for each of the 48 contiguous States, for each of the 3 months, January 1980, February 1980, and March 1980. Reported prices for sales in January 1980 were adjusted by the percent change in the nationwide volume-weighted average price from January to March 1980. Prices for February 1980 were similarly adjusted by the percent change in the nationwide volume-weighted average price from February to March 1980. The volume-weighted 3 month average of the adjusted January 1980 and February 1980 and the reported March 1980 prices were then computed for each State.

(2) *Adjustment for Price Variation.* States were grouped into the regions identified by the FERC (see Section III.C.). Using the adjusted prices and associated volumes reported in a region during the 3 month period, the volume-weighted standard deviation of prices was calculated for each region. The volume-weighted 3 month average price (as calculated in Section III.B.(1) above) for each State was adjusted downward by two times this standard deviation for the region to form the adjusted-weighted average price for the State.

(3) *Calculation of Ceiling Prices.* The lowest selling price within the State was determined for each month of the 3 month period and adjusted up or down by the percent change in oil prices at the national level (as was done to adjust the volume-weighted average price for each State, as discussed in Section III.B.(1) above). The products of the adjusted low price for each month times the reported sales volume for each month were summed over the 3 month period for each State and divided by the State's total sales volume during the 3 months to determine the State's average low price. The adjusted weighted-average price (as calculated in Section III.B.(2)) was compared to this average low price, and the higher of the values was selected as the basis for determining the alternative fuel price ceiling for each State. For those States which had no reported sales during one or more months of the 3 month period, the appropriate regional volume-weighted alternative fuel price was computed and used in combination with the available State data to calculate the State's alternative fuel price ceiling base. The appropriate lag adjustment factor (as discussed in Section III.B.4.) was then applied. The alternative fuel price (expressed in dollars per gallon) was multiplied by 42 and divided by 6.3 to estimate the alternative fuel price ceiling for the State (expressed in dollars per million BTU's).

(4) *Lag Adjustment.* The EIA has implemented a procedure to partially compensate for the two-month lag between the end of the month for which data are collected and the beginning of the month for which ceiling prices become effective. It was determined that *Platt's Oilgram Price Report* publication provides timely information relative to the subject. The prices found in *Platt's Oilgram Price Report* publication are given for each trading day in the form of high and low prices for No. 6 residual oil in 20 cities throughout the United States. The low posted prices for No. 6 residual oil in these cities were used to calculate a national lag adjustment factor. The lag adjustment factor was obtained by calculating a weighted-average price for No. 6 high sulfur residual fuel oil for the nine trading days ending May 13, 1980, and dividing that price by the corresponding weighted average price published by Platt's for the month of March 1980. The lag adjustment factor was then applied to the alternative fuel price ceiling base for each State as calculated in Section III.B.3.

*C. Listing of States by Region*

States were grouped by the FERC to form eight distinct regions as follows:

| *Region A* | *Region B* |
|---|---|
| Connecticut | Delaware |
| Maine | Maryland |
| Massachusetts | New Jersey |
| New Hampshire | New York |
| Rhode Island | Pennsylvania |
| Vermont | |
| *Region C* | *Region D* |
| Alabama | Illinois |
| Florida | Indiana |
| Georgia | Kentucky |
| Mississippi | Michigan |
| North Carolina | Ohio |
| South Carolina | West Virginia |
| Tennessee | Wisconsin |
| Virginia | |
| *Region E* | *Region F* |
| Iowa | Arkansas |
| Kansas | Louisiana |
| Missouri | New Mexico |
| Minnesota | Oklahoma |
| Nebraska | Texas |
| North Dakota | South Dakota |
| *Region G* | |
| Region H | |
| Colorado | Arizona |
| Idaho | California |
| Montana | Nevada |
| Utah | Oregon |
| Wyoming | Washington |

Issued in Washington, D.C. on May 16, 1980.

Lincoln E. Moses,

*Administrator, Energy Information Administration.*

[FR Doc. 80-15625 Filed 5-19-80; 11:47 am]

BILLING CODE 6450-01-M

[1] Large Industrial User—A person/firm which purchases No. 6, fuel oil in quantities of 4,000 gallons or greater for consumption in a business, including the space heating of the business premises. Electric utilities, governmental bodies (Federal, State or Local) and the military are excluded.

## FEDERAL COMMUNICATIONS COMMISSION

[Report No. A-13]

### AM Broadcast Application Accepted for Filing and Notification of Cut-off date

Released: May 15, 1980.

Cut-Off Date: June 20, 1980.

Notice is hereby given that the following application is hereby accepted for filing, and will be considered ready and available for processing after June 20, 1980. This application requests authority to restore AM broadcast service formerly provided by

station WMOU, Berlin, New Hampshire. The Commission will accept for consolidation with it other applications which propose essentially the same facilities. An application, in order to be considered with this application, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., not later than the close of business on June 20, 1980.

Petitions to deny this application must be on file with the Commission not later than the close of business on June 20, 1980.

BP-800327AC (New), Berlin, New Hampshire, New England Broadcasting, Inc. Req: 1230 kHz, 250 W, 1 kW-LS, U.

Federal Communications Commission.

William J. Tricarico,

*Secretary.*

[FR Doc. 80-15393 Filed 5-19-80; 8:45 am]

BILLING CODE 6712-01-M

[FCC 80-280]

## Closed Circuit Test of the Emergency Broadcast System During the Week of May 19, 1980

May 8, 1980.

A test of the Emergency Broadcast System (EBS) has been scheduled during the week of May 19, 1980. Only ABC, MBS, NPR, AP Radio, CBS, IMN, NBC, and UPI Audio Radio network affiliates will receive the Test Program for the Closed Circuit Test. AP and UPI wire service clients will receive activation and termination messages of the Closed Circuit Test. Television networks are not participating in the Test.

Network and press wire service affiliates will be notified of the test procedures via their network approximately 30 to 45 minutes prior to the test.

Final evaluation of the test is scheduled to be made about one month after the Test.

This is a closed circuit test and will not be broadcast over the air.

Action by the Commission May 6, 1980. Commissioners Quello (Acting Chairman), Washburn and Jones acting as a board.

Federal Communications Commission.

William J. Tricarico,

*Secretary.*

[FR Doc. 80-15334 Filed 5-19-80; 8:45 am]

BILLING CODE 6712-01-M

## Notification List; Canadian Standard Broadcast

List of new stations, proposed changes in existing stations, deletions, and corrections in assignments of Canadian standard broadcast stations modifying the assignments of Canadian broadcast stations contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting January 30, 1941.

April 11, 1980.

**Canadian List No. 395**

| Call letter | Location | Power kW | Antenna | Schedule | Class | Antenna height (feet) | Ground system: Number of radials | Ground system: Length (feet) | Proposed date of Commencement of operation |
|---|---|---|---|---|---|---|---|---|---|
| | | | | *650 kHz* | | | | | |
| *CHVO*— | Spaniard's Bay/Harbour, Grace, Newfoundland, N. 47°39'21", W. 53°15'30" (Assignment of call letters and changes in directional antenna radiation system). | 5 | DA-1 | U | II | ——— | ——— | ——— | Apr. 11, 1371. |
| | | | | *1190 kHz* | | | | | |
| CJMR— | Mississauga, Ontario, N. 43°27'29", W. 79°45'18" (P.O. N 43 26 10 W 79 43 06) (Change of antenna system; horizontal directional antenna pattern unchanged). | 10 | DA-D | D | II | ——— | ——— | ——— | Apr. 11, 1371. |
| | | | | *1250 kHz* | | | | | |
| CHWO— | Oakville, Ontario, N. 43°27'29", W. 79°45'18" (P.O. N 43 26 10 W 43 06) Change of antenna system and vertical directional antenna radiation patterns). | 10D/5N | DA-2 | U | II | ——— | ——— | ——— | Apr. 11, 1981. |
| | | | | *1340 kHz* | | | | | |
| *CIOK-1* | Grand Centre, Alberta, N. 54°24'45", W. 110°07'40" (Assignment of call letters). | 0.25 | ND-184 | U | IV | 150 | 120 | 234 | May 8, 1980. |

Frank G. Washington,

*Deputy Chief, Broadcast Bureau, Federal Communications Commission.*

[FR Doc. 80-15395 Filed 5-19-80; 8:45 am]

BILLING CODE 6712-01-M

## Radio Technical Commission for Marine Services; Meetings

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Special Committee No. 74—"Digital Selective Calling"—Notice of 13th Meeting

Tuesday, June 3, 1980—9:30 a.m. and Wednesday, June 4, 1980—8:00 a.m. (Full-day meetings), Conference Room 7200/7202, Nassif (DOT) Building, 400 Seventh Street SW. (at D Street), Washington, D.C.

Agenda

*June 3, 1980*

1. Call to Order; Chairman's Report.
2. Administrative Matters.
3. Meeting of Ship Station Working Group and Coast Station Working Group.

*June 4, 1980*

1. Administrative Matters.
2. Working Group Reports.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat (phone: (202) 632-6490).

Federal Communications Commission.

William J. Tricarico,

*Secretary.*

[FR Doc. 80-15390 Filed 5-19-80; 8:45 am]

BILLING CODE 6712-01-M

## FEDERAL MARITIME COMMISSION

### Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California, Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before June 9, 1980. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: 17-39.

Filing Party: Gerald J. Flynn, Chairman, Far East Conference, 40 Rector Street, New York, New York 10006.

Summary: Agreement No. 17-39 amends Article 7 of the basic agreement of the Far East Conference to provide for the election of an Executive Committee consisting of five (5) members and one (1) alternate, including the method of selecting the members and the term of membership.

Agreements Nos.: T-2750-2, T-2750-A-1, and T-2750-B-2.

Filing Party: Richard L. Landes, Deputy, Harbor Branch Office, Harbor Administration Building, P.O. Box 570, Long Beach, California 90801.

Summary: Agreement No. T-2750-2 extends the terms of the original preferential assignment agreement betweenm the City of Long Beach (City) and United States Lines (USL) through December 31, 1980; incorporates abandoned road way within the leased area; states the conditions of easement across adjacent railroad right-of-way; and adjusts the monthly compensation to be paid.

Agreement No. T-2750-A-1 extends the term of the parties' basic container freight station lease through December 31, 1980; adds certain areas to the leased area; adjusts the monthly compensation to be paid; and sets forth the terms of easement across adjacent railroad right-of-way.

Agreement No. T-2750-B-2 extends the terms of the parties' basic container crane preferential assignment agreement through December 31, 1980, and adjusts the level of monthly compensation to be paid.

Agreement No.: T-3624-1.

Filing Party: Randall V. Adams, Administrative, Assistant, Port of Palm Beach District, P.O. Box 9935, Riviera Beach, Florida 33404.

Summary: Agreement No. T-3624 between the Port of Palm Beach District (Port) and Kennelly & Sisman Co. (K&S), provides for the Port's 2-year lease to K&S of premises at the Port of Palm Beach Terminal, Riviera Beach, Florida to be used for warehouse space, for storage and office purposes. K&S has the non-exclusive right to use the Port's lands and dock facilities for the loading and unloading of K&S' vessels. Agreement No. T-3624-1 modifies the basic agreement by extending the agreement for 1-year to correspond to the beginning date of a lease to K&S of a new warehouse, to be constructed by the Port, unless sooner terminated by the availability of the new warehouse. The monthly rent for the new term of 1-year shall be $1,017.63 per month.

Agreement No.: T-3905.

Filing Party: Richard L. Landes, Deputy City Attorney, City of Long Beach, Harbor Branch Office, Harbor Administration Building, P.O. Box 570, Long Beach, California 90801.

Summary: Agreement No. T-3905, between the City of Long Beach (City) and Canal Industrial Park, Inc. (CIP), provides for CIP's operation, as the City's agent, of a public auto terminal under the provisions of the Port of Long Beach Tariff No. 3. Under the agreement, CIP is preferentially assigned the public auto and general cargo terminal at Berth 244, Pier J. The agreement provides that the rights granted CIP for the operation of a public auto terminal are exclusive and the City will not contract with other persons for the operation of a public auto terminal during the agreement's term. However, the agreement specifically does not prohibit the operators of public or contract general cargo terminals at the Port of Long Beach from handling miscellaneous volumes of automobiles at such terminals, nor does it prohibit the establishment of proprietary auto terminals in the Port of Long Beach. The City is to receive all applicable tariff revenues accruing from CIP's operation and, as compensation, CIP will retain 25 percent of certain of these tariff revenues. The agreement's term is 10 years.

Agreement No.: 7680-42.

Filing Party: Dominick J. Manfredi, Chairman, American West African Freight Conference, 67 Broad Street, New York, New York 10004.

Summary: Agreement No. 7690-42, entered into by the member lines of the American West African Freight Conference, modifies Article 14, of the basic agreement to provide that any member of both the Eastbound and Westbound Conference groups which maintains no service to Continental West Africa, shall pay its share of Conference expenses as if it were only a member of one group.

Agreement No.: 8900-13.

Filing Party: Marc J. Fink, Esquire, Billig, Sher & Jones, 2033 K Street, N.W., Suite 300, Washington, D.C. 20006.

Summary: Agreement No. 8900-13, among the member lines of the 8900 Rate Agreement, modifies Article 2 of the basic agreement to provide for an increase in the time, from 48 hours to 12 calendar days, in which a member line must give notice to other parties to the agreement of its intention to alter for itself, any rate, charge, classification, amount of brokerage and/or compensation to forwarders and conditions for payment, practice or related tariff matter, including any matter related to the movement of cargo to inland points.

By order of the Federal Maritime Commission.

Dated: May 15, 1980.

Francis C. Hurney,

*Secretary.*

[FR Doc. 15439 Filed 5-19-80; 8:45 am]

BILLING CODE 6730-01-M

## Independent Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reasons why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, DC 20573.

Thomas Tello, 427 Broder St., Anaheim, CA 92804.

Donald William Mosley, P.O. Box 9242, Metairie, LA 70055.

New England Safe System, Inc., Boston, 239 Prescott St., Boston, MA 02128.
Officers: Stephan Busse, President/Director, Johannes Fischer, Vice President/Director, Peter Mertens, Vice President/Director.

Emilio Mila, 6997 C Roswell Rd., N.W., Dunwoody, GA 30328.

Amparo M. Becker, 7914 SW 139 Ct., Miami, FL 33183.

North Star Imports, Inc., 7600 23rd Avenue South, Minneapolis, MN 55450.
Officers: Larry P. Garrison, President, Arnold D. Monke, Vice President, Kenneth H. Scumacher, Vice President, Kurt Hanson, Vice President, Robert J. O'Keefe, Vice President, Martin Dooley, Vice President.

Containers Freight Forwarding Corp., 4251 SW 95th Avenue, Miami, FL 33165.
Officers: Gustavo L. Arango, President/Director, Clara M. Arango, Vice President, Ricardo Arango, Secretary/Treasurer.

Elteha International (USA) Ltd., 6290 Sunset Blvd., Hollywood, CA 90028.
Officers: Philippus Hendrata Herkata, President, Iman Sudjono, Vice President, Flora Luciana Herkata, Secretary.

Hibbard Associates (Joyce K. Hibbard, dba), 1718 Virginia Street, Berkeley, CA 94703.

Edward C. Snead & Assoc., Inc., P.O. Box 118, Wilmington, NC 28402.
Officers: Edward C. Snead, President, James E. Townsend, Exec. Vice President, Owen W. Waters, Jr., Vice President, William R. Leary, Jr., Treasurer, Sarah J. Grady, Secretary.

Joe A. Ramos, Freight Forwarder (Jose Angel Ramos, dba), 408 Oak Haven Drive, Keller, TX 76248.

Eastern Freight Forwarders, Inc., 900 West 13 Court, Riviera Beach, FL 33404.
Officers: Jag Mohan Bahl, President, Caleb Bernard, Secretary, Osborne Hepburn, Director, James A. Shannon, Vice President.

By the Federal Maritime Commission.

Dated: May 15, 1980.

Francis C. Hurney,

*Secretary.*

[FR Doc. 80-15438 Filed 5-19-80; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 681]

## Majestic Warehouses, Inc., Order of Revocation

On May 8, 1980, Majestic Warehouses, Inc., 5765 N. Lincoln Ave., Chicago, Illinois 60659, voluntarily surrendered its Independent Ocean Freight Forwarder License No. 681 for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), § 5.01(c), dated August 8, 1977;

It is ordered, that Independent Ocean Freight Forwarder License No. 681 issued to Majestic Warehouses, Inc., be and is hereby revoked effective May 8, 1980, without prejudice to reapplication for a license in the future.

It is further ordered, that a copy of this Order be published in the Federal Register and served upon Majestic Warehouses, Inc.

Robert G. Drew,

*Director, Bureau of Certification and Licensing.*

[FR Doc. 80-15436 Filed 5-19-80; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 80-29]

## Weyerhaeuser Co. v. Pacific Maritime Association et al.; Filing of Complaint and Assignment

Notice is given that a complaint filed by Weyerhaeuser Company against the Pacific Maritime Association, and those of its members who are common carriers by water and other persons subject to the Shipping Act, 1916 was served May 12, 1980. The complaint alleges that certain actions taken by the Pacific Maritime Association pursuant to collective bargaining arrangements between the Pacific Maritime Association and the International Longshoreman's and Warehouseman's Union have resulted in violations of sections 15, 16 and 17 of the Shipping Act, 1916.

This proceeding has been assigned to Administrative Law Judge Joseph N. Ingolia for initial decision. Hearing in this matter, if any is held, shall commence on or before November 12, 1980. The Hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

*Secretary.*

[FR Doc. 80-15437 Filed 5-19-80; 8:45 am]

BILLING CODE 6730-01-M

# FEDERAL RESERVE SYSTEM

## Bank Holding Companies; Proposed "De Novo" Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*) directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party

commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than June 11, 1980.

A. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York, 10045:

Republic New York Corporation, New York, New York; Trade Development Holland Holding B.V., Amsterdam, The Netherlands; Trade Development Finance N.V., Curacao, The Netherlands Antilles; Trade Development Bank, Geneva, Switzerland; Trade Development Bank Holding S.A., Luxembourg; and Sabon S.A., Panama, Province (factoring and commercial financing activities; United States): To engage, through a subsidiary, Republic New York International Factors Corp., in the activities of purchasing from manufacturers, dealers and merchants, accounts receivable, contract rights, chattel paper, documents and general intangibles, together with the proceeds thereof, and assuming credit risks arising from approved shipments of goods, commonly known as factoring; commercial financing secured by inventory, accounts receivable, and other assets; servicing of the foregoing credit extension arrangements.

These activities will be conducted from offices in New York City, New York, and Los Angeles, California, serving all of the United States.

B. *Federal Reserve Bank of Kansas City* (John F. Zoellner, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

Summit Buena Vista Agency, Inc., Buena Vista, Colorado (insurance; Colorado): To continue to engage in general insurance activities in a community with a population not exceeding 5,000. These activities will be conducted from an office in Buena Vista, Colorado, serving central Colorado.

C. *Federal Reserve Bank of Philadelphia* (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

Philadelphia National Corporation, Philadelphia, Pennsylvania (consumer finance and insurance activities; California): To engage through its subsidiary, Signal Finance of California, Inc., in making installment loans secured by personal and real property; purchasing sales finance contracts; selling credit-related life insurance, credit-related accident and health and property damage insurance on collateral in connection with certain installment loans made and sales finance contracts purchased; and reinsuring such credit life and credit accident and health insurance through other indirect subsidiaries of Philadalphia National Corporation. The activities described would be conducted from an office located in Clovis, California, serving Fresno and Madera counties, California. Comments on this application must be received by June 10, 1980.

D. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, May 13, 1980.

Cathy L. Petryshyn,

*Assistant Secretary to the Board.*

[FR Doc. 80-15365 Filed 5-19-80; 8:45 am]

BILLING CODE 6210-01-M

## F.N.B.C. of LaGrange, Inc.; Acquisition of Additional Shares of Bank

F.N.B.C. of LaGrange, Inc., LaGrange, 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 an additional 70 percent of the voting shares of First National Bank of LaGrange, LaGrange, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than June 13, 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, May 13, 1980.

Cathy L. Petryshyn,

*Assistant Secretary of the Board.*

[FR Doc. 80-15366 Filed 5-19-80; 8:45 am]

BILLING CODE 6210-01-M

## First National Bancshares of Hico, Inc.; Formation of Bank Holding Company

First National Bancshares of Hico, Inc., Hico, 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 per cent or more of the voting shares of The First National Bank of Hico, Hico, 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 June 13, 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, May 13, 1980.

Cathy L. Petryshyn,

*Assistant Secretary of the Board.*

[FR Doc. 80-15367 Filed 5-19-80; 8:45 am]

BILLING CODE 6210-01-M

## Oliver Jensen Agency, Inc.; Proposed Retention of General Insurance Activities

Oliver Jensen Agency, Ravenna, Nebraska, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to retain the general insurance activities of Oliver Jensen Agency Inc., Ravenna, Nebraska, a community with a population not exceeding 5,000.

Applicant states that it would engage in the activities of a general insurance business, including the sale of property, casualty, life, accident, health and credit life insurance. These activities would be performed from offices of Applicant in Ravenna, Nebraska and Doniphan, Nebraska, also a community with a population not exceeding 5,000, and the geographic areas to be served are the communities of Ravenna and Doniphan and Buffalo, Sherman, Hall, Howard, Blaine, Adams and Hamilton counties, Nebraska. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater

convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than June 13, 1980.

Board of Governors of the Federal Reserve System, May 13, 1980.

Cathy L. Petryshyn,

*Assistant Secretary of the Board.*

[FR Doc. 80-15368 Filed 5-19-80; 8:45 am]

BILLING CODE 6210-01-M

## GENERAL SERVICES ADMINISTRATION

### SES Performance Review Board for the Navajo and Hopi Indian Relocation Commission; Names of Members

Sec. 4314(c)(1) through (5) of title 5, U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more Performance Review Boards. The board shall review and evaluate the initial appraisal of a senior executive's performance, along with any recommendations to the appointing authority relative to the performance of the senior executive.

As provided under section 601 of the Economy Act of 1932, as amended, 31 U.S.C. 686, the General Services Administration, NCR, through its Office of External Affairs, Agency Liaison Division personnel office, will convene a Performance Review Board to review the initial collegial appraisal, award, and bonus recommendations for the Commissioners (who are also members of the SES) of the Navajo and Hopi Indian Relocation Commission. The Board will then recommend final actions to the Secretary, Department of the Interior. GSA will provide this service through a reimbursable administrative support agreement. This notice is processed on behalf of this client agency. Because of their small size, a Performance Review Board has been established composed of three members appointed from among the other client agencies served by GSA.

The names of the members for this Performance Review Board are:

Stephen L. Babcock, Executive Director, Administrative Conference of the United States.

Malcolm E. O'Hagan, Executive Director, United States Metric Board.

Walter R. Roberts, Executive Director, Board for International Broadcasting.

For further information, contact Betty R. Bruce, Agency Liaison Division (202-472-9214); mailing address: General Services Administration (WXL), Washington, DC 20407.

Dated: May 7, 1980.

Janice Mendenhall,

*Acting Regional Administrator, National Capital Region.*

[FR Doc. 80-15327 Filed 5-19-80; 8:45 am]

BILLING CODE 6820-30-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Alcohol, Drug Abuse, and Mental Health Administration

### National Advisory Mental Health Council; Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National advisory body scheduled to assemble during the month of June 1980.

National Advisory Mental Health Council, June 13, 1980, 9:00 a.m., Conference Room L, Parklawn Building, Rockville, Maryland 20857.

Open: June 13: 9:00 a.m. to 9:30 a.m.

Closed: Otherwise.

Contact: Mrs. Zelia Diggs, Room 9-95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-4333.

Purpose: The National Advisory Mental Health Council advises the Secretary of Health and Human Services, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Mental Health, regarding the policies and programs of the Department in the field of mental health. The Council reviews applications for grants-in-aid relating to research, training, and services in the field of mental health and makes recommendations to the Secretary with respect to approval of applications for, and the amount of, these grants.

Agenda: On June 13 from 9:00 a.m. to 9:30 a.m., the meeting will be open for discussion of NIMH policy issues. These will include current administrative, legislative, and program developments. Otherwise, the Council will conduct a final review of grant applications for Federal assistance and this session will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions set forth in Section 552b(c)(6), Title 5 U.S. Code, and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Substantive information may be obtained from the contact person listed above. Attendance by the public will be limited to space available. The NIMH Committee Management Officer who will furnish upon request summaries of the meeting and rosters of the committee members is Mrs. Zelia Diggs, Office of the Associate Director for Extramural Programs, NIMH, Room 9-95, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-4333.

Dated: May 14, 1980.

Elizabeth A. Connolly,

*Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.*

[FR Doc. 80-15379 Filed 5-19-80; 8:45 am]

BILLING CODE 4110-88-M

### Office of the Assistant Secretary for Health

### National Committee on Vital and Health Statistics, Subcommittee on Cooperative Health Statistics System; Meeting

Pursuant to the Federal Advisory Act (Pub. L. 92-463), notice is hereby given that the Subcommittee on Cooperative Health Statistics System of the National Committee on Vital and Health Statistics, pursuant to functions established by Section 306(k), Paragraph (4) of the Public Health Service Act (42 U.S.C. 242(k)), will convene on Monday, June 9, 1980, 9:00 a.m., in Room 337A-339A of the Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201.

Principal consideration and discussion will be devoted to review of the recommendations of the "Expert Panel to Evaluate CHSS" and to develop plans for implementation of those recommendations; guidelines for designation of State Health Statistics Agencies; recommendations from ASTI Seminar; and HCFA data activities.

Agenda items are subject to change as priorities dictate.

Further information regarding this meeting of the Subcommittee or other matters pertaining to the National Committee on Vital and Health Statistics may be obtained by contacting

Samuel P. Korper, Ph. D., M.P.H., Executive Secretary, National Committee on Vital and Health Statistics, Room 17A-55, 5600 Fishers Lane, Rockville, Maryland 20857, telephone: 301-443-2660.

Dated: May 12, 1980.

Wayne C. Richey, Jr.,

*Associate Director for Program Support, Office of Health Research, Statistics, and Technology.*

[FR Doc. 80-15382 Filed 5-19-80; 8:45 am]

BILLING CODE 4110-85-M

## Natural Committee on Vital and Heath Statistics, Subcommittee on International Statistics; Meeting

Pursuant to the Federal Advisory Act (Pub. L. 92-463), notice is hereby given that the Subcommittee on International Statistics of the National Committee on Vital and Health Statistics, pursuant to functions established by Section 306(k), Paragraph (4) of the Public Health Service Act (42 U.S.C. 242(k)), will convene on Thursday, June 5, 1980, 9:00 a.m., in Room 337A-339A of the Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201.

Principal consideration and discussion will be devoted to International Health Statistics—comparison between nations, mechanisms for exchanging data sets, and comparability of statistics from these data sets; and review of minutes of last meeting.

Agenda items are subject to change as priorities dictate.

Further information regarding this meeting of the Subcommittee or other matters pertaining to the National Committee on Vital and Health Statistics may be obtained by contacting Samuel P. Korper, Ph. D., M.P.H., Executive Secretary, National Committee on Vital and Health Statistics, Room 17A-55, 5600 Fishers Lane, Rockville, Maryland 20857, telephone: 301-443-2660.

Dated: May 12, 1980

Wayne C. Richey, Jr.,

*Associate Director for Program Support, Office of Health Reserach, Statistics, and Technology.*

[FR Doc. 80-15383 Filed 5-19-80; 8:45 am]

BILLING CODE 4110-85-M

## Food and Drug Administration

**[Docket No. 80F-0154]**

## Borg-Warner Chemicals; Filing of Food Additive Petition

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** Borg-Warner Chemicals has filed a petition proposing that the food additive regulations be amended to provide for the safe use of bis[2-tertiary-butyl-4-methyl-6-(3-tertiary-butyl-5-methyl-2-hydroxybenzyl)phenyl]terephthalate as a stabilizer in polymers intended for food-contact applications.

**FOR FURTHER INFORMATION CONTACT:** Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

**SUPPLEMENTARY INFORMATION:** Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 9B3445) has been filed by Borg-Warner Chemicals, Borg-Warner Corp., Technical Centre, Washington, WV 26181, proposing that the food additive regulations be amended to provide for the safe use of bis[2-tertiary-butyl-4-methyl-6-(3-tertiary-butyl-5-methyl-2-hydroxybenzyl)phenyl]terephthalate as a stabilizer in polymers intended for food-contact application.

The potential environmental impact of this action is being reviewed. If this petition results in a regulation, and the agency concluded that an environmental impact statement is not required, the notice of availability of the environmental impact analysis report, statement of exemption, environmental assessment report as applicable, will be published in the Federal Register regulation, as permitted by 21 CFR 25.25(b).

Dated: May 9, 1980.

Sanford A. Miller,

*Director, Bureau of Foods.*

[FR Doc. 80-15315 Filed 5-19-80; 8:45 am]

BILLING CODE 4110-03-M

**[Docket No. 80F-0150]**

## ICI Americas, Inc.; Filing of Food Additive Petition

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** ICI Americas, Inc., has filed a petition proposing to delete the food use limitations prescribed for shortenings and edible oils treated with polysorbate 60 and/or polysorbate 80.

**FOR FURTHER INFORMATION CONTACT:** Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

**SUPPLEMENTARY INFORMATION:** Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP OA3508) has been filed by ICI Americas, Inc., Wilmington, DE 19897, proposing that Part 172 of the food additive regulations be amended to delete the limitations relative to the foods in which shortenings and edible oils treated with polysorbate 60 and/or polysorbate 80 may be used under §§ 172.836(c)(8) and 172.840(c)(8) (21 CFR 172.836(c)(8) and 172.840(c)(8)).

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: May 9, 1980.

Sanford A. Miller,

*Director, Bureau of Foods.*

[FR Doc. 80-15316 Filed 5-19-80; 8:45 am]

BILLING CODE 4110-03-M

## Anesthetic and Life Support Drugs Advisory Committee; Renewal

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Anesthetic and Life Support Drugs Advisory Committee by the Secretary, Department of Health and Human Services.

**DATE:** Authority for this committee will expire on May 1, 1982, unless the Secretary formally determines that renewal is in the public interest.

**FOR FURTHER INFORMATION CONTACT:** Richard L. Schmidt, Committee Mangagement Office (HFA-306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD. 20857, 301-443-2765.

Dated: May 15, 1980.

William F. Randolph,

*Acting Associate Commissioner for Regulatory Affairs.*

[FR Doc.80-15474 Filed 5-19-80; 8:45 am]

BILLING CODE 4110-03-M

## Consumer Participation; Open Meeting

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing a forthcoming consumer exchange meeting to be chaired by Ronald M. Johnson, Station Director, St. Louis Station, St. Louis, MO.

**DATE:** The meeting will be held at 1 p.m., Thursday, May 29, 1980.

**ADDRESS:** The meeting will be held at the U.S. Courthouse, Goldenrod Room, 1114 Market St., St. Louis, MO 63101.

**FOR FURTHER INFORMATION CONTACT:** Mary-Margaret Richardson, Consumer Affairs Officer, Food and Drug Administration, Department of Health and Human Services, 1114 Market St., Rm. 755, St. Louis, MO 63101, 314–425–5021.

**SUPPLEMENTARY INFORMATION:** The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's St. Louis District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: May 15, 1980.

William F. Randolph,

*Acting Associate Commissioner for Regulatory Affairs.*

[FR Doc. 80-15470 Filed 5-19-80; 8:45 am]

BILLING CODE 4110-03-M

## Consumer Participation; Open Meeting

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** This document announces a forthcoming Consumer Exchange Meeting to be chaired by Hayward E. Mayfield, District Director, Nashville District Office, Nashville, TN.

**DATE:** The meeting will be held at 9 a.m., Thursday, May 29, 1980.

**ADDRESS:** The meeting will be held at the Miller Hospital, Hospital Classroom, 610 Gallatin Rd., Nashville, TN 37206.

**FOR FURTHER INFORMATION CONTACT:** Barbara B. Shields, Consumer Affairs Officer, Food and Drug Administration, 297 Plus Park Blvd., Nashville, TN 37217, 615–251–7127.

**SUPPLEMENTARY INFORMATION:** The purpose of this meeting is to encourage dialogue between consumers and Food and Drug Administration (FDA) officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and the FDA Nashville District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: May 15, 1980.

William F. Randolph,

*Acting Associate Commissioner for Regulatory Affairs.*

[FR Doc. 80-15471 Filed 5-19-80; 8:45 am]

BILLING CODE 4110-03-M

## Consumer Participation; Open Meeting

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** This document announces a forthcoming Consumer Exchange Meeting to be chaired by Hayward E. Mayfield, District Director, Nashville District Office, Nashville, TN.

**DATE:** The meeting will be held at 10 a.m., Wednesday, May 28, 1980.

**ADDRESS:** The meeting will be held at the Food and Drug Administration, Conference Room, 297 Plus Park Blvd., Nashville, TN 37217.

**FOR FURTHER INFORMATION CONTACT:** Barbara B. Shields, Consumer Affairs Officer, Food and Drug Administration, 297 Plus Park Blvd., Nashville, TN 37217, 615–251–7127.

**SUPPLEMENTARY INFORMATION:** The purpose of this meeting is to encourage dialogue between consumers and Food and Drug Administration (FDA) officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and the FDA Nashville District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: May 15, 1980.

William F. Randolph,

*Acting Associate Commissioner for Regulatory Affairs.*

[FR Doc. 80-15472 Filed 5-19-80; 8:45 am]

BILLING CODE 4110-03-M

## Panel on Review of Antimicrobial Agents; Renewal

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Panel on Review of Antimicrobial Agents by the Secretary, Department of Health and Human Services.

**DATE:** Authority for this committee will expire on May 6, 1982, 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, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2765.

Dated: May 15, 1980.

William H. Randolph,

*Acting Associate Commissioner for Regulatory Affairs.*

[FR Doc. 80-15469 5-19-80; 8:45 am]

BILLING CODE 4110-03-M

## Peripheral and Central Nervous System Drugs Advisory Committee; Renewal

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Peripheral and Central Nervous System Drugs Advisory Committee by the Secretary, Department of Health and Human Services.

**DATE:** Authority for this committee will expire on June 4, 1982, 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, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2765.

Dated: May 15, 1980.

William F. Randolph,

*Acting Associate Commissioner for Regulatory Affairs.*

[FR Doc. 80-15475 Filed 5-19-80; 8:45 am]

BILLING CODE 4110-03-M

## Psychoparmacologic Drugs Advisory Committee; Renewal

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), The Food and Drug Administration announces the renewal of the Psychopharmacologic Drugs Advisory Committee by the Secretary, Department of Health and Human Services.

**DATE:** Authority for this committee will expire on June 4, 1982, 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, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2765.

Dated: May 15, 1980.

William F. Randolph,

*Acting Associate Commissioner for Regulatory Affairs.*

[FR Doc. 80-15473 Filed 5-19-80; 8:45 am]

BILLING CODE 4110-03-M

## National Institute for Occupational Safety and Health

### Cooperative Agreement Demonstration to Conduct a State Occupational Health Surveillance System; Correction

In FR Doc. 80-13640 appearing at page 29639 in the issue for Monday, May 5, 1980, make the following corrections:

1. In the third column of page 29639, the paragraph titled Eligible Applicants should read as follows:

Eligible applicants may be States or, with the written approval of the appropriate State health authority, any public or private non-profit organization, institution, university, or college.

2. In the second column of page 29641, the telephone number for John P. Sestito should read: 513-684-3284.

Dated: May 14, 1980.

John R. Froines

*Acting Director, National Institute for Occupational Safety and Health.*

[FR Doc. 80-15314 Filed 5-19-80; 8:45 am]

BILLING CODE 4110-87-M

## Public Health Service

### Food and Drug Administration; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HF (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (35 FR 3685-92, February 25, 1970, as amended most recently at 44 FR 73165, December 17, 1979) is amended to reflect the revision of functions within the Office of Management and Operations. The Office of Management and Operations has the additional responsibility of coordinating the agency's response to external audits; the Division of Personnel Management's functional statements are the subject of editorial revisions; the Parklawn Computer Center's functional statements are revised to reflect changes in technology that have occurred since its inception; and the Division of Contracts and Grants Management has expanded its functions in the areas of cooperative agreements, the Freedom of Information Act, and conformance with the FDA contracts program.

Section HF-B, Organization and Functions is amended as follows: 1. Delete the functional statements contained in paragraph (h) Office of Management and Operations and insert a new paragraph reading as follows:

* * * * *

(h) *Office of Management and Operations* (HFA7). Advises and assists the Commissioner and other key officials on all phases of management inherent in the operations of FDA.

Directs the effective utilization of all management resources and the implementation of operating programs by coordinating the funding, manpower, facilities, and equipment resources of the agency.

Assures that the conduct of agency administrative and financial management activities, including budget, finance, personnel, organization, methods, grants and contracts, procurement and property, records, and similar support activities, effectively supports program operations.

Develops policy and procedures necessary to maintain the integrity of trade secrets and other privileged information submitted by industry to FDA; formulates agencywide security policy and investigates and recommends action concerning security problems.

Develops data systems policy, procedures, and standards necessary to coordinate all FDA information and data retrieval systems and ADP equipment; operates FDA's central computer facility; provides systems analysis and programming services.

Coordinates agency response to external audits, including negotiation of differences, preparation of official agency responses to audit findings, implementation of accepted recommendations, and preparation of progress reports for the HHS Inspector General and the Secretary.

Provides a focal point for committee management activities within FDA.

Processes the public response to proposed FDA rulemaking and formal adjudications.

Coordinates the preparation of international travel plans, including the Annual International Travel Plan for the Commissioner's approval.

* * * * *

2. Delete paragraph (h-4) Division of Personnel Management and insert a new paragraph reading as follows:

* * * * *

(h-4) *Division of Personnel Management* (HFA77). Provides personnel management advice and assistance to the Commissioner and to FDA managers within its servicing area, including advice to Headquarters officials on their management responsibilities for FDA field installations.

Participates in the development of agency goals and operating plans related to personnel management.

Provides, within its servicing area, personnel mamangement and personnel administration services, including employment, recruitment, compensation and classification, upward mobility, labor relations, and employee relations.

Develops agencywide programs on executive and career development, manpower planning and utilization, safety management and occupational health, and as designated under Departmental guidelines provides service in these areas throughout the agency.

Represents the FDA in personnel management matters with the Public Health Service (PHS), the Department of Health and Human Services (HHS), the Office of Personnel Management (OPM), other Government agencies, professional societies, and colleges and universities.

Prepares staff studies and recommendations to agency management on personnel needs and problems.

Identifies the need for personnel policies and programs to PHS and collaborates with PHS, as appropriate, in the development of such policies and programs.

Develops and implements operating procedures and interprets policies to the extent necessary to meet the special needs of FDA in the application of PHS, HHS, OPM, and other Government agency regulations.

Identifies the need for and directs the formulation of FDA policies and procedures concerning conflicts of interest and employee associations with regulated industries, decides conflict of interest issues, and reviews outside activities of FDA employees.

* * * * *

3. Delete paragraphs (h-5) Parklawn Computer Center and subparagraphs (i)

through (y) and insert a new paragraph reading as follows:

* * * * *

(h-5) *Parklawn Computer Center* (HFA79). Operates and manages the central computer facility in the Parklawn complex performing fee-for-service functions for contracting PHS agencies and providing services to other Federal components as requested.

Develops operational data systems policy and procedures relating to the provision of technical support to the scientific and administrative information and data retrieval systems supported by the Parklawn Computer Center; makes revisions to systems as necessary when hardware, software, and ageny program changes occur.

Develops short- and long-range ADP plans to make the best possible use of resources and to consider new ADP systems methodologies.

Reviews and makes recommendations on hardware, software, and service procurement requests by serviced agencies to assure equipment compatibility and conformance with the ADP plan in conjunction with established HHS and PHS policies and procedures.

Provides technical support to the PHS nationwide data communications network.

Develops and implements a program to evaluate central ADP resource utilization.

Consults with other Federal agency components and private sector organizations to be aware of current ADP developments.

(i) *Office of the Director* (HFA791). Provides leadership and direction to assure the efficient and effective performance of the Parklawn Computer Center.

(ii) *Division of Computing Services* (HFA795). Serves as the initial point of contact for program managers and current and prospective users of professional and technical services provided by the center.

Provides assistance, short-term problem solving, and technical consultation to users upon request in achieving systems objectives and in employing new technological developments; assists in systems simulation activities and in providing information on systems software and operations.

Operates and manages the central computer facility, on a fee-for-service basis, and operates the PHS nationwide data communications network; recommends the acquisition of additional resources as required to operate the center.

Implements and operates the fee-for-service accounting and billing system whereby serviced agencies are charged for computer resources utilized.

Develops standards and methodologies for the design and testing of new systems or the improvements of existing systems within PCC.

Prepares documentation consisting of documents and records which describe all aspects of computer operations.

Plans, coordinates, and carries out a comprehensive ADP education and training program for personnel of the PHS agencies.

Maintains an inventory of all supplies, including training manuals, technical publications, and computer procedures and programs required by the center users.

(iii) *Division of Systems and Network Management* (HFA796). Develops and maintains the internal operating architecture of the center computers and the PHS nationwide data communications network; provides communications network systems software support; and coordinates the development of long-range plans for remote systems use of the central computer facility.

Provides services and technical assistance regarding software and hardware configuration design to the Division of Computing Services and interfaces with applications systems.

Researches and develops improved data processing functions; develops expertise in complex systems in keeping with the state-of-the art.

Adapts and modifies programming languages and specialized automated data processing telecommunications systems.

Designs teleprocessing systems integrated with multiple computers to provide nationwide communications networks.

Assists agency and center analysts to integrate their systems into the Parklawn computing environment.

Prepares documentation consisting of documents and records which describe all aspects of systems development and operations.

Plans and manages allocation of direct access storage resources with respect to system versus user to achieve maximum system performance.

Develops and implements computer performance evaluation techniques to evaluate the use of equipment and the processing of applications systems using such tools as hardware monitors, software monitors, and real-time online performance profile generators in order to optimize thru-put performance as part of a center performance management program.

Consults on and coordinates the Parklawn Computer Center network and systems plans with PHS managers.

(iv) *Division of Advanced Applications Development* (HFA797). Develops advanced management and scientific applications systems. Researches and analyzes program needs; develops systems plans and secures agency approval; designs application systems; formulates work statements for systems implementations.

Acts as central resource for PHS-wide systems. Provides systems maintenance support and technical assistance, including programming support in the development of advanced and general purpose computer applications.

Conducts studies in determining the feasibility and compatibility of proposed advanced applications systems; reviews hardware and software changes to determine the impact on applications systems developed and maintained by the center.

Designs, programs, tests, implements, and documents applications systems; performs followup evaluations of systems operations.

Evaluates and implements applications using data base systems; provides expertise in data base software and selected programming languages including but not limited to COBOL, PL/1, MARK IV, and CCA-204.

Maintains liaison with other organizations concerning developmental techniques and advanced application procedures.

* * * * *

4. Delete paragraph (h-6) Division of Contracts and Grants Management and insert a new paragraph reading as follows:

* * * * *

(h-6) *Division of Contracts and Grants Management* (HFA78). Provides leadership, direction and staff advisory services for the FDA negotiated contracts and grants management programs. Coordinates activities of FDA bureaus and offices to insure proper development of grants and contracts program requirements.

Plans, develops, and coordinates the issuance of FDA-wide negotiated contracting policies and procedures.

Serves as the agency focal point for developing, coordinating, and implementing FDA policies and procedures pertaining to grants management; serves as the primary point of liaison with the management staff of grantee institutions for the general interpretation of grants management policies.

Directs and coordinates all administrative functions associated with

grants and cooperative agreements management. Directs and conducts negotiations with grantee institutions.

Collaborates with program offices in development of extramural spending plans; manages and directs all administrative functions associated with all negotiated contracts for research and development and other services. Provides advisory service to program and management personnel in business and administrative matters related to contracts, grants, cooperative agreements, interagency agreements, and memoranda of understanding; executes all administrative determinations and award instruments for negotiated contracts, grants, interagency agreements, cooperative agreements and memoranda of understanding; provides representation of HHS, FDA, and other Government study groups and committees concerned with contracts and grants management and administration.

Analyzes, evaluate and reports selected statistical and financial data pertaining to the grants and contracts program.

Maintains liaison with the PHS Office of Management and the Office of the Assistant Secretary for Management and Budget on contracts and grants management policy and procedural and operating matters. Serves as FDA focal point for the processing of audit reports and for liaison with the HHS Audit Agency.

Provides price/cost analysis and related services for contracts and grants.

* * * * *

Dated: May 13, 1980.

Patricia Roberts Harris,

*Secretary.*

[FR Doc. 80-15332 Filed 5-19-80; 8:45 am]

BILLING CODE 4110-03-M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection

[Docket No. N80-1001]

### Consumer Forum on "Meeting the Developmental Needs of Small Cities"; Forum

**AGENCY:** Department of Housing and Urban Development (HUD).

**ACTION:** Notice is given announcing a National Consumer Forum.

**SUMMARY:** The Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection is announcing a consumer forum on the topic of "Meeting the Developmental Needs of Small Cities." The forum is scheduled for June 2–3, 1980, and the description of the forum is stated in the Supplementary Information section below.

**DATE OF FORUM:** A consumer forum on "Meeting the Developmental Needs of Small Cities" is scheduled to be held on Monday and Tuesday, June 2–3, 1980, from 9 a.m. to 5 p.m. at the Shoreham Hotel, 2500 Calvert Street, N.W., Washington, D.C.

**ADDRESS:** Joseph Smith, Director, Consumer Liaison Division, Office of Consumer Affairs, Room 4144, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

**FOR FURTHER INFORMATION CONTACT:** Sherry Shields, 202–755–6996; Jim McJimpsey, 202–755–5360.

**SUPPLEMENTARY INFORMATION:** The two-day forum will provide overview sessions and a series of workshops to enable participants to develop an understanding of the Small Cities Block Grant Program and how the program can be used to meet the critical developmental needs of small cities. Examples of successful programs, strategies and techniques that could serve as models for small cities will be presented by workshop panelists in the areas of housing development, rehabilitation and economic development. There will also be a presentation on the Carter Administration's Small Community and Rural Development Policy and what has been done to implement the policy.

The forum on "Meeting the Developmental Needs of Small Cities" will be open to the public.

Issued at Washington, D.C., May 15, 1980.

Richard C. D. Fleming,

*General Deputy Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.*

[FR Doc. 80-15559 Filed 5-19-80; 8:45 am]

BILLING CODE 4210-01-M

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

### Indiana Miami Indian Organizational Council; Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

May 8, 1980.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 54.8(a) notice is hereby given that the Indiana Miami Indian Organizational Council, 641 Buchanan Street, Huntington, Indiana 46705, has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs on April 2. The petition was forwarded and signed by Mr. Robert G. Owens.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be by mail to the petitioner and other interested parties at the appropriate time.

Under § 54.8(d) of the Federal regulations, interested parties may submit factual or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the Bureau of Indian Affairs files.

The petition may be examined by appointment in the Division of Tribal Government Services, Bureau of Indian Affairs, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20242.

Rick Lavis,

*Deputy Assistant Secretary—Indian Affairs.*

[FR Doc. 80-15380 Filed 5-19-80; 8:45 am]

BILLING CODE 4310-02-M

### Bureau of Land Management

### Minnesota Islands; Proposed Intensive Wilderness Inventory Decision

I hereby announce the proposed intensive inventory decisions for 174 islands administered by the Bureau of Land Management (BLM) in Minnesota under the authority of Section 603 of the Federal Land Policy and Management Act and in accordance with the guidelines in the September 27, 1978, BLM *Wilderness Inventory Handbook* and Organic Act Directive No. 78–61, Change 3.

The BLM inventory process is divided into two major parts: initial and intensive inventories. The final decisions on initial inventory and the annoncement of the beginning of the intensive inventory of Minnesota islands were published in the March 21, 1980, Federal Register, on page 18492. Since no appeals were received during the ensuing 30-day period ending April 21, 1980, the initial inventory decision became effective.

Proposed Intensive Wilderness Inventory Decision; Minnesota Islands

1. *Inventory Units Proposed as Wilderness Study Areas:*

None.

2. *Inventory Units Proposed to be Dropped from Further Wilderness Review:*

*Total Units*—174 Islands.

*Total Acres*—701.21 Acres.

Publication of this notice begins a 90-day review and comment period on these intensive inventory island units. The public comment period will end on August 18, 1980.

The public is invited to comment on the intensive wilderness inventory narratives and maps available upon request, and to submit additional information in order to assist the BLM in the assessment of wilderness characteristics on these public lands.

A public meeting is scheduled on June 10, 1980, at 7:00 p.m., in Room 1, Donovan Hall, Itasca Community College, Route 3, Grand Rapids, Minnesota. In addition, the public is invited to view maps, photos, inventory unit files, and other data at BLM's Lake States Office, 125 Federal Building, Duluth, Minnesota. Staff members there welcome the opportunity to discuss BLM's wilderness inventory at the public's convenience any time during regular office hours from 8:00 a.m. to 4:30 p.m.

All public comments received during the 90-day review period will be recorded, analyzed, evaluated and filed for future reference. All comments will be treated equally, whether they are presented verbally or in writing, by mail or at the public meeting. Comments received after the 90-day comment period may be considered as long as they can be received along with all other public comments without delaying the final decision.

Following the public comment period, I will consider the inventory recommendations and the public comments received. Then, final decision identifying wilderness study areas dropped from further consideration as wilderness will be announced.

Additional Information

For additional information on the wilderness inventory, or for copies of inventory reports, maps or public comments contact:

Director, Eastern States, Bureau of Land Mangement, 350 South Pickett Street, Alexandria, Virginia 22304, telephone (703) 235-2840; or

Manager, Lake States Office, Bureau of Land Management, 125 Federal Building, Duluth, Minnesota 55802, telephone (218) 727-6692, Ext. 378.

Pieter J. Van Zanden,

*Acting Eastern States Director.*

[FR Doc. 80-15331 Filed 5-19-80; 8:45 am]

BILLING CODE 4310-84-M

## Fish and Wildlife Service

### Endangered Species Convention; Convention on International Trade in Endangered Species of Wild Fauna and Flora Annual Report for 1978; Availability

**AGENCY:** U.S. Fish and Wildlife Service.

**ACTION:** Notice of Availability of U.S. Annual Report for 1978 on Trade Data gathered under the authority of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (T.I.A.S. 8249).

**SUMMARY:** The Service has published the U.S. Annual Report for 1978 on trade data it has gathered under the authority of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, as required by Article VIII, paragraph 7 of that Convention. The report covers the period January 1, 1978 to December 31, 1978. By this notice, the Service informs the public that the report is available and that any interested individual may secure a single copy by telephoning or writing the Service.

**ADDRESSES:** A copy may be requested by writing to Director, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, Washington, D.C. 20240. You may also request a copy by telephoning the Management Operations Branch, Federal Wildlife Permit Office at 703/235-2418.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Joan C. Anthony, Chief, Management Operations Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone 703/235-2418.

**SUPPLEMENTARY INFORMATION:** The U.S. Fish and Wildlife Service carries out Management Authority responsibilities for the United States under the Convention on International Trade in Endangered Species of Wild Fauna and Flora. One of the responsibilities of the Management Authority is to prepare and submit to the Convention Secretariat an annual report on U.S. involvement in international trade in all species of animals and plants covered by the Convention including tables summarizing the following information: import, import of re-exported, export and re-export of all live and dead specimen and their products included in the Convention. Figures using world maps chart the flow of 1978 U.S. imports, exports, and re-exports of African elephant products, mammals, reptiles, living primates and living birds.

This notice was prepared by Paul E. Gertler, General Biologist, Management Operations Branch, Federal Wildlife Permit Office, 703/235-2418.

Dated: May 14, 1980.

Arthur Lazarowitz,

*Acting Chief, Management Operations Branch, Federal Wildlife Permit Office.*

[FR Doc. 80-15338 Filed 5-19-80; 8:45 am]

BILLING CODE 4310-55-M

## Heritage Conservation and Recreation Service

### National Register of Historic Places; Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before May 9, 1980. Pursuant to § 1202.13 of 36 CFR Part 1202, written comments concerning the significance of these properties under the National Register Criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by June 4, 1980.

Sarah G. Oldham,

*Acting Chief, Registration Branch.*

ALASKA

*Kodiak Division*

Kodiak vicinity, *Kodiak 011 Site.*

CALIFORNIA

*Contra Costa County*

Concord, *Pacheco, Don Fernando, Adobe,* 3119 Grant St.

*Marin County*

San Rafael, *Bradford House,* 333 G St.

*Riverside County*

Riverside, *Simons, M. H., Undertaking Chapel,* 3610 11th St.

*Tehama County*

Tehama, *Molino Lodge Building,* 3rd and C Sts.

GEORGIA

*Macon County*

Montezuma, *Montezuma Depot,* S. Dooly St.

INDIANA

*Jefferson County*

Hanover, *Hendricks, Thomas A., Library,* College Dr.

*Marion County*

Indianapolis, *Circle Theater,* 45 Monument Circle.
Indianapolis, *Fletcher Place Historic District* Roughly bounded by RR tracks, I 65–70, East St. and Virginia Ave.

*Washington County*

Salem, *Washington County Courthouse,* Public Sq.

**MARYLAND**

*Montgomery County*

Glen Echo, *Carrousel at Glen Echo Park,* MacArthur Blvd.

**MICHIGAN**

*Ingham County*

Lansing, *Grand Trunk Western Rail Station (Lansing Depot)* 1203 S. Washington Ave.
Lansing, *Smith-Turner House,* 326 W. Grand River Ave.

*Shiawassee County*

Shaftsburg, *Van Riper, Andrew J., House,* 12370 Shaftsburg Rd.

*Wayne County*

Detroit, *McAdow, Perry, House,* 4605 Cass Ave.
Detroit, *Randolph Street Commercial Buildings Historic District,* 1208—1244 Randolph St.

**NEBRASKA**

*Lancaster County*

Lincoln, *Mount Emerald and Capitol Additions Historic Residential District,* Roughly bounded by A, G, 17th, and 22nd Sts.

*Otoe County*

Nebraska City vicinity, *Camp Creek School, Otoe County District No. 54,* SE of Nebraska City on SR 3.

**TEXAS**

*Harrison County*

Marshall, *First Methodist Church,* 300 E. Houston St.

*Travis County*

Austin, *Stavely-Kunz-Johnson House,* 1402 E. 1st St.

**UTAH**

*Tooele County*

Stockton vicinity, *Soldier Creek Kilns,* SE of Stockton.

**WISCONSIN**

*Racine County*

Waterford vicinity, *Norwegian Buildings at Heg Park,* NE of Waterford on Heg Park Rd.

**WEST VIRGINIA**

*WEST VIRGINIA COVERED BRIDGES THEMATIC RESOURCES.* Reference—see individual listings under Barbour, Cabell, Doddridge, Greenbrier, Harrison, Jackson, Lewis, Marion, Monroe, Monongalia, Pocahontas, and Wetzel Counties.

*Barbour County*

Carrollton, *Carrolton Covered Bridge (West Virginia Covered Bridges Thematic Resources)* SR 36.
Philippi, *Philippi Covered Bridge (West Virginia Covered Bridges Thematic Resources)* Main St. over Tygart Valley River (previously listed in the National Register).

*Cabell County*

Milton, *Mud River Covered Bridge (West Virginia Covered Bridges Thematic Resources)* Off U.S. 60 on SR 25 over Mud River (previously listed in the National Register).

*Doddridge County*

Center Point, *Center Point Covered Bridge (West Virginia Covered Bridges Thematic Resources)* WV 23.

*Fayette County*

Clifftop vicinity, *Camp Washington-Carver Complex,* W of Clifftop.
Montgomery, *Main Building (Montgomery Preparatory School)* West Virginia Institute of Technology campus.

*Greenbrier County*

Lewisburg vicinity, *Herns Mill Covered Bridge (West Virginia Covered Bridges Thematic Resources)* W of Lewisburg.
Roncerverte vicinity, *Hokes Mill Covered Bridge (West Virginia Covered Bridges Thematic Resources)* NW of Lewisburg.

*Hampshire County*

Romney, *Davis* 197 Main St.

*Harrison County*

Bridgeport vicinity, *Simpson Creek Covered Bridge (West Virginia Covered Bridges Thematic Resources).*
Romnies Mills vicinity, *Rooting Creek Covered Bridge (West Virginia Covered Bridges Thematic Resources)* S of Romines Mills.
Wolf Summit vicinity, *Fletcher Covered Bridge (West Virginia Covered Bridges Thematic Resources)* NW of Wolf Summit.

*Jackson County*

Sandyville vicinity, *Sarvis Fork Covered Bridge (West Virginia Covered Bridges Thematic Resources).*
Staats Mill, *Staats Mill Covered Bridge (West Virginia Covered Bridges Thematic Resources)* SR 40 (previously listed in the National Register).

*Jefferson County*

Bolivar, *Gannon House,* Union St.

*Lewis County*

Walkersville vicinity, *Walkersville Covered Bridge (West Virginia Covered Bridges Thematic Resources)* S of Walkersville.

*Marion County*

Barrackville, *Barrackville Covered Bridge (West Virginia Covered Bridges Thematic Resources)* SR 21 (previously listed in the National Register).
Grant Town, *Paw Paw Creek Covered Bridge West Virginia covered Bridges Thematic Resources)* SR 17/19.

*Monongalia County*

Laurel Point vicinity, *Dents Run Covered Bridge (West Virginia Covered Bridges Thematic Resources)* N of Laurel Point.
Morgantown, *Stewart Hall,* West Virginia University campus.

*Monroe County.*

Lillydale vicinity, *Laurel Creek Covered Bridge (West Virginia Covered Bridges Thematic Resources)* SR 23/4.
Salt Sulphur Springs vicinity, *Indian Creek Covered Bridge (West Virginia covered Bridges Thematic Resources)* 1.5 mi. S of Salt Sulphur Springs on U.S. 219 (previously listed in the National Register).

*Ohio County*

West Liberty, *West Liberty Presbyterian Church (West Liberty Federated Church)* Main St.

*Pleasants County*

St. Marys, *Cain House (Alexander Creel Tavern)* Creel St.

*Pocahontas County*

Hillsboro vicinity, *Locust Creek Covered Bridge (West Virginia Covered Bridges Thematic Resources)* SR 31.

*Taylor County*

Grafton vicinity, *Clelland House (Houghton House)* NW of Grafton off U.S. 250.

*Tyler County*

Middlebourne, *Tyler County Courthouse and Jail,* Main and Dodd Sts.

*Wetzel County*

Hundred vicinity, *Fish Creek Covered Bridge (West Virginia Covered Bridges Thematic Resources) SR 13.*

[FR Doc. 80-15557 Filed 5-19-80; 8:45 am]
BILLING CODE 4310-03-M

## Properties Determined Eligible for Inclusion in the National Register of Historic Places; Additions, Deletions, and Corrections

Determinations of eligibility are made in accordance with the provisions of 36 CFR 1204, procedures for requesting determinations of eligibility, under the authorities in section 2 (b) and 1 (3) of Executive Order 11593 and section 106 of the National Historic Preservation Act of 1966, as amended, as implemented by the Advisory Council on Historic Preservation's procedures, 36 CFR Part 800. Properties determined to be eligible under § 1204.3 (63.3) of the procedures for requesting determinations of eligibility are designated by § 1204.3.

Properties which are determined to be eligible for inclusion in the National Register of Historic Places are entitled to protection pursuant to section 106 of the National Historic Preservation Act of 1966, as amended, and the procedures of the Advisory Council on Historic

Preservation, 36 CFR Part 800. Agencies are advised that in accord with the procedures of the Advisory Council on Historic Preservation, before an agency of the Federal Government may undertake any project which may have an effect on an eligible property, the Advisory Council on Historic Preservation shall be given an opportunity to comment on the proposal.

The following list of additions, deletions, and corrections to the list of properties determined eligible for inclusion in the National Register is intended to supplement the cumulative version of that list published March 18, 1980.

Sarah G. Oldham,

*Acting Chief, Registration Branch.*

**ALABAMA**

*Houston County*

Dothan, *Dothan Amtrak Station,* 608 N. St. Andrews St. (1204.3)

*Morgan County*

Decatur, *Decatur Amtrak Station (Union Depot)* 701 N. Railroad St. (1204.3)

**ALASKA**

*Fairbanks Division*

Fort Greely, *Archeological Site XMH-297* (1204.3).

*Judicial Division*

Sitka, *Sitka National Cemetery* (1204.3).

**ARIZONA**

*Maricopa County*

Phoenix, *Ong's, Jim, Market,* 1110 E. Washington St.
Scottsdale vicinity, *Archeological Site AZ U:6:4(ASU)* (1204.3).

*Yuma County*

Bouse vicinity, *Archeological Site AZ M:13:2* (1204.3).
Bouse vicinity, *Archeological Site AZ S:1:8* (1204.3).
Hope vicinity, *Archeological Site AZ S:6:7* (1204.3).
Parker, *Parker Rattlesnake Intaglio Site* (1204.3).

**ARKANSAS**

*Conway County*

Springfield, *Alexander, W. S., Site* (1204.3).
Springfield, *Scroggins, Don Site* (1204.3).
Springfield, *Temper Site* (1204.3).
Springfield, *Wilder Log House Site* (63.3) (1204.3).

*Lafayette County*

*Archeological Site 3 LA 94,* Near Lake Erling.

**CALIFORNIA**

*Alameda County*

*Bank of American Building,* Broad and 12th Sts. (1204.3).
*Building at 561 565—567 11th Street* (1204.3).
*Fong Wan Building,* 576—578 10th St. (1204.3).
*Key System Building,* 1100 Broadway St. (63.3) (1204.3).
*Swan's Department Store and Food Center* (1204.3).
*Victorian Houses,* 571, 573—577 and 583 11th St. (1204.3).
*Victorian Row (Old Oakland District)* (1204.3).

*Contra Costa County*

Concord, *Don Fernando Pacheco Adobe,* 3119 Grant St.

*Fresno County*

Fresno, *Bank of America Building,* Fulton Mall (1204.3).

*Glenn County*

*Bridge C-32 over Stony Creek* (1204.3).

*Inyo County*

Bishop vicinity, *Archeological Site CA-Iny-2146,* S of Bishop (1204.3).

*Kern County*

Bakersfield, *Baker Street Library,* 1400 Baker St. (1204.3).

*Los Angeles County*

Los Angeles, *Security Pacific National Bank,* 716 W. Olumpic Blvd. (1204.3).
Los Angeles, *Standard Oil Building,* 605 W. Olympic Blvd. (1204.3).
Pasadena, *Building at 950 North Marengo Avenue.*
Pasadena, *Building at 111 North Los Robles.*
Pasadena, *Building at 1121—1123 N. Los Robles.*
Pasadena, *Building at 1143 North Los Robles.*
Pasadena, *Building at 1814 North Garfield Avenue.*
Pasadena, *Nash House,* 591 Oakland St. (1204.3).

*Marin County*

*GOLDEN GATE BRIDGE.* Reference—see San Francisco County.

*Mariposa County*

*Eagle Peak Archeological District,* N of Yosemite Valley.
*Mariposa Grove Archeological District,* Yosemite National Park.
*Snow Creek-Mt. Watkins Archeological District,* Yosemite National Park.
*Yosemite Creek Archeological District,* Yosemite National Park.
Yosemite National Park, *Crane Flat Archeological District.*

*Monterey County*

Monterey, *Casa Soberanes,* 336 Pacific St. (1204.3).

*Orange County*

Santa Ana, *North Broadway Park* (1204.3).

*Riverside County*

Aguanga vicinity, *Archeological Site CA-RIV-381* (1204.3).

*San Bernardino County*

Cucamonga vicinity, *Archeological Site SBR-895* (1204.3).
Fort Irwin, *Drinkwater Spring (Gallant Eagle 80).*
Fort Irwin, *Nelson Lake (Gallant Eagle 80).*
*Midway Archeological Site CA-SBr-3694.*

*San Francisco County*

San Francisco, *Fort Miley.*
San Francisco vicinity, *Golden Gate Bridge* (also in Marin County) (1204.3).

*Santa Barbara County.*

*San Antonio Creek Bridge* (1204.3).

*Shasta County*

*Volta 2-1* (1204.3).
*Volta 2-2* (1204.3).

*Siskiyou County*

Macdoel vicinity, *Archeological Site CA-Sis-342,* N of Macdoel (1204.3).

*Tuolumne County*

*Aspen Valley Archeological District,* Yosemite National Park.
*Hetch Hetchy Archeological District,* Yosemite National Park.
*VIS Site 05-16-53-02,* Stanislaus National Forest.
*White Wolf Archeological District,* Yosemite National Forest.

*Ventura County*

Santa Paula vicinity, *Buildings at 18901, 19303 and 19311 East Telegraph Road.*
Santa Paula vicinity, *Santa Clara School (20030 E. Telegraph Rd.).*

**COLORADO**

*Archeological Site 5 ML 35,* Wolf Creek Pass East (1240.3).
*Archeological Sites 5 RN 118 and 5 RN 118,* Wolf Creek Pass East (1204.3).

*Arapahoe County*

*ARCHEOLOGICAL SITES 5DA097 and 5DA265.* Reference—see Douglas County.
*ARCHEOLOGICAL SITES 5DA 261, 5DA263 and 5DA269.* Reference—see Douglas County.
Littleton, *City Ditch (1204.3).*
Littleton, *Littleton Archison, Topeka and Santa Fe Depot* (1204.3).
Littleton, *Littleton Denver and Rio Grande Western Depot* (1204.3).
Franktown vicinity, *Pike's Peak Grange,* SR 83 (1204.3).
Franktown vicinity, *Seventeen-Mile House,* SR 83 (1204.3).

*Denver County*

Denver, *637, 701, 751, and 841 Galapago* (1204.3).
Denver, *675 Santa Fe, Byers Branch Library* (1204.3).
Denver, *912 Galapago (Smith's Chapel)* (1204.3).
Denver, *Denver Turnverien,* 1570 Clarkson St. (1204.3).
Denver, *Mammoth Gardens,* 1510 Clarkson St. (1204.3).
Denver, *St. Joseph's Church and Rectory.* (1204.3).
Denver, *Sunken Gardens Park* (1204.3)
Denver, *Wesh High School* (1204.3).
Denver, *Westside Historic Distirct (extension)* (1204.3).

*Douglas County*

*Archeological Sites 5DA097 and 5DA265* (also in Arapahoe County).
*Archeological Sites 5DA261, 5DA263 and 5DA269* (also in Arapahoe County).

*Garfield County*

*Denver and Grande Railroad* (1204.3).
*Shoshone Hydroelectric Plant Complex* (1204.3).

*La Plata County*

*Archeological Site 5LP262, 5LP263, and 5LP264* (1204.3).
*Tamoma-Ames Powerhouse, Terminal Dam, Aspaas Dam, and Wood-stave Flume,* San Juam National Forest (1204.3).

*Larimer County*

*Larimer and Weld Canal-Eaton Ditch* (1204.3) (also in Weld County).

*Park County*

*5 PA 13 Water Flume, Spinney Mountain* Reservoir Project vicinity (1204.3).

*Weld County*

*LARIMER AND WELD CANAL–EATON DITCH.* Reference—see Larimer County.
Greeley, *Lincoln Schools,* 11th St. and 4th Ave.

**CONNECTICUT**

*Fairfield County*

Plantsville, *Building at 314 Summer Street.*

*New Haven County*

Waterbury, *Downtown Waterbury Historic District* (1204.3).

*New London County*

New London, *St. James Episcopal Church,* 125 Huntington St.

**DELAWARE**

*New Castle County*

Wilmington, *Wilmington Boulevard Historic District* (1204.3).

**FLORIDA**

*Dade County*

Miami, *Buildings at 827, 1000, and 1150 S. Miami Avenue.*

*Franklin County*

Apalachicola, *Apalachicola Historic District.*

*Volusia County*

Ormand Beach, *Ormand Beach Hotel,* 15 E. Granda.

**GEORGIA**

*Camden County*

Kings Bay, *Kings Bay Multiple Resource Area* (1204.3).

*Catoosa County*

Graysville Vicinity, *Graysville Bridge* (1204.3).

*Chatham County*

Savannah, *Candler Central Hospital,* 3025 Bull St.
Savannah Vicinity, *Savannah and Ogeechee Canal* (1204.3).

*Cherokee County*

*Archeological Site 9CK* (DOT) 11 (1204.3).

*DeKalb County*

Atlanta, *Johnsontown.*

Decatur, *Scottdale Elementary School,* E. Ponce de Leon and Laredo.
Decatur, *Scottish Rite Hospital for Crippled Children,* 321 W. Hill St.

*Fulton County*

Atlanta, *Ridley Court Apartments* (1204.3).

*Monroe County*

Macon, *Le Sueur-Butler House* (1204.3).

*Richmond County*

Riverside Mills.
Agusta, *Fifth Street Highway Bridge.*
Agusta, *Sixth Street Railroad Bridge.*
Agusta, *Southern Railroad Freight Depot.*

*Thomas County*

Thomasville, *Thomasville Amtrak Station,* 420 W. Jackson St. (1204.3).

**HAWAII**

*Archeological Site 97–20–305,* Island of Kahoolawa.

*Honolulu County*

Ewa, *Barbers Point Archeological District* (extension) (1204.3).
Honolulu, *Ala Wai Park Clubhouse.*
Honolulu, *Campbell, J., Building.*
Honolulu, *Hawaii Building.*
Honolulu, *Hotel Street Sidewalk Elements.*
Honolulu, *McCorriston Building.*
Honolulu, *Oahu State Prison Administration Building.*
Honolulu, *Robinson Building.*
Honolulu, *Tong Fat Company, Ltd.*

*Kauai County*

Hanalei vicinity, *Hanalei National Wildlife Refuge Historic and Archeological District.*

**IDAHO**

*Graves Spring Site.*

*Ada County*

Boise, *Building at 414 S. 11th Street.*
Boise, *Building at 425 S. 9th Street.*

*Cassia County*

Oakley, *Oakley Guard Station,* Main St.

*Gooding County*

Hagerman, *Hagerman National Fish Hatchery Site (10–GG–176)* (1204.3).

**ILLINOIS**

*Cook County*

Chicago, *Adler Planetarium,* 1300 S. Lake Shore Dr. (1204.3).
Chicago, *Underwriters Laboratory Building,* 207 E. Ohio St.

*Kankakee County*

*Kankakee County Courthouse*

*Peoria County*

Peoria, *Palace Theatre.*

*Sangamon County*

Springfield, *Camp Butler National Cemetery* (1204.3).

**INDIANA**

*Hancock County*

Greenfield, *Riley Swimming Pool* (1204.3).

*Marion County*

Indianapolis, *Union Station Historic District.*

*Spencer County*

Rockport vicinity, *Honey Creek Archeological District.*

*Vanderburgh County*

Evansville, *Zion Evangelical Church,* 415 NW. 5th St. (1204.3).

**IOWA**

*Butler County*

Greene, *Shell Rock River Bridge* (1204.3).

*Dubuque County*

Dubuque, *Adams Company.*
Dubuque, *Bishop's Block,* 90 Main St.
Dubuque, *Building at 145 First Street.*
Dubuque, *Building at 169–171 Iowa Street.*
Dubuque, *Building at 576 Central Avenue.*
Dubuque, *Burlington Railroad Freight House.*
Dubuque, *C. M. and St. P. Freight House.*
Dubuque, *Central Supply Company.*
Dubuque, *Corner Tavern,* 400 Central Ave.
Dubuque, *Dublin Historic District.*
Dubuque, *Dubuque Ice Harbor.*
Dubuque, *Faber, A. J., Company,* 60 Main St.
Dubuque, *Farley-Loetscher Industrial Complex.*
Dubuque, *Fireplace Shop,* 470 Central Ave.
Dubuque, *Herring, Jim, Barbershop,* 414 Central Ave.
Dubuque, *Higley Chemical Company,* 40–42 Main St.
Dubuque, *Kennedy Industries,* 10th St.
Dubuque, *Kretschmer-Tredway Company,* 9th and Washington, St.
Dubuque, *Linehan and Molo Building,* 41 Main St.
Dubuque, *Old Main Street Historic District.*
Dubuque, *South Locust Street Cluster.*
Dubuque, *Tri-State Independent Blind Society,* 1098 Jackson St.

*Lee County*

Keokuk, *Lester, Thomas, House,* 18 N. 1st. (1204.3).

*Woodbury County*

Sioux City, *Bekins Building,* 3rd St.

**KANSAS**

*Atchison County*

Atchison, *Atchison Railroad Drawbridge, Mile 422.5,* Spans Missouri River.

*Butler County*

Chelsea vicinity, *Archeological Sites 14 BU 4, 14 BU 9, 14 BU 55, and 14 BU 57.*
El Dorado, *Archeological Sites 14 BU 516, 521, and 522.*

*Sedgwick County*

Wichita, *Grove Park Archeological Site* (1204.3).

*Bullitt County*

Smithville, *Archeological Site 15 BU 86,* Off U.S. 31E.

*Fayette County*

Nicholasville vicinity, *Bryant, J., House,* 3 mi. N of Nicholasville (1204.3).
Nicholasville vicinity, *Elmwood,* 1.5 mi. NW of Nicholasville (1204.3).

*Ohio County*

*Archeological Site 150H50* (1204.3).

*Warren County*

Bowling Green, *Bowling Green Amtrak Railroad Station,* 401 Kentucky (1204.3).

**MARYLAND**

*Anne Arundel County*

Annapolis, *Veterans Administration Annapolis National Cemetery,* 800 West St. (1204.3).

*Baltimore (independent city)*

*Baltimore National Cemetery,* 5501 Frederick Ave. (1204.3).
Veterans *Administration Loudon Park National Cemetery,* 3445 Frederick Ave. (1204.3).

*Baltimore County*

Harrisonville, *Holy Family Catholic Church* (1204.3).
Holbrook, *New Tavern* (1204.3).
Holbrook, *Wards Chapel United Methodist Church* (1204.3).
Randallstown, *Choate House* (1204.3).
Randallstown, *Randallstown State Police Barracks.*
Randallstown, *Scott-Conrey House* (1204.3).

*Carroll County*

Eldersburg, *Lee Farm* (1204.3).

*Prince Georges County*

Hyattsville, *Hyattsville Historic District.*

*Queen Anne County*

Chester, *Barnstable Hill.*
Chester, *Goodhand House.*
Chester, *Stoopley Gibson.*
Wye Mills, *Carpenters Square.*
Wye Mills, *Hammond, Hiram House.*
Wye Mills, *Woodbury.*

*Talbot County*

Wye Mills, *Hassett Farm.*

**MASSACHUSETTS**

*Berkshire County*

Pittsfield, *Old Central High School,* 1st St.

*Essex County*

Lynn, *Central Building (Sweetser Factory Building)* 34–36 Central Ave.
Lynn, *Mower's Block.*

*Franklin County*

Greenfield, *Weldon Hotel,* 54 High St. (1204.3).

*Hampden County*

Holyoke, *Fire Station No. 2,* 452 Main St.
Westfield, *Landlord Fowler Tavern,* 171 Main St.

*Hampshire County*

Belchertown, *Belchertown Congregation Church Parish House.*

*Suffolk County*

Boston, *Interlocking System—Tower 1,* Atlantic Ave. and Summer St. (1204.3).
Boston, *Waiting Room of the South Station,* Atlantic Ave. and Summer St. (1204.3).

*Worcester County*

Loeminster, *Wachusetts Shirt Company,* 97—100 Water St.
Oxford, *Davis, Capt. Abijah House,* 343 Main St.
Oxford, *Joslin, Allen L., House,* 345 Main St.
Oxford, *Paine, Banjamin, House,* 259 Main St.

**MICHIGAN**

*Ingham County*

Lansing, *Moores Park Pool Building* (1204.3).

*Kalamazoo County*

*Haymarket Historic District.*

*Kent County*

Grand Rapids, *Heartside Historic District.*

*Wayne County*

Detroit, *Buckland-Van Wald Building,* 430 W. Larned.
Detroit, *Detroit Club,* 712 Cass St.
Detroit, *Detroit Free Press Building,* 321 W. Lafayette.
Detroit, *Fisher Building,* W. Grand Blvd. and 2nd Ave. (1204.3).
Detroit, *Grand Circus Park Historic District.*
Detroit, *Greektown Historic District.*
Detroit, *Griswold Building,* 1214 Griswold.
Detroit, *Guardian Building,* 500 Griswold.
Detroit, *New Center Building,* Lorthrop and 2nd Ave.
Detroit, *Parker-Webb Building,* 400 W. Grand River.
Detroit, *Washington Boulevard Historic District* (1204.3).

**MINNESOTA**

*Hennepin County*

*MARSHALL AVENUE-LAKE STREET BRIDGE.* Reference—see Ramsey County.
Minneapolis, *Broadway Bridge (#727). (1204.3)*

*Ottertail County*

Fergus Falls, *Fergus Falls Main Post Office,* 118 S. Mill St. (1204.3)

*Ramsey County*

St. Paul, *Marshall Avenue-Lake Street Bridge* (also in Hennepin County).

*Wabasha County*

*Wabasha, Commerical District* (1204.3).
Wabasha, *First Congregational Parsonage,* 305 W. 2nd St. (1204.3).
Wabasha, *Grace Memorial Episcopal Church,* 205 E. 3rd St. (1204.3).

**MISSISSIPPI**

*Bolivar County*

Choctaw vicinity, *Choctaw Archeological Site* (1204.3).
Shaw vicinity, *Porter Bayou Archeological Site (1204.3).*

*Forrest County*

*Morriston Road Bridge,* Spans Tallahala Creek (1204.3).

*Harrison County*

Biloxi, *Veterans Administration Medical Center (1204.3).*

*Issaquena County*

Mayersville vicinity, *Mayersville Archeological Site (1204.3).*

*Lowdes County*

Columbus, *Columbus, MS. Main Post Office,* 524 Main St.

**MISSOURI**

*Boone County*

Columbia, *Columbia West HIstoric District.*

*Clark County*

Kahoka, *Clark County Courthouse,* 111 E. Court.

*Clay County*

Kansas, *Fratt Bridge (Armour-Swift-Burlington Bridge)* Spans Missouri River (also in Jackson County).

*Cole County*

Jefferson City, *Jefferson City National Cemetery (1204.3).*

*Green County*

Springfield, *Springfield National Cemetery (1204.3).*

*Jackson County*

*FRATT BRIDGE (ARMOUR-SWIFT-BURLINGTON BRIDGE)* Reference—see Clay County.

*Lawerence County*

Mount Vernon, *Lawerence County Jail.*

*Pike County*

*23 PI 73 and 23 PI 74* (1204.3).

*St. Clair County*

Oscoela, *St. Clair County Courthouse.*

*St. Francois County*

Farmington, *St. Francois County Courthouse.*

*St. Louis County*

Maryland Heights, *Zion Lutheran Schoolhouse,* 12075 Dorsett Rd. (1204.3).

*St. Louis County*

St. Louis, *Buildings at 1600–1602, 1614, 1616 (rear), 1618, 1620 South 12th Street, 16—, 1601, 1602, 1603 and 1606 South 11th Street.*
St. Louis, *Ettrick Building,* Buclid Ave. and Forest Park Blvd.
St. Louis, *Jefferson Barracks National Cemetery* (1204.3).
St. Louis, *Vincentian Fathers House and Press Building.*
*Starkoff, Max C., Memorial Hospital.*

**MONTANA**

*Beaverhead County*

Horse Prairie vicinity, *South Everson Creek Quarry Site.*

*Deer Lodge County*

Anaconda, *Barich Block,* 416—420 Park St.
Anaconda, *Davidson Block,* 301 E. Park St.
Anaconda, *National Bank of Anaconda Building,* 212 E. Park Ave.
Anaconda, *Parrott Block,* 205 E. Park St.
Anaconda, *St. Paul's Catholic Church and Rectory,* 218 and 220 E. Park St.
Anaconda, *Smith Building,* 210—210½ E. Park Ave.

Anaconda, *Wills, F. C., Building,* 317 E. Commercial Ave.

*Flathead County*

Kalispell, *Fisher, Heller, House,* 441 2nd Ave. West.
Kalispell, *Old City Hall.*

*Golden Valley County*

Ryegate vicinity, *Sims-Garfield Randh,* U.S. 12 (1204.3).

*Missoula County*

Missoula, *Building at 432 E. Pine* (1204.3).
Missoula, *Building at 442 W. Spruce* (1204.3).
Missoula, *Building at 508 Toole* (1204.3).
Missoula, *Building at 501 W. Alder* (1204.3).
Missoula, *Buildings at 236, 309 and 315 E. Spruce* (1204.3).
Missoula, *Fort Missoula* (1204.3).

*Rosebud County*

Colstrip, *Crying Hawk* (1204.3).
Colstrip, *Engineers Shelter* (1204.3).
Colstrip, *Inventory Site No. 31* (1204.3).
Colstrip, *Lookout Point Petroglyph* (1204.3).
Colstrip, *Lookout Point Site* (1204.3).
Colstrip, *Pyramid Mountain* (1204.3).
Colstrip, *Sandrock Bison Kill* (1204.3).
Colstrip, *Slewfoot* (1204.3).
Colstrip, *Timi's Shelter* (1204.3).
Colstrip, *Vegematic Site* (1204.3).

**NEBRASKA**

*Lancaster County*

Lincoln, *VA Medical Center at Lincoln.*

**NEVADA**

*Clark County*

Searchlight vicinity, *Archeological Sites AZ F:5:1(ASU) and AZ F:5:2* (1204.3).

**NEW HAMPSHIRE**

*Merrimack County*

Concord, *Building at 6 Rumford Street.*
Concord, *Eagle Square Historic District* (1204.3).

**NEW JERSEY**

*Burlington County*

Hainesport, *Columbian Ironworks (J. D. Johnson Foundry Archeological Site* (1204.3).

*Hudson County*

*NEWARK BAY BRIDGE, CENTRAL RAILROAD.* Reference—see Union County.
Weehawken, *North Hudson Hospital,* Park East (1204.3).

*Hunterdon County*

Lambertville, *Prehistoric Site 28–Hu–468.*

*Mercer County*

Trenton, *Stokely Van Camp Cannery Complex (1204.3)*

*Morris County*

*Union Stone Church* (1204.3).
Dover, *Baker Building,* 16 W. Blackwell St.

*Ocean County*

Lakewood, *Rockfeller Park* (1204.3).

*Passaic County*

Paterson City, *Garrett Mountain Park* (1204.3).

*Union County*

Elizabethport, *Newark Bay Bridge, Central Railroad* (1204.3) (also in Hudson County).

**NEW MEXICO**

*McKinley County*

Crownpoint vicinity, *Archeological Site SJC–479* (1204.3).

*Sandoval County*

Boca Geothermal Lease Archeological District.

**NEW YORK**

*Albany County*

Albany, *Broadway-Livingston Historic District.*
Albany, *Mansion Historic District.*
Albany, *McKinney Steel Company* (Portions of).
Albany, *Washington Avenue Historic District.*

*Broome County*

Binghamton, *Lower Front Street Houses,* 3 Riverside Dr. and 2, 3, 6, and 8 Front St.

*Erie County*

Boston Valley, *UB 1530 Webber Site* (1204.3).
Boston Valley, *UB 1531 Miller Site* (1204.3).
Boston Valley, *UB 1537 Banko 2 Site* (1204.3).
Boston Valley, *UB 1551 Duffy Site* (1204.3).

*Jefferson County*

Sackets Harbor, *U.S. Post Office,* 107—109 W. Main St. (1204.3).

*Kings County*

Brooklyn, *Public School No. 37,* 83 S. 4th St. (1204.3).

*Ontario County*

Geneva, *Hotel Seneca.*
Geneva, *Jacobs Building,* Exchange St.

*Westchester County*

White Plains, *White Plains Main Post Office.*

**NORTH CAROLINA**

*Edgecombe County*

*Rocky Mount Downtown Historic District* (1204.3).

*Henderson County*

Hendersonville, *Hendersonville Railroad Depot.*

**NORTH DAKOTA**

*Benson County*

Fort Totten vicinity, *Sullys Hill Archeological Site* (1204.3).

*Morton County*

Mandan, *Mandan Depot,* 401 W. Main St. (1204.3).

*Stutsman County*

Jamestown, *Jamestown Depot,* 318 1st St., NE. (1204.3).

**OHIO**

*Ashtabula County*

Ashtabula, *Ashtabula 46th Street Bridge, 46th St.*

*Clark County*

Springfield, *Thomas Manufacturing Company,* 106—110 E. Mulberry St.

*Cuyahoga County*

Cleveland Heights, *Buildings at 12537, 12545, 12546, 12574, 12588, 12600 and 12608 Cedar Road.*

*Hamilton County*

Cincinnati, *Findlay Market Historic District* (1204.3).
Cincinnati, *Sixth District School,* Elm and Odeon Sts.

*Jackson County*

*Cambrian Hotel,* Broadway and Main Sts. (1204.3).

*Summit County*

*Jones Site No. 2* (1204.3).
*Strawberry Site* (1204.3).

**OKLAHOMA**

*Osage County*

*Archeological Sites 34 OS 92 and 34 OS 160* (1204.3).

*Sequoyah County*

Harrison vicinity, *Randy Site* (1204.3).

*Tulsa County*

Tulsa, *Brady Heights Historic District.*
Tulsa, *Greenwood Historic District.*

*Washington County*

*Archeological Site 34 WN 68,* Copan Lake.

**OREGON**

*Clackamas County*

Lake Oswego, *Oswego Creek Bridge,* Oswego Hwy. (1204.3).

*Lane County*

Eugene, *Wheeler House,* 245 Pearl St. (1204.3).
Eugene, *Mims House,* 340 High St. and 330 High St. (1204.3).

*Marion County*

Salem, *Gilbert House,* 116 Marion St. (1204.3).

*Multnomah County*

Portland, *Broadway Building,* 715 SW. Morrison (1204.3).
Portland, *Chapman Lownsdale Squares* (1204.3).
Portland, *Corbett Building,* 422 and 430 SW. Morrison (1204.3).
Portland, *Goodnough Building (College Block)* 730 SW. 5th Ave. and 443—475 SW. Yamhill (1204.3).
Portland, *Journal Building (Jackson Tower)* 806 SW. Broadway (1204.3).
Portland, *Kress Building (J. C. Penney Building)* 638 SW. 5th Ave. (1204.3).
Portland, *Lenox Hotel,* 1116 SW. 3rd Ave. (1204.3).
Portland, *Mayer Building,* 1122—1138 SW. Morrison (1204.3).

Portland, *Meier and Frank Building,* 520 SW. 5th Ave. (1204.3).
Portland, *Northwestern (First National) Bank Building,* 571 SW. Morrison (1204.3).
Portland, *Olds, Wortman, and King Building (The Galleria)* 614 SW 10th and 921 SW Morrison (1204.3).
Portland, *Pacific Building,* 520 SW. Yamhill (1204.3).
Portland, *Steel Bridge,* Willamette River.
Salem, *Emmett, James and Alice, House,* 2950 Brush College Rd.

*Polk County*

Salem, *Walling, Jesse D., House,* 5865 Wallace Rd.

*Umatilla County*

Umatilla Bridge Site (35 UM 58) (1204.3).

**PENNSYLVANIA**

*Allegheny County*

*Stahl Million Dollar Theater (Leona Theater)* 238 E. 8th Ave. (1204.3).

*Berks County*

Reading, *Callowhill Historic District (1204.3).*

*Erie County*

Erie, *Bonnell Block,* 419—423 State St.
Erie, *Brewster, Alexander, House,* 156 E. 5th St.
Erie, *Building at 425—431 State Street.*
Erie, *Business Block No. 1,* State St. and N. Park Row.
Erie, *Coach House (Blacksmith Shop)* 11 E. 4th St.
Erie, *Colt, Judah, House,* 343 E. Front St.
Erie, *Empire Block-Gage Hotel,* 501 State St.
Erie, *First Ward Firehouse,* 414 French St.
Erie, *Franks Hotel,* 24—26 5th St.
Erie, *Hamot House,* 302 French St.
Erie, *Kennedy, David, House,* 424—426 Holland St.
Erie, *Kennedy, David, Row Houses,* 158, 160, and 162 E. 5th St.
Erie, *McCallions (Frederick Schneider Store)* 401 State St.
Erie, *Mission Block,* 425, 427, 429 and 431 Peach St.
Erie, *Modern Tool Company,* State St. and E. 4th.
Erie, *Perry Memorial House (Dickson's Tavern)* 2nd and French Sts.
Erie, *Rockwell, Peter, House,* 405 State St.
Erie, *Schneider, Frederick, House,* 3 E. 4th St.
Erie, *Sterrett, James,* 501 Holland Ave.
Erie, *Tivals, C. M. (Tibbals) House,* 146 E. 5th St.
Erie, *Warner Theater,* 811 State St. (1204.3).

*Lycoming County*

Williamsport, *Williamsport Historic District* (1204.3).

*Perry County*

Duncannon, *Clark's Tavern* (1204.3).

*Philadelphia County*

Philadelphia, *Kearsley House,* 49th and Monument Ave.
Philadelphia, *Wanamaker House Historic District* (1204.3).

*Schuylkill County*

Frackville Borough, *Roosevelt School Building,* Frack and Balliet Sts.
Tamaqua, *Reading Railroad Station.*

*Warren County*

Tidioute, *Tidioute Historic District,* 183—207 Main St., 7—9 Economy St.

*Westmoreland County*

Greensburg, *General Greene Hotel,* 24 W. Otterman

**RHODE ISLAND**

*Providence County*

Glocester, *Cherry Valley Prehistoric Site.*
Providence, *Brown and Sharpe Manufacturing Company Complex* (1204.3).
Providence, *Merchants Cold Storage and Warehouse Company,* 180 Kinsley Ave. (1204.3).
Smithfield, *Georgiaville Historic District,* Bounded by Farnum Pike, Stillwater Rd., Cross St., and Whipple Ave.

*Washington County*

Exeter, *Albro Mill (Lawton's Mill)* Ten Rod Rd.
Westerly, *Nursery Site.*

**SOUTH CAROLINA**

*Beaufort County*

Beaufort, *Beaufort National Cemetery Historic District,* 1601 Boundary St. (1204.3).

*Florence County*

Florence, *Florence National Cemetery* (1204.3).

*Jasper County*

*Second Refuge Site (38JA61)* Savannah National Wildlife Refuge.

**SOUTH DAKOTA**

*Minnehaha County*

Sioux Falls, *Oddfellows Building,* 121-123 S. Main Ave. (1204.3).

*Yankton County*

Yankton, *Main Post Office,* 319 Walnut.

**Tennessee**

*Davidson County*

Nashville, *Glen Oak Historic District.*
Nashville, *Granny White Pike and Granny White's Grave,* Granny White Pike.
Nashville, *West End Heights Historic District.*

*Hamilton County*

Chattanooga, *Market Street Commercial District.*
Chattanooga, *Shelton Mills,* 1201 Broad St.
Chattanooga, *Veterans Administration National Cemetery,* 1200 Bailey Ave. (1204.3).
Knoxville, *Old City Club-Christenberry Block,* Walnut and Church Sts.

**TEXAS**

*Cooke County*

Gainesville, *Gainesville, Amtrak Station,* 803 E. California St. (1204.3).

*Fayette County*

La Grange vicinity, *Archeological Site 41 FY 135,* SE of La Grande (1204.3).

*Jackson County*

Edna vicinity, *Little Mound Site 41JK163* (1204.3).

*Red River County*

Kanawah vicinity, *Neeley Site (41RR98)* 216 km SE of Kanawah on Little Pine Creek (1204.3).

**UTAH**

*Salt Lake County*

Salt Lake City, *Varley House,* 180 W. 500 North St. (1204.3).

**VERMONT**

*Franklin County*

Swanton, *Archeological Site VT-FR-89* (1204.3).

*Orange County*

Newbury, *Old Town Clerk's Office,* Newbury Town Rd.

**VIRGINIA**

*Allegheny County*

Greewood, *Gaithright Dam-Lake Moomaw* (also in Bath County).

*Bath County*

*GAITHRIGHT DAM-LAKE MOOMAW.* Reference—see Allegheny County.

*Culpeper County*

Culpeper, *Culpeper National Cemetery.*

*Hanover County*

Mechanicsville, *Cold Harbor National Cemetery.*

*Lynchburg County*

Lynchburg, *Building at 524 Church Street.*

*Prince George County*

Hopewell, *City Point National Cemetery.*

**WASHINGTON**

*Skagit County*

*Burlington Northern, Inc., Bridge No. 85.*

**WEST VIRGINIA**

*Kanawha County*

Charleston, *Charleston Amtrak Station,* 305 MacCorkle Ave. (1204.3).

*Taylor County*

Grafton, *Veterans Administration Grafton National Cemetery.*

**WISCONSIN**

*Crawford County*

*Marais Lake Archeological District* (1204.3).

*Forest County*

Laona, *Flanner-Steger Lumber and Lane Company Camp 6 and 7* (1204.3).

*Marathon County*

Wausau, *Northern Hotel.*
Wausau, *Third Street Historic District.*
Wausau, *Washington House Hotel.*

*Milwaukee County*

Wood, *Northwestern Branch of the National Home for Disabled Volunteer Soldiers and National Cemetery.*

*Price County*

Fifield, *Round Lake Logging Dam* (1204.3).

*Rock County*

Janesville, *Look West Historic District.*
Janesville, *Old Fourth Ward Historic District.*

*Vernon County*

LaCrosse vicinity, *Goose Island Archeological Site.*

**WYOMING**

*Niobrara County*

*Manville Quarries* (1204.3).

*Park County*

*Fort Yellowstone-Mammoth Hot Springs Historic District* (1204.3).
*Fort Yellowstone Powerhouse* (1204.3).

*Teton County*

*Lake Hotel,* Yellowstone National Park (1204.3).

**MIDWAY ISLAND**

Sand Island, *Commercial Pacific Cable Company Site.*

* * * * *

The following properties have been demolished and/or removed from the list of determinations of eligibility.

**ARKANSAS**

*Pulaski County*

Little Rock, *Marion Hotel,* Markham St. (demolished). (1204.3).

**CALIFORNIA**

*Marin County*

Point Reyes, *P. E. Booth Company Pier* (demolished).

**CONNECTICUT**

*Middlesex County*

Middletown, *Mansion Block* (demolished).

**RHODE ISLAND**

*Providence County*

Woonsocket, *Club Marquette Building (St. Anne's Gymnasium)* Cumberland St. (demolished).

* * * * *

The following is a list of corrections to properties listed in the "Federal Register," Part II, March 18, 1980. Additional corrections will appear in subsequent updates.

**CONNECTICUT**

*Middlesex County*

Middletown, *Old Middletown Main Post Office,* 291 Main St. (63.3) (previously listed as Middletown Main Post Office).

**INDIANA**

*Morgan County*

Indianapolis vicinity, *Parker Covered Bridge,* SR 700 S., spans county line (also in Putnam County) (previously listed in Marion County) (1204.3).

[FR Doc. 80-15054 Filed 5-19-80; 8:45 am]

BILLING CODE 4310-03-M

## Office of Surface Mining Reclamation and Enforcement

### Surface Coal Mining and Reclamation Operations Permanent Regulatory Program; Petition To Designate Federal Lands as Unsuitable for Surface Coal Mining Operations

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior.

**ACTION:** Notice that the Secretary of the Interior will decide a petition to designate certain Federal lands in southern Utah in the vicinity of Bryce Canyon National Park and the Dixie National Forest as unsuitable for surface coal mining operations.

**SUMMARY:** A petition to designate certain Federal lands in southern Utah unsuitable for surface coal mining operations was submitted to the Office of Surface Mining on November 28, 1979, and was found to be complete on December 27, 1979. The petitioners are the Environmental Defense Fund, Friends of the Earth, Sierra Club Legal Defense Fund, Sylvan Johnson, Leon Lippincott, Carolyn Lippincott, Jet Mackelprang, Cynthia Myers, Susan Hittson and Larry Little. Notice of receipt of the complete petition was given on January 17, 1980 (45 FR 3398–3399). That notice describes in detail the location of the lands that are the subject of the petition.

The Secretary of the Interior has determined to exercise his retained authority to issue the decision on this petition, because it is the first such petition filed under section 522(c) of the Surface Mining Control and Reclamation Act of 1977.

**EFFECTIVE DATE:** May 20, 1980.

**FOR FURTHER INFORMATION CONTACT:** Donald Crane, Regional Director, Region V, Office of Surface Mining, U.S. Department of the Interior, 1020 15th Street, Denver, CO 80202, Telephone (303) 837–5511, or Carl Close, Assistant Director, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240, Telephone (202) 343–4225.

**SUPPLEMENTARY INFORMATION:** Section 522(c) of the Surface Mining Control and Reclamation Act allows interested persons to petition to have an area designated unsuitable for surface coal mining operations. By § 769.4(a) of Title 30, Code of Federal Regulations (1979), the Secretary has delegated his authority to decide Federal lands unsuitability petitions to the Office of Surface Mining Regional Director for the region in which the Federal lands subject to the petition are located. However, the Secretary did not by this action fully divest himself of the power to issue decisions on petitions to designate Federal lands unsuitable for mining. As provided in the Department of the Interior Departmental Manual of internal procedures:

> An officer who delegates or redelegates authority does not divest himself of the power to exercise that authority nor does the delegation or redelegation relieve him of the responsibility for action taken pursuant to the delegation. 200 DM 1.9 (1977).

Because this is the first petition filed under section 522(c) and will, as such, be of importance to future petitions as well, the Secretary has determined to exercise his retained authority to decide the petition.

This notice is a "rule of organization, procedure and practice" within the meaning of the Department's rulemaking procedures, 43 CFR 14.5(d)(1), and thus may be made effective May 20, 1980, 43 CFR 14.5(d)(4).

The primary authors of this document are David Gayer, Office of the Solicitor, (202) 343–5207, and Steve Quarles, Deputy Under Secretary, (202) 343–7351.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under 43 CFR Part 14. This notice is not a major Federal action having a significant impact on the quality of the human environment.

Dated: May 14, 1980.

Cecil D. Andrus,

*Secretary.*

[FR Doc. 80-15424 Filed 5-19-80; 8:45 am]

BILLING CODE 4310-05-M

## Water and Power Resources Service

### Draft Supplement No. 2 to the Final Environmental Statement for the Auburn Dam, Seismicity and Dam Safety, Central Valley Project, Calif.; Public Hearing on Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft supplement to the final environmental statement for the Auburn Dam, Seismicity and Dam Safety, of the Central Valley Project in Placer and El Dorado Counties in California. The statement (INT DES 80–32) was transmitted to the Environmental Protection Agency on May 8, 1980, and was made available to the public on May 8, 1980.

Two preferred design concepts for Auburn Dam were reviewed by the State of California and its consultants and by consultants retained by the

Service. These are a curved concrete gravity dam and a rockfill dam with impervious core, both located at Mile 20. Both designs would impound 2.3 million acre-feet (2.8 billion cubic meters) of water. The facilities associated with both of the preferred alternatives would be essentially the same as for the concrete arch design except that the optimum size of the powerplants and the number and arrangement of the multilevel outlets associated with the preferred design concepts must be reformulated. These studies are now in progress.

A public hearing date has been scheduled to receive comments on the draft supplement from interested individuals and organizations. The location, date, and time for the hearing are the Grand Ballroom B, Woodlake Quality Inn, Highway 160 and Canterbury Road, Sacramento, California, June 18, 1980, 7:00 p.m.

The hearing will continue until all persons desiring to comment have been heard.

Individuals and representatives of organizations desiring to present their views at the hearing should contact the Regional Environmental Quality Officer, Water and Power Resources Service, 2800 Cottage Way, Sacramento, Californina 95825 (telephone (916) 484–4792).

Requests for scheduling of oral presentations will be accepted until 4:00 p.m., June 13, 1980. Requests to speak can also be made at the registration desk at the hearing. Insofar as practicable, speakers will be scheduled according to the time preferences indicated in their requests.

The time permitted for oral presentations at the hearing may be limited to 10 minutes per speaker, depending on the number of presentations scheduled. Speakers will not be permitted to trade or consolidate their scheduled times to make longer individual presentations. However, the person presiding at the hearing may allow additional oral comments by anyone after all scheduled speakers have been heard. Written statements by persons who desire to supplement their oral presentations and by those unable to attend the public hearing may be submitted to the Regional Environmental Quality Officer (address given above) through July 7, 1980, for inclusion in the hearing record. Please label comments submitted by mail as "Public Hearing" comments on the draft supplement.

Copies of the draft supplement are available for public examination at the Mid-Pacific Regional Office of the Water and Power Resources Service, 2800 Cottage Way, Sacramento, California 95825. Single copies of the statement may be obtained without charge by writing to the Regional Director, Water and Power Resources Service, at the address given above for the Mid-Pacific Regional Office.

Dated: May 15, 1980.

R. Keith Higginson,

*Commissioner of Water and Power Resources.*

[FR Doc. 80-15308 Filed 5-19-80; 8:45 am]

BILLING CODE 4310-09-M

## INTERSTATE COMMERCE COMMISSION

[Released Rates Application No. MC-1500]

### National Motor Freight Classification

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice; Released Rates Application No. MC-1500.

**SUMMARY:** Carriers participating in the National Motor Freight Classification want to amend Released Rates Order No. MC-618, which authorizes the establishment and maintenance of released class ratings on personal effects of members of the armed forces or deceased veterans, to also authorize released exceptions and commodity rates on the same articles at the same released values, i.e.:

1. Not exceeding 10 cents per pound.
2. Exceeding 10 cents per pound but not exceeding 20 cents per pound.
3. Exceeding 20 cents per pound but not exceeding 50 cents per pound.
4. Exceeding 50 cents per pound but not exceeding $2.00 per pound.
5. Exceeding $2.00 per pound but not exceeding $5.00 per pound.

**ADDRESS:** Anyone seeking copies of this application should contact: Mr. William W. Pugh, Counsel for Applicants, 1616 P St, NW, Washington, DC 20036, Tel. (202) 797–5310.

**FOR FURTHER INFORMATION CONTACT:** Max Pieper, Bureau of Traffic, Interstate Commerce Commission, Washington, DC 20423, Tel. (202) 275–7553.

**SUPPLEMENTARY INFORMATION:** Relief is sought from 49 U.S.C. 10703.

Agatha L. Mergenovich,

*Secretary.*

[FR Doc. 80-15330 Filed 5-19-80; 8:45 am]

BILLING CODE 7035-01-M

### Permanent Authority Decisions

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the Federal Register. Protests (such as were allowed to filings prior to March 1, 1979 *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) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those 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. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exception of those applications involving duly noted problems (e.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier serivce will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices within 30 days after publication, or the application shall stand denied.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

**Volume No. 143**

Decided: April 17, 1980.

By the Commission, Review Board Number 1, Members Cameron, Joyce and Jones.

MC 63562 (Sub-71F), filed February 15, 1980. Applicant: BN TRANSPORT INC., 6775 East Evans Avenue, P.O. Box 22694, Wellshire Station, Denver, CO 80224. Representative: Cecil L. Goettsch, 1100 Des Moines, IA 50307. Transporting *transformers and transformers parts* between the facilities of RTE Corporation at or near Waukesha, WI on the one hand, and, on the other, points in the United States in and west of MN, IA, IL, MO, AR, and LA. (Hearing site: Milwaukee, WI or Chicago, IL.)

MC 71593 (Sub-60F), filed February 12, 1980. Applicant: FORWARDERS TRANSPORT, INC., 1608 E. Second Street, Scotch Plains, NJ 07076. Representative: David W. Swenson, 1608 E. Second Street, Scotch Plains, NJ 07076. Transporting *such commodities as are dealt in by a manufacturer of paper and paper products* and *materials, supplies* and *equipment* used in the manufacture of the foregoing commodities (except commodities in bulk), from points in Portage and Wood Counties, WI, on the one hand, and, on the other, points in ME, NH, MA, MD, CT, NJ, DE, RI, VT, VA, DC, and in NY and PA on and east of Interstate Hwy 81. (Hearing site: Newark, NJ, Washington, DC, New York, NY.)

MC 107012 (Sub-507F), filed March 11, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop, P.O. Box 988, Fort Wayne, IN 46801. Transporting *such commodities* as are dealt in by retail stores, (except foodstuffs, commodities in bulk, and commodities which because of size or weight require the use of special equipment), from Seattle, WA, and points in AL, CA, CT, FL, GA, KY, MD, MA, MS, NJ, NY, OH, PA, RI, SC, and TN to the facilities of M. W. Kasch Company, at or near Mequon, WI. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 111812 (Sub-721F), filed March 11, 1980. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: R. H. Jinks (same address as applicant). Transporting *Meats, meat products, meat byproducts and articles distributed by meat-packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Waterloo, IA, and Indianapolis, IN, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, and DC, restricted to the transportation of traffic originating at the facilities of The Rath Packing Company. (Hearing site: Des Moines, IA.)

MC 113362 (Sub-386F), filed March 11, 1980. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50503. Representative: Milton D. Adams, P.O. Box 429, Austin, MN 55912. Transporting (1) *floor covering* and (2) *materials, and supplies* used in the installation of commodities in (1) above (except in bulk), from the facilities of General Felt Insudtries, Inc., at or near (a) Dallas, TX, to points in CO, KS, NE, ND, NM, OK, and SD, and (b) Shelbyville, TN, to points in AL, GA, IA, IN, IL, MN, MO, NC, SC, and WI, restricted to the transportation of traffic originating at named origins and destined to the indicated destinations. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 114273 (Sub-713F), filed March 4, 1980. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Transporting *such commodities* as are dealt in by discount and retail department stores, (except in bulk, in tank vehicles), between those points in the United States in and east of ND, SD, NE, CO, OK, and TX, restricted to the transportation of traffic originating at or destined to the facilities of Target Stores, Division of Dayton-Hudson Corporation. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-714F), filed March 4, 1980. Applicant: CRST, INC., P.O. Box

68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Transporting (1) *bakery goods,* (except frozen), and (2) *materials and supplies* used in the manufacturing and distribution of the commodities in (1) above, between those points in the United States in and east of ND, SD, NE, CO, OK and TX, restricted to the transportation of traffic originating at or destined to the facilities used by Interbake Foods, Inc. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-715F), filed March 4, 1980. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Transporting *general commodities,* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk), between the facilities of Eagle Picher Industries, Inc., at or near (1) Hillsboro, IL, (2) Joplin, MO, and (3) Fairbury, NE, on the one hand, and, on the other, points in DE, IL, IN, IA, KS, KY, MD, MI, MN, MO, NE, NJ, NY, NC, OH, PA, TN, VA, WV, WI, and DC. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-716F), filed March 5, 1980. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Transporting (1) *Bonding cement,* (2) *chemicals* and, (3) *iron or steel articles,* from points in MI and OH to points in KS. (Hearing site: Chicago, IL, or Washington, D.C.)

MC 114632 (Sub-282F), filed March 7, 1980. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson (same address as applicant). Transporting Flour from Fergus Falls, MN, and Omaha, NE, to Chicago, IL. (Hearing site: Omaha, NE, or Minneapolis, MN.)

Note.—Dual operations may be involved.

MC 116362 (Sub-8F), filed March 3, 1980. Applicant: A. BELLAVANCE & SONS, INC., Boynton St., Barre, VT 05641. Representative: John P. Monte, Box 568, Barre, VT 05641. Transporting *coal,* from points in PA, VA, and WV to points in VT and NH. (Hearing site: Montpelier, VT, or Boston, MA.)

MC 117613 (Sub-31F), filed March 3, 1980. Applicant: D. M. BOWMAN, INC., Route 2, Box 43A1, Williamsport, MD 21795. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740. *Contract carrier,* transporting *waste products and recycled waste products,* between the facilities of American Recovery Company, Inc., at or near Baltimore, MD, on the one hand, and, on the other, those points in the US in and east of WI, IL, KY, TN, and AL, under continuing contract(s) with American Recovery Company, Inc., of Baltimore, MD, (Hearing site: Baltimore, MD.)

Note.—Dual operations may be involved.

MC 119522 (Sub-47F), filed March 4, 1980. Applicant: McLAIN TRUCKING, INC., 2425 Walton St., P.O. Box 2159, Anderson, IN 46011. Representative: John B. Leatherman, Jr. (same address as applicant). Transporting *such commodities* as are dealt in or used by manufacturers of glass products, plastic products, metal products, and chinaware (except in bulk), between points in IL, IN IA, KY, MI, MO, OH, and WI, restricted to the trnasportation of traffic originating at or destined to the facilities used by (1) Anchor Hocking Corporation and its subsidiary Amerock, Inc., (2) Owen-Illinois, Inc., (3) Glass Containers Corporation, and (4) Kerr Glass Manufacturing Corporation. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 119702 (Sub-77F), filed March 6, 1980. Applicant: STAHLY CARTAGE CO., a corporation, 119 S. Main St., Edwardsville, IL 62025. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW, Washington, DC 20001. Transporting *ammonium nitrate and fertilizers,* in bulk, from Selma, MO, to points in IL. (Hearing site: St. Louis, MO.)

MC 125433 (Sub-396F), filed March 3, 1980. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Rd., Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). Transporting (1) *pollution control equipment,* and (2) *parts and accessories* for pollution control equipment, from points in Solano County, CA, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the facilities of the J. R. Schneider Company, Inc. (Hearing site: San Francisco, CA.)

MC 125433 (Sub-397F), filed March 7, 1980. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as applicant). Transporting *games, toys, juvenile furniture, playground apparatus and clothing,* from points in AR, LA, MS, TN, AL, GA, KY, VA, SC, and NC to Bensenville, IL, Southgate, MI, Secaucus, NJ, Mansfield, MA, and Beltsville, MD. (Hearing site: Chicago, IL, and Washington, DC.)

MC 144682 (Sub-40F), filed March 3, 1980. Applicant: R. R. STANLEY, 1738 Empire Central, Dallas, TX 75235. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. Transporting *plumbing goods,* from Hearne and Dallas, TX, to points in AL, AR, GA, ID, IL, KS, LA, MO, MS, NV, OK, OR, UT, and WA. (Hearing site: Dallas, TX.)

MC 145152 (Sub-18F), filed March 12, 1980. Applicant: BIG THREE TRANSPORTATION, INC., Post Office Box 706, Springdale, AR 72764. Representative: Don Garrison, Esq., Post Office Box 1065, Fayetteville, AR 72701. Transporting *such commodities as are dealt in or used by discount and variety stores,* from points in the United States (except AZ, AK, HI, ME, MT, ND, NM, OH, OR, SD, VT, WA and WY), to the facilities of Hart Stores, Inc., at or near Columbus, OH. (Hearing site: Columbus, OH, or Fayetteville, AR.)

MC 145593 (Sub-7F), filed March 6, 1980. Applicant: HAROLD SHULL TRUCKING, INC., P.O. Box 1533, Hickory, NC 28601. Representative: Harold D. Shull, Curley Fish Camp Road, Hildebran, NC 28637. Transporting *furniture and furniture parts,* from points in Mitchell County, NC, to points in MI and OH. (Hearing site: Charlotte, NC.)

MC 145773 (Sub-1F), filed March 5, 1980. Applicant: KIRK BROS. TRANSPORTATION, INC., 800 Vandemark Rd., Sidney, OH 45365. Representative: A. Charles Tell, 100 East Broad St., Columbus, OH 43215. *Contract carrier,* transporting (1) *household dishwashers, parts* for household dishwashers, *household compactors, food processing equipment, computing scales, and commercial refrigerators,* from the facilities of Hobart Corporation, at points in AL, GA, IL, KS, KY, LA, MN, OH, PA, SC, and UT to points in the United States (except AK and HI); and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), in the reverse direction, under continuing contract(s) in (1) and (2) above with Hobart Corporation, of Troy, OH. (Hearing site: Washington, DC.)

MC 146753 (Sub-9F), filed March 3, 1980. Applicant: SAM YOUNG, INC., P.O. Box 337, Wolcott, IN 47995. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting (1) *mineral wool and insulation materials,* from the facilities of Keene Corporation, at Kalamazoo, MI to points in the United States (except AK and HI); and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse

direction. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 147032 (Sub-4F), filed March 7, 1980. Applicant: GENERAL MOTOR LINES, INC., P.O. Box 9583, Baltimore, MD 21237. Representative: Edward N. Button, 580 Northern Avenue, Hagerstown, MD 21740. Transporting *general commodities,* (except classes A and B explosives), between Baltimore, MD, and Alexandria, VA, restricted to traffic having a prior or subsequent movement by water. (Hearing site: Baltimore, MD.)

MC 147842 (Sub-2F), filed March 3, 1980. Applicant: COLEMAN BROS. TRUCKING, INC., Route 1, P.O. Box 203, Potosi, MO 63664. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. *Contract carrier,* transporting (1) *iron ore and iron oxide,* from the facilities of St. Joe Lead Company, at or near Sullivan, MO, to points in the United States (except AK and HI); and (2) *materials, and supplies* used in the manufacture or distribution of the commodities in (1) above, in the reverse direction, under continuing contract(s) in (1) and (2) with St. Joe Lead Company, of Clayton, MO. (Hearing site: St. Louis, MO.)

MC 148472 (Sub-2), filed March 13, 1980. Applicant: CLOVER CLUB FOODS CO., a corporation, P.O. Box 228, Kaysville, UT 84037. Representative: Bruce W. Shand, 430 Judge Building, Salt Lake City, UT 84111. *Contract carrier,* transporting (1) *foodstuffs* and (2) *materials, equipment and supplies* used in the manufacture, distribution, and processing of foodstuffs, between points in AZ, CO, ID, MT, NV, NM, OR, TX, UT, WA, and WY, under continuing contract(s) with El Molino Foods, Inc., of Kaysville, UT. (Hearing site: Salt Lake City, UT, or Washington, DC.)

[Volume No. 161]

Decided: May 1, 1980.

By the Commission, Review Board Number 2, Members Eaton Liberman, and Jensen.

MC 19105 (Sub-63F), filed February 20, 1980. Applicant: FORBES TRANSFER COMPANY, INC., P.O. Box 3544, Wilson, NC 27893. Representative: William P. Jackson, Jr., 3426 N. Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. Transporting (1) *pipe and pipe fittings,* and (2) *materials, equipment, and supplies* used in the manufacture, installation, and distribution of the commodities in (1) above, between the facilities of Charlotte Pipe and Foundry Company at Charlotte and Bakers, NC, on the one hand, and, on the other, those points in the United States in and east of MI, IN, KY, TN, AR, and LA. (Hearing site: Charlotte, NC.)

MC 56244 (Sub-104F), filed February 22, 1980. Applicant: KUHN TRANSPORTATION COMPANY, INC., P.O. Box 98, R.D. No. 2, Gardners, PA 17324. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108. Transporting *cheese and cheese products,* between the facilities of Safeway Stores, Inc., at Carthage, MO, on the one hand, and, on the other, points in MD and VA, restricted to traffic orginating at the named facilities and destined to the indicated destinations. (Hearing site: Harrisburg, PA, or Washington, DC.)

MC 65475 (Sub-35F), filed February 22, 1980. Applicant: JETCO, INC., 4701 Eisenhower Ave., Alexandria, VA 22304. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. Transporting *torpedoes,* between Keyport, WA, on the one hand, and, on the other, New London, CT, Charleston, SC, and Yorktown, VA. (Hearing site: Washington, DC.)

Note.—The certificate granted in this proceeding shall expire 5 years from its date of issuance.

MC 110325 (Sub-133F), filed February 22, 1980. Applicant: TRANSCON LINES, a corporation, P.O. Box 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, Midland Building, 1221 Baltimore Ave., Kansas City, MO 64105. Over regular routes, transporting *general commodities,* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Eaton-Dikeman Co., at Mount Holly Springs, PA, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Harrisburg, PA.)

Note.—Applicant intends to tack this authority with its existing regular-route authority.

MC 110325 (Sub-134F), filed February 22, 1980. Applicant: TRANSCON LINES, a corporation, P.O. Box 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, Midland Building, 1221 Baltimore Ave., Kansas City, MO 64105. Over regular routes, transporting *general commodities,* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Hughes Tool Company, at Corsicana, TX, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Dallas, TX.)

Note.—Applicant intends to tack this authority with its existing regular-route authority.

MC 111545 (Sub-293F), filed October 1, 1979, previously published in the Federal Register issue of March 11, 1980. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, GA 30065. Representative: Robert E. Born (same address as applicant). Transporting (1) *tractors,* (2) *industrial equipment, construction equipment,* and *material-handling equipment;* and (3) *parts and attachments* for the commodities named in (1) and (2) above from Terre Haute, IN, to points in AZ, CA, FL, GA, NM, NV, NC, OK, SC, TX, and TN. (Hearing site: Indianapolis, IN, or Washington, D.C.)

Note.—This republication corrects the destination points.

MC 113434 (Sub-150F), filed November 5, 1979, previously published in the Federal Register issue of March 27, 1980. Applicant: GRA-BELL TRUCK LINE, INC., A-5253—144th Ave., Holland, MI 49423. Representative: Miss Wilhelmina Boersma, 1600 First Federal Bldg., Detroit, MI 48226. Transporting (1) *glass containers,* and (2) *materials, equipment and supplies* used in the manufacture or distribution of glass containers (except commodities in bulk), between points in IA, IL, IN, KY, MO, NY, NJ, OH, PA, MI, WI, WV, restricted to the transportation of traffic originating at and destined to the above named points. (Hearing site: Chicago, IL, or Washington, D.C.)

Note.—This republication indicates the correct territorial description.

MC 116544 (Sub-189F), filed October 1, 1979, previously published in the Federal Register issue of March 11, 1980. Applicant: ALTRUK FREIGHT SYSTEMS INC., 1703 Embarcadero Rd., Palo Alto, CA 94303. Representative: Richard G. Lougee, P.O. Box 10061, Palo Alto, CA 94303. Transporting *canned and preserved foodstuffs,* from the facilities of Heinz-USA, Division of H. J. Heinz Company, at or near Muscatine and Iowa City, IA, to points in MO, KS, and those in IL on and south of Interstate Hwy 70, restricted to traffic originating at the named facilities and destined to the indicated destinations. (Hearing site: Pittsburgh, PA, or Washington, D.C.)

Note.—This republication indicates the correct destinations.

MC 120675 (Sub-10F), filed October 1, 1979. Applicant: ACME TRUCK LINE, INC., 2855 Lapalco Blvd., P.O. Box 183, Harvey, LA 70059. Representative: Paul D. Angened, 1806 Rio Grande, P.O. Box

2207, Austin, TX 78767. Transporting *oil well fracturing proppant,* from the facilities of Carborundum Company, at or near New Iberia, LA, to points in CO, ID, KS, MT, NE, NM, ND, OK, SD, UT, and WY. (Hearing site: New Orleans, LA, or Washington, D.C.)

MC 124964 (Sub-62F), filed February 11, 1980. Applicant: J. M. BOOTH TRUCKING, INC., P.O. Box 265, Tavares, FL 32778. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier,* transporting *foodstuffs* (except commodities in bulk), from the facilities used by Beatrice Foods Company, at or near Archbold and Napoleon, OH, to points in AL, FL, GA, MS, NC, SC, and TN, under continuing contract(s) with Beatrice Foods Company, of Archbold, OH. (Hearing site: Toledo, OH, or Washington, DC.)

MC 125375 (Sub-21F), filed February 21, 1980. Applicant: F.B.G. TRANSPORT, INC., Route 5, Box 298, Covington, GA 30209. Representative: Ralph B. Matthews, P.O. Box 872, Atlanta, GA 30301. *Contract carrier,* transporting *frozen citrus concentrate, fruit sections, and chilled salads,* from points in FL to the facilities of Farm Land Dairies, Inc. at or near Wallington, NJ, under continuing contract(s) with Farm Land Dairies, Inc., of Wallington, NJ. (Hearing site: Atlanta, GA, or Trenton, NJ.)

MC 125825 (Sub-1F), filed February 19, 1980. Applicant: RICHARD L. WESTON, P.O. box 306, Tyrone, PA 16686. Representative: Arthur J. Diskin, 806 Frick Bldg., Pittsburgh, PA 15219. *Contract carrier,* transporting *granulated peanuts,* from Tyrone, PA, to Battle Creek, MI, San Leandro, CA, and Omaha, NE, under continuing contract(s) with Flavored Nuts, Inc., of Tyrone, PA. (Hearing site: Washington, DC, or Pittsburgh, PA.)

MC 134134 (Sub-67F), filed February 11, 1980. Applicant: MAINLINER MOTOR EXPRESS, INC., 4202 Dahlman Ave., Omaha, NE 68107. Representative: James F. Crosby, P.O. box 37205, Omaha, NE 68137. Transporting *alcoholic beverages,* from points in IL, IN, KY, and MI, to points in KS, and MO. (Hearing site: Kansas City, MO.)

MC 136464 (Sub-49F), filed February 11, 1980. Applicant: CAROLINA WESTERN EXPRESS, INC., Box 3995, Gastonia, NC 28052. Representative: W. C. Sutton (same address as applicant). *Contract carrier,* transporting (1) *electric baseboard heat panels, circuit breakers, switches, controllers, and transformers,* and (2) *parts* for the commodities in (1) above, from points in SC to points in CA, under continuing contract(s) with Federal Pacific Electric Company, of Fort Mill, SC. (Hearing site: Charlotte, NC, or Washington, DC.)

Note.—Dual operations may be involved.

MC 136605 (Sub-150F), filed February 22, 1980. Applicant: DAVIS TRANSPORT, INC., P.O. Box 8058, Missoula, MT 59807. Representative: Allen P. Felton (same address as applicant). In foreign commerce only, transporting *railroad ties,* from Townsend, MT, to ports of entry on the international boundary line between the United States and Canada in MT. (Hearing site: Billings, MT.)

MC 136635 (Sub-28F), filed November 15, 1979, previously noticed in the Federal Register issue of March 27, 1980. Applicant: UNIVERSAL CARTAGE, INC., 640 W. Ireland Rd., South Bend, IN 46680. Representative: Donald W. Smith, P.O. Box 40148, Indianapolis, IN 46240. Transporting *clay products and clay cat litter,* from Ochlocknee, GA, to points in IL, IN, KY, MI, OH, PA, VA, WV, NY, and WI. (Hearing site: Atlanta, GA.)

Note.—This republication indicates the correct destinations.

MC 140615 (Sub-43F), filed May 21, 1979. Applicant: DAIRYLAND TRANSPORT, INC., P.O. Box 1116, Wisconsin Rapids, WI 54494. Representative: Terrence D. Jones, 2033 K St., NW, Washington, DC 20006. Transporting *such commodities* as are dealt in by drug stores (except commodities in bulk), from Cranbury and Lakewood, NJ, to points in IL, IN, MI, and OH. (Hearing site: Washington, D.C.)

MC 140665 (Sub-79F), filed November 26, 1979, previously published in the Federal Register issue of March 27, 1980. Applicant: PRIME, INC., Route 1, Box 115-B, Urbana, MO 65767. Representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. Transporting (1) *cleaning compounds, polishing compounds, deodorants, and disinfectants, and (2) materials and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between points in Summit County, OH, on the one hand, and, on the other, points in the United States (except AK, HI, and OH). (Hearing site: Washington, DC, or Columbus, OH.)

Note.—This republication indicates the correct commodity description.

MC 141804 (Sub-296F), filed November 29, 1979. Applicant: WESTERN EXPRESS, Division of INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). Transporting *chlorinated lime, swimming pool compounds,* and *chemicals* (except commodities in bulk), from Charleston, TN, Lake Charles, LA, and Niagara Falls, NY, to points in AZ and CA. (Hearing site: Los Angeles, CA.)

MC 141804 (Sub-335F), filed January 7, 1980. Applicant: WESTERN EXPRESS, division of INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). Transporting *swimming pool compounds,* and *chemicals* (except commodities in bulk), form Phoenix, AZ, to points in CA. (Hearing site: Los Angeles, CA.)

MC 141804 (Sub-386F), filed February 22, 1980. Applicant: WESTERN EXPRESS, division of INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761 Representative: Frederick J. Coffman (same address as applicant). Transporting *such commodities* as are dealt in by grocery and food business houses, from the facilities used by General Foods Corp., at Anaheim, CA, to points in AZ, restricted to traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Los Angeles, CA.)

MC 142994 (Sub-9F), filed January 9, 1980. previously noticed in the Federal Register issue of April 8, 1980. Applicant: VIRGINIA COURIER SERVICE, INC., P.O. Box 287, Harrisonburg, VA 22801. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth St., NW., Washington, DC 20005. Transporting (1) *drugs* and *chemicals,* (except commodities in bulk), and (2) *materials and supplies* used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk), between those points in U.S. in and east of WI, IL, KY, TN, and MS, restricted to traffic originating at or destined to the facilities of Merck & Co., Inc. and its subsidiaries. (Hearing site: Washington, DC.)

Note.—This republication modifies the commodity description and includes the restriction.

MC 143754 (Sub-9F), filed June 29, 1980. Applicant: MACZUK INDUSTRIES, INC., Route 2, New Haven, MO 63068. Representative: James C. Swearengen, P.O. Box 456, Jefferson City, MO 65102. Transporting *liquid fertilizer,* in bulk, in tank vehicles, from the facilities of U.S. Steel Corp., Agri-Chemical Division, at or near Selma, MO, to points in IL. Conditions: (1) Applicant shall conduct its for-hire motor carrier activities and its other business activities independently, and (2) shall maintain independent records for each. (Hearing site: St. Louis, MO.)

MC 143924 (Sub-3F), filed February 21, 1980. Applicant: GENE C. FUGATE

d.b.a. FUGATE TRUCKING, P.O. Box 14, Danville, VA 24541. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. Transporting *glass containers,* between points in Henry County, VA, on the one hand, and, on the other, points in Rockingham County, NC. (Hearing site: Greensboro, NC, or Washington, DC.)

MC 144435 (Sub-3F), filed December, 28, 1979. Applicant: J & L REFRIGERATED TRUCKING CO., INC., 905 East Langsford Rd., Lee's Summit, MO 64063. Representive: Jim R. Elgin (same address as applicant). Transporting *foodstuffs,* in vehicles equipped with mechanical refrigeration, from Kansas City, MO, to points in AL, AR, FL, GA, KS, LA, MS, MO, NC, OK, SC, TN, and TX. (Hearing site: Kansas City, MO, or Washington, DC.)

MC 144484 (Sub-11F), filed February 5, 1980. Applicant: FREIGHTWAYS, INC., 412 East 2nd St., Eldon, MO 65026. Representive: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting (1) *blowers* and *electric motors,* (2) *iron and steel articles,* and (3) *materials and supplies* used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk), between Eldon, MO, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX (except AL, AR, GA, IL, IA, IN, KS, MI, MS, NE, NY, OH, OK, PA, TN, and WI). (Hearing site: Kansas City or St. Louis, MO.)

MC 145944 (Sub-1F), filed February 20, 1980. Applicant: PENGUIN POINT ENTERPRISES, INC., P.O. Box 975, Warsaw, IN 46580. Representive: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Contract carrier,* transporting *food acidulant,* (1) from the facilities of Alberta Gas Chemical Company, Inc., at Duluth, MN, to Chicago, IL, and (2) from Chicago, IL, to Evansville, IN, Seattle, WA, San Jose and Los Angeles, CA, Atlanta, GA, Newark, NJ, Denver, CO, Houston, TX, St. Louis, MO, Tampa, FL, and Greensboro, SC, under continuing contract(s) with Alberta Gas Chemical Company, Inc., of Parsippany, NJ. (Hearing site: Washington, DC.)

MC 146235 (Sub-2F), filed July 30, 1979 previously noticed in the Federal Register issue of February 26, 1980, as MC 146325 (Sub-2F). Applicant: SIMS TRUCKING COMPANY, INC., 505 South Palmetto Ave., Ontario, CA 91761. Representive: Richard C. Celio, 1415 West Garvey Ave., Suite 102, West Covina, CA 91790. Transporting *citrus products,* between Ontario and Corona, CA, on the one hand, and, on the other, Long Beach and Los Angeles, CA, restricted to the transportation of traffic having a prior or subsequent by water. (Hearing site: Los Angeles, CA.)

Note.—This republication indicates that the correct docket number is MC 146235 (Sub-2F).

MC 146964 (Sub-6F), filed February 21, 1980. Applicant: RELIABLE TRUCK LINES, INC., 1451 Spahn Ave., York, PA 17403. Representive: Christian V. Graf, 407 North Front St., Harrisburg, PA 17101. Transporting *chemicals and lubricating oils,* in containers, from the facilities of Master Chemical Corporation, at or near Perrysburg, OH, to Williamsport, York, Dover, and Lancaster, PA. (Hearing site: Washington, DC, or Harrisburg, PA.)

MC 147655 (Sub-2F), filed February 22, 1980. Applicant: PAYNE, INC., P.O. Box 112, Brandy Station, VA 22714. Representative: Gary E. Thompson, 4304 East-West Highway, Washington, D.C. 20014. Transporting, *materials and supplies* used in the manufacture of glass fiber products, in bulk, between those points in the United States in and east of WI, IL, KY, TN, and MS, restricted to traffic destined to the facilities of Owens-Corning Fiberglass Corporation. (Hearing site: Washington, D.C.)

Note.—Dual operations may be involved.

MC 148794 (Sub-2F), filed February 4, 1980. Applicant: THOMAS BROS. TRUCKING, INC., Ludlow, IL 60949. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. *Contract carrier,* transporting *millwork products, windows, and doors,* from Rantoul, IL, to points in the United States (except AK and HI), under continuing contract(s) with Caradco Corporation, of Rantoul, IL. (Hearing site: Chicago, IL, or St. Louis, MO.)

MC 148894 (Sub-3F), filed February 13, 1980. Applicant: DISPATCH DISTRIBUTION SERVICES, INC., 1285 William St., Buffalo, NY 14206. Representatives: Alfred Harf (address same as applicant). Transporting, *medical supplies,* from the facilities of Thruway Terminals, Inc., in Erie County, NY, on the one hand, and, on the other, points in Crawford, Erie, McKean, Potter, and Warren Counties, PA. (Hearing site: Buffalo, NY, or Boston, MA.)

MC 149204 (Sub-2F), filed February 21, 1980. Applicant: JASPER LATNEY ROGERS, SR., d.b.a. J. J. ROGERS TRUCKING, Route 4, Box 61, Wake Forest, NC 27587. Representative: (same as above). *Contract carrier,* transporting (1) *chemicals,* in containers, and (2) *materials, supplies, and equipment* used in the manufacture and distribution of chemicals, between Franklinton and Wilson, NC, on the one hand, and, on the other, points in AL, GA, CO, GA, IL, IN, IA, KY, MD, MI, NJ, NC, OH, PA, TX, VA, and WI, under continuing contract(s) with Novo Biochemical Industries, Inc., of Franklinton, NC. (Hearing site: Raleigh, or Charlotte, NC.)

MC 149324F, filed January 11, 1980. Applicant: BLACK ARROW TRANSPORT, INC., 107 Abbott St., Springfield, MA 01118. Representative: James M. Burns, 1383 Main St., Suite 143, Springfield, MA 01103. Transporting (1) *paper and paper products,* from points in CT, MA, ME, NH, NJ, NY, RI, and VT, to points in the United States (except AK and HI), and (2) *general commodities,* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in IL, WI, MN, and ND, and (b) between points in IL, WI, MN, and ND, on the one hand, and, on the other, points in MA, MT, NY, PA, and WA, restricted in (1) and (2) above to traffic moving on bills of lading of freight forwarders as defined in 49 U.S.C. § 10102(8). (Hearing site: Springfield, MA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 149334F, filed February 1, 1980. Applicant: PIONEER TRUCKING, INC., 2500 28th St. SW, Wyoming, MI 49509. Representive: Paul D. Kratz, Suite 610, 7171 Mercy Rd., Omaha, NE 68106. Transporting *frozen foods,* from the facilities of Readi-Bake, Inc., at or near Grand Rapids, MI, to points in AZ, CA, CO, IL, KS, LA, MA, MO, MS, NE, NY, OK, OR, PA, TX, UT, VA, WA, and WV. (Hearing site: Grand Rapids, MI.)

Note.—Dual operations may be involved.

MC 150135 (Sub-1F), filed February 28, 1980. Applicant: AAA FILTER SERVICE, INC., 2441 Front St., West Sacramento, CA 95691. Representative: Gregory P. Houser (address same as applicant). Transporting, *air filters, fuel filters, and oil filters,* in packages, from the facilities of J. A. Baldwin Manufacturing Co., at or near Kearney, NE, to those points in CA in and north of Monterey, Kings, Tulare, and Inyo Counties. Conditions: Applicant shall conduct its for-hire motor carrier activities and its other business activities independently and shall maintain separate records for each. (Hearing site: Sacramento, or San Francisco, CA.)

MC 150154 (Sub-1F), filed February 19, 1980. Applicant: THOMAS J. REALE CO., INC., 111 First St., Jersey City, NJ 07302. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting (1) *such commodities* as are dealt in or used by grocery,

department store, and food business houses, between the facilities of Thomas J. Reale Co., Inc., at Jersey City, NJ, on the one hand, and, on the other, points in CT, DE, MA, MD, NJ, NY, PA, and RI. (Hearing site: New York, NY, or Washington, DC.)

Agatha L. Mergenovich,

*Secretary.*

[FR Doc. 80-15261 Filed 5-19-80; 8:45 am]

BILLING CODE 7035-01-M

## DEPARTMENT OF JUSTICE

### Attorney General

### Hispanic Advisory Committee to the Attorney General; Open Meeting

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), there will be a meeting of the Hispanic Advisory Committee to the Attorney General. On June 8, 1980 the committee will meet at the Thomas Circle Holiday Inn on Massachusetts Ave., N.W. at 6:00 p.m. and on June 9, 1980, in Conference Room B, First Floor of the Main Justice Building. The building is located between Pennsylvania and Constitution Avenues N.W. and Ninth and Tenth Streets, Washington, D.C. This meeting will begin at 9:00 a.m. Please enter at Tenth Street and Constitution Avenue, N.W. The agenda will include the following topics:

1. Equal Employment Opportunity.
2. Creation of Civil Rights Units in U.S. Attorney's Offices.
3. Education.
4. Immigration.
5. Census.
6. Refugee Policy.
7. Voting Rights.
8. Community Relations.

The members of the Hispanic Advisory Committee to the Attorney General are:

Jose Enrique Amadeo (San Juan, Puerto Rico).
Joaquin Avila (San Antonio, Texas).
Ruben Bonilla (Corpus Christi, Texas).
Adelfa Callejo (Dallas, Texas).
Maria Cerda (Chicago, Illinois).
Victoria Diaz (Palo Alto, California).
Manolo Fernandez (Elizabeth, New Jersey).
Father Jose J. Gallego (Chicago, Illinois).
Dr. Hector P. Garcia (Corpus Christi, Texas).
Robert Gonzales (San Francisco, California).
Lorenzo Patino (Sacramento, California).
Ana Maria Perera (Washington, D.C.).
Ben Reyes (Houston, Texas).
Hector Roman (New York, New York).
Pablo Sedillo (Washington, D.C.).
M.D. "Lita" Taracido (New York, New York).

Both sessions will be open to the public, and will be held in rooms that accommodate approximately 50 people. After the Committee members finish discussing the items on the agenda, there may be time for statements by non-members. If you want to make a statement at the meetings or if you would like the Committee to consider a written statement, please call or write to the Special Assistant to the Attorney General, Department of Justice, Room, 5132, Washington, D.C. 20530.

**FOR FURTHER INFORMATION CONTACT:** Lupe Salinas, Special Assistant to the Attorney General, Department of Justice, (202) 633-2927 (Not toll free).

Dated: May 15, 1980.

Lupe Salinas,

*Special Assistant to the Attorney General, Department of Justice.*

[FR Doc. 80-15435 Filed 5-19-80; 8:45 am]

BILLING CODE 4410-01-M

## DEPARTMENT OF LABOR

### Employment and Training Administration

### Federal Committee on Apprenticeship; Public Meetings

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) of October 6, 1972, notice is hereby given that the Federal Committee on Apprenticeship will conduct the following open meetings as shown below:

(a) *FCA Ad Hoc Subcommittee on CETA*

Date: June 4, 1980.
Time: 9 a.m.-11 a.m.
Place: Conference Room S-4215 C, 200 Constitution Avenue N.W., Washington, D.C.
Agenda: Discussion on "CETA—the View from Apprenticeship."

(b) *FCA Subcommittee on Research*

Date: June 4, 1980.
Time: 11 a.m.-12 noon.
Place: Conference Room S-4215 C, 200 Constitution Avenue N.W., Washington, D.C.
Agenda: (1) *Report on April 30-May 1,* Apprenticeship Training Conference: "Emerging Research and Trends for the 1980s"; (2) *Update:* Research Projects Currently Funded by DARD; (3) *Discussion and Recommendation:* FY 81 Work Plan Project Profiles for ASPER Plan; (4) *Report of Recommendation and Discussion: Two proposals: R-126*—"The Penobscot Automotive Apprenticeship Program"; *R-127*—"Proposal to Improve the cooperation between State and Federal Apprenticeship Agencies."

(c) *FCA Subcommittee on Equal Apprenticeship Opportunity*

Date: June 4, 1980.
Time: 1:00-3:00 p.m.
Place: Conference Room S-4215 C, 200 Constitution Avenue, N.W., Washington, D.C.
Agenda: (1) Followup on Status of Nondiscrimination on the Basis of Handicap Regulation; (2) Sexual Harassment Regulation; (3) Followup on Orientation of Apprentices.

The FCA will hold a full open meeting on Thursday, June 5 from 9 a.m. to 4:30 p.m.; Friday, June 6, 1980, from 9 a.m. to 12 noon, at the National Association of Home Builders, 15th and M Street, N.W., Washington, D.C.

The agenda for the meeting on June 5 will include:

(1) Swearing in New Member;
(2) CETA and other Employment and Training Issues;
(3) Report on CETA: The View from Apprenticeship;
(4) Final Report of the Task Force on Apprenticeship in Foreign Countries;
(5) Discussion: List of Apprenticeable Occupations and Quality of Training Issues.

The agenda for the meeting on June 6 will include:

(6) Report on Cornell Conference on Apprenticeship Training: "Emerging Research and Trends for the 1980s";
(7) Status Report on Activities of State Apprenticeship Councils;
(8) FCA Subcommittee Reports and other FCA Business.

The agendas are subject to change due to time constraints and priority items which may come before the Committee between the time of the publication and the scheduled date of the FCA meeting.

Members of the public are invited to attend the proceedings. Any member of the public who wishes to file written data, views or arguments pertaining to the agendas may do so by furnishing it to the Executive Secretary at any time prior to the meeting. Thirty copies are needed for the members and for the inclusion in the minutes of the meeting.

Any member of the public who wishes to speak at this meeting should so indicate in a written statement, also the nature of the intended presentation and amount of time needed. The Chairperson will announce at the beginning of the meeting the extent to which time will permit the granting of such requests.

Communications to the Executive Secretary should be addressed as follows:

Mrs. M. M. Winters, Bureau of Apprenticeship and Training, ETA, U.S. Department of Labor, 601 D Street N.W., (Room 5434), Washington, D.C. 20213.

Signed at Washington, D.C., this 15th day of May 1980.

Ernest G. Green,

*Assistant Secretary for Employment and Training Administration.*

[FR Doc. 80-15406 Filed 5-19-80; 8:45 am]

BILLING CODE 4510-30-M

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (80-40)]

## Policy on Implementation of the Federal Employees Part-Time Career Employment Program

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of proposed personnel regulations.

**SUMMARY:** The Federal Employees Part-Time Career Employment Act of 1978 (Pub. L. 95-437) provides for the expansion of part-time career employment opportunities in the Federal Service. This Notice sets forth the criteria and procedures for implementing the Act in the National Aeronautics and Space Administration. Written comments should be submitted not later than June 19, 1980. Comments should be addressed to Christine C. Rodgers, Chief, Personnel Policy and Program Management Branch (Code NPM-28), NASA Headquarters, Washington, D.C. 20546. For additional information contact John Pennington (202) 755-3341. After comments have been received and reviewed, NASA's implementation plan for the Act will be formally documented in its internal personnel publications.

**DATE:** May 20, 1980.

### 1. Purpose.

These regulations implement the Federal Employees Part-Time Career Employment Act of 1978, 5 U.S.C. 3401 et seq, by establishing a continuing program to provide part-time career employment opportunities within the National Aeronautics and Space Administration (NASA).

### 2. Policy.

It is the policy of the agency to provide part-time career employment opportunities to the maximum extent consistent with the agency's resources and mission requirements. This policy recognizes the desirability of making maximum use of all available human resources, including those qualified individuals who are only available for part-time career employment. It represents an opportunity to acquire talented workers who might otherwise not be available to the agency. Selections of part-time career employees shall be made without regard to religion, race, color, national origin, marital status, sex, age, nondisqualifying physical handicap, political or labor organization affiliation, or personal favoritism.

### 3. Definitions.

Part-time career employment is regularly scheduled work work from 16 to 32 hours a week in either the permanent competitive or excepted service in Tenure Group I or II. Employment on a temporary or intermittent basis is not included.

### 4. Applicability.

The provisions herein apply to NASA Headquarters and are applicable to field installations.

### 5. Exceptions.

(a) These regulations do not apply to positions where an existing collective bargaining agreement establishes the number of hours of employment per week; nor do they apply to part-time career employees who were working on a permanent part-time basis on the effective date of the Act (October 10, 1978) so long as they continue to work on a part-time basis, do not have a break in service of more than 3 days, or leave their part-time service for more than 3 days, or leave their part-time schedule on other than a temporary basis.

(b) The Administrator, or designee, may authorize such additional exceptions as may be necessary for the agency to carry out its mission. However, in no cases will exceptions be authorized to permit regular tours of duty of 33 to 39 hours per week for a part-time career employee. This in no way restricts the increase of a permanent part-time employee's actual hours of work above 32 hours per week for limited periods to meet business exigencies.

(c) Employment of part-time staff for less than 16 hours per week may be permitted when absolutely necessary to carry out the agency's mission.

### 6. Designation of Program Coordinators.

(a) *Agency Program Coordinator.* The Chief, Personnel Policy and Program Management Branch, is designated as the Part-Time Career Employment Program Coordinator for the agency. The Agency Program Coordinator is responsible for the following:

(1) Reviewing program goals and timetables developed by installations;

(2) Monitoring the Program for Equal Employment Opportunity effectiveness;

(3) Serving as the agency liaison with groups, organizations, and individuals promoting part-time employment;

(4) Responding to installation requests for policy guidance on the Program;

(5) Preparing consolidated reports on the Program as required by the Act, the Office of Personnel Management, or other Federal Offices;

(6) Monitoring overall progress of the Program within the agency; and

(7) Acting as focal point for all other aspects of the Program.

(b) *Installation Program Coordinators.* Each installation shall designate a Part-Time Career Employment Program Coordinator who shall have overall responsibility for carrying out the Program. The Installation Program Coordinators' responsibilities include the following:

(1) Overseeing development and implementation of part-time career employment goals and timetables, coordinating with budget and ceiling control staff as necessary;

(2) Obtaining a regular input from installation officials of the Equal Employment Opportunity, Federal Women's, and Hispanic Employment Programs to assure that goals and timetables address specific needs for providing employment opportunities for minorities and women, and to assess the effect of the installation's Part-Time Career Employment Program on employment patterns and occupational concentration of minorities and women;

(3) Consulting on the installation's Part-Time Career Employment Program with interested parties in special interest areas (e.g., employment of the handicapped, employment of veterans, and upward mobility) and with representatives of employee organizations, etc;

(4) Responding to requests for advice and assistance on part-time career employment from within the agency;

(5) Maintaining liaison with groups promoting part-time career employment opportunities;

(6) Preparing reports on part-time career employment for transmittal to the Agency Program Coordinator;

(7) Monitoring progress in expanding part-time career employment opportunities; and

(8) Insuring that installation managers, supervisors, and employees are kept informed on all aspects of the Part-Time Career Employment Program which affect them.

### 7. Part-Time Career Employment Program Goals and Timetables.

(a) Each installation shall set annual goals for establishing and/or converting positions for part-time career

employment, including a timetable for achieving such goals. Goals for each fiscal year must be established and reported to the Agency Program Coordinator by the end of the preceding fiscal year.

(b) In establishing goals and timetables, installations are required to consider such criteria as:

(1) Agency mission and occupational mix;

(2) Workload fluctuations;

(3) Size of workforce, turnover rate, or employment trends;

(4) Past experience with part-time career employment (to include analysis of current part-time career employment utilization);

(5) Patterns of overtime utilization;

(6) Potential for improving service to the public; and

(7) Personal ceiling allowances and fiscal constraints.

8. Program Evaluation and Reporting.

(a) The Part-Time Carrer Employment Program will be subject to continuing review and evaluation by the Agency Program Coordinator.

(b) Each installation is required to provide for a periodic internal evaluation of its Program.

(c) Installation reports as of March 31 and September 30 of each year shall be submitted to the Agency Program Coordinator no later that April 30 and October 31 respectively. These reports must address the installation's progress in meeting its part-time career employment program goals, noting any impediments encountered and measures taken to overcome them. A copy of any pertinent center regulation or instruction issued during the reporting period shall be attached to each report.

(d) The Agency Program Coordinator shall prepare and forward a consolidated Agency report to the Office of Personnel Management by May 15 and November 15 of each year. Such reports will contain the same material required in installation reports.

9. Part-Time Career Employment Program Practices.

(a) As a part of its normal position management review process, each installation will review: vacancies as they occur; established positions during surveys; and proposed positions to determine the feasibility of the duties of the position being performed on a part-time basis. This information, along with indications of interest in part-time positions or schedules from permanent employees and sources of candidates for such employment from affirmative action efforts, will be considered in reaching a decision as to how the position will be filled or performed.

(b) Installations shall develop procedures to permit employees to request and receive consideration to change from full-time to part-time schedules. Opportunities to voluntarily change from full-time to part-time career employment shall be given to employees whenever feasible, but granting this request will remain an option of management. No full-time employee shall be required to accept part-time career employment as a condition of continued employment. Installations shall not abolish any full-time position occupied by an employee for the sole purpose of making the duties of the postion available to be performed on a part-time career employment basis.

(c) Installations shall notify the public of vacant part-time permanent positions in the same manner and under the same procedures used to publicize full-time permanent positions of like grade and occupation. However, because of the part-time nature of these positions, publicity may be limited to the local commuting area.

10. Fringe Benefits.

Part-time permanent employees are eligible for retirement, life insurance, and health benefits.

(a) *Retirement.* Retirement benefits are computed in the same way for all career employees, both full-time and part-time. Annuities are based on an employee's length of service and the highest average annual pay received for any 3 consecutive years (See FPM Suppl. 831–1).

(b) *Life Insurance.* Permanent part-time career employees are eligible for coverage under the Federal Employees Group Life Insurance Program. The actual amount of insurance for which an employee is eligible is based on annual salary, but in any case not less than $10,000. A part-time career employee's annual salary is the amount of hours scheduled to work times pay rate (See FPM Suppl. 870–1).

(c) *Health Benefits.* Permanent part-time career employees are eligible to participate in the Federal Employees Health Benefit Program. The coverage is the same as that provided for full-time employees, but the employee cost for the premiums is greater for people who became part-time career employees on or after April 8, 1979. For these employees the Government contribution is prorated according to the number of hours the part-timer is scheduled to work. For example, a part-time career employee scheduled for 20 hours a week will pay the employee's share of the premiums plus one half the Government's share. Part-time career employees on board before April 8, 1979, can continue to receive the same Government contributions as full-time employees for as long as they remain part-time without a break in service. (See FPM Letter 890–22).

(d) *Leave.* (1) Annual leave is earned on a prorated basis depending upon the leave category the employee is in:

Leave Category 4—1 hour for each 20 hours of work.

Leave Category 6—1 hour for each 13 hours of work.

Leave Category 8—1 hour for each 10 hours of work.

Part-time career employment status does not affect the amount of annual leave which may be carried over into the next leave year.

(2) Sick leave is earned at the rate of 1 hour for every 20 hours in pay status.

(3) Leave-without-pay (LWOP) is credited in the same way as for full-time employees.

(4) Court leave is credited in the same way as for full-time employees.

(5) A part-time career employee is not eligible for military leave. (See FPM Chapter 630).

(e) Holidays. Part-time career employees are eligible for pay for the number of hours regularly scheduled to be worked on the day the holiday is legally observed (FPM Supp. 990–1 Book I).

E. C. Kilgore,

*Associate Administrator for Management Operations.*

[FR Doc. 80-15318 Filed 5-19-80; 8:45 am]

BILLING CODE 7510-01-M

## NATIONAL COMMISSION ON SOCIAL SECURITY

### Meeting

May 13, 1980.

The National Commission on Social Security will hold a public meeting in the New York Room of the Capital Hilton at 16th and K Streets, N.W., Washington, D.C. on June 8 and 9, 1980. The purpose of the meeting is to make tentative recommendations relating to the extension of the social security program to employment not covered under present law.

Subsequent meetings are scheduled for:

July 11 and 12, 1980 in the Massachusetts Room of the Capital Hilton, Washington, D.C. The purpose is to make tentative recommendations relating to the Health Insurance Program.

August 1 and 2, 1980 in the Gallery Room of the Capital Hilton, Washington, D.C. The purpose is to make tentative recommendations relating to the financing

of the Old-Age, Survivors, and Disability Insurance Programs.

The meetings will begin each day at 9:00 a.m. and continue until Commission business is completed, but no later than 5:00 p.m. All meetings 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 124—Pension Building, 440 G Street, N.W., Washington, D.C. 20218, Phone: (202) 376-2622

Francis J. Crowley,

*Executive Director.*

[FR Doc. 80-15375 Filed 5-19-80; 8:45 am]

BILLING CODE 6820-AC-M

## NATIONAL SCIENCE FOUNDATION

### International Decade of Ocean Exploration Ad Hoc Subcommittee; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Ad Hoc Subcommittee on the Ocean Acoustic Tomography Project, of the Advisory Committee for Ocean Sciences.
Date and Time: June 17 and 18, 1980; 8:30 a.m. to 5 p.m.
Place: Room 124, National Science Foundation, Washingotn, D.C.
Type of Meeting: Closed.
Contact Person: Dr. Curtis Collins, International Decade of Ocean Exploration Section, Room 605, National Science Foundation, Washington, D.C. 20550, telephone (202) 357-7906.
Purpose of Ad Hoc Subcommittee: To provide the IDOE Ad Hoc Subcommittee members with additional expertise in the review and evaluation of proposals relating to oceanographic research related to Ocean Acoustic Tomography Project.
Agenda: Detailed review and evaluation of proposals for support of the Ocean Acoustic Tomography Project.
Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority To Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, July 6, 1979.

M. Rebecca Winkler,

*Committee Management Coordinator.*

May 15, 1980.

[FR Doc. 80-15369 Filed 5-19-80; 8:45 am]

BILLING CODE 7555-01-M

### International Decade of Ocean Exploration Ad Hoc Subcommittee; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Ad Hoc Subcommittee on the Biology and Eastern Equatorial Dynamics Project, of the Advisory Committee for Ocean Sciences.
Date and Time: June 9 and 10, 1980; 8:30 a.m. to 5:00 p.m.
Place: Room 1224, National Science Foundation, Washington, D.C.
Type of Meeting: Closed.
Contact Person: Dr. Clive E. Dorman, International Decade of Ocean Exploration Section, Room 605, National Science Foundation, Washington, D.C. 20550, telephone (202) 357-7906.
Purpose of Ad Hoc Sub-Committee: To Provide the IDOE Ad Hoc Subcommittee members with additional expertise in the review and evaluation of proposals relating to oceanographic research related to Biology and Eastern Equatorial Dynamics Project.
Agenda: Detailed review and evaluation of proposals for support of the Biology and Eastern Equatorial Dynamics Project.
Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data; such as salaries; and personal information concerning individuals associated with proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to Close Meeting: This determination was made by the Committee Management officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, July 6, 1979.

M. Rebecca Winkler,

*Committee Management Coordinator.*

May 15, 1980.

[FR Doc. 80-15370 Filed 5-19-80; 8:45 am]

BILLING CODE 7555-01-M

### Mathematical Sciences Subcommittee of the Advisory Committee for Mathematical and Computer Sciences; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee for Mathematical Sciences.
Date and time: June 10, 1980—9:00 am to 5:00 pm; June 11, 1980—9:30 am to 3:00 pm.
Place: National Science Foundation, Room 321, 1800 G Street, NW, Washington, DC 20550.
Type Meeting: Open.
Contact person: Dr. William G. Rosen, Head, Mathematical Sciences Section, Room 304, National Science Foundation, Washington, D.C. 20550, Telephone: (202) 357-9764.
Summary minutes: May be obtained from the contact person at the above address.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in the Mathematical Sciences.

Agenda

*Tuesday, June 10, 1980*

9:00 am—Introductions—Dr. William G. Rosen, Head, Mathematical Sciences Section
9:15 am—Opening Remarks and Discussion—Dr. William E. Klemperer, Assistant Director, Mathematical and Physical Sciences
9:45 am—Review of the Foundations Program—Professor Yiannis N. Moschovakis, UCLA
10:45 am—Review of the Algebra and Number Theory Program—Professor Daniel Gorenstein, Rutgers University
11:45 am—Awards for Travel and Professional Expenses—AMS recommendation
12:30 pm—Lunch
1:30 pm—Women in mathematics—Dr. Alice T. Schafer, Wellesley College
2:30 pm—Dr. Robert Hermann's Letters
3:00 pm—Mathematical Reviews Fiscal Status—Dr. William J. LeVeque's Letter
3:30 pm—Update of Alternative Modes Proposal Evaluation—Dr. William H. Pell, Program Director, Special Projects Program

*Wednesday, June 11, 1980*

9:30 am—Talk by Dr. Jonathan P. Brezin
10:30 am—Talk by Dr. Gilbert Strang
11:30 am—FY 1981 budget update—Dr. William G. Rosen
12:00 noon—FY 1981 Section Structure—Dr. William G. Rosen
12:30 pm—Lunch
1:30 pm—Suggestion for New Members
2:00 pm—Other Business
3:00 pm—Adjourn

M. Rebecca Winkler,

*Committee Management Coordinator.*

May 15, 1980.

[FR Doc. 80-15373 Filed 5-19-80; 8:45 am]

BILLING CODE 7555-01-M

### Subcommittee for Earthquake Hazards Mitigation of the Advisory Committee for Engineering and Applied Science; Meeting; Amended Agenda

The Subcommittee for Earthquake Hazards Mitigation is holding a meeting

in Washington, D.C. on June 2 and 3, 1980. The agenda is being amended to delete the 1-hour closed session on June 3. For the convenience of the reader, the new agenda is being republished in its entirety.

June 2

9–10 a.m.—Welcome and Status of FY 1980 EHM Budget
10–12 M.—General Discussion
12–1:30—Lunch
1:30–3:30—Discussion of proposed programs related to the problem of existing Hazardous Structures—Dr. Bill Anderson and Dr. Fred Krimgold
3:30–5—Task Group discussions of hazards buildings

June 3

9–12 M.—Discussion of the FY 1980 EHM program in Design

This notice of meeting was originally published in the Federal Register on Wednesday, May 7, Page 30196, Vol. 45, No. 90.

M. Rebecca Winkler,
*Committee Management Coordinator.*
May 15, 1980.

[FR Doc. 80-15371 Filed 5-19-80; 8:45 am]
BILLING CODE 7555-01-M

## Advisory Committee for Social Sciences, Subcommittee on Economics; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Economics of the Advisory Committee for Social Sciences
Date and time: June 9th and 10th, 1980; 9 a.m. to 5 p.m. each day
Place: Room 628, National Science Foundation, 1800 G Street, NW, Washington, D.C. 20550
Type of meeting: Closed
Contact person: Dr. James H. Blackman, Program Director for Economics, Room 628, National Science Foundation, Washington, D.C. 20550, Telephone (202) 357–9674
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in Economics.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–462. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: May 15, 1980.

M. Rebecca Winkler,
*Committee Management Coordinator.*

[FR Doc. 80-15372 Filed 5-19-80; 8:45 am]
BILLING CODE 7555-01-M

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Reactor Safeguards Subcommittee on Reactor Safety Research; Meeting

The ACRS Subcommittee on Reactor Safety Research will hold a meeting on June 3, 1980 in Room 1046, 1717 H St., NW, Washington, DC to review pertinent portions of the NRC FY–82 research budget for the ACRS annual reports to NRC and Congress. Notice of this meeting was published May 15, 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, recording 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 this meeting shall be as follows:

*Tuesday, June 3, 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, their consultants, and other interested persons.

The ACRS is required by section 5 of the 1978 NRC Authorization Act to review the NRC research program and budget and to report the results of the review to Congress. In order to perform this review, the ACRS must be able to engage in frank discussions with members of the NRC Staff and such discussions would not be possible if held in public sessions. 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, therefore, in accordance with Subsection 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463), that, should such sessions be required, it is necessary to close portions of this meeting to prevent frustration of the above stated aspect of the ACRS' statutory responsibilities and to protect proprietary information. See 5 U.S.C. 552b(c)(9)(B) and 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 for the presentations can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Dr. Thomas G. McCreless (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: May 14, 1980.

John C. Hoyle,
*Advisory Committee Management Officer.*

[FR Doc. 80-15440 Filed 5-19-80; 8:45 am]
BILLING CODE 7590-01-M

## Appointment of Performance Review Board for Senior Executive Service

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Appointment of Performance Review Board for Senior Executive Service.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) has announced the roster of names of those persons who will serve on the NRC Performance Review Board. This Board will review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any response by the senior executive; make recommendations to the appointing authority relative to the performance of the senior executive; and perform other associated functions for positions within the Senior Executive Service (SES). The appointments to the boards were made pursuant to Section 4314 of Chapter 43 of Title 5 of the United States Code. Members are:

Robert J. Budnitz, Director, Office of Nuclear Regulatory Research.
Edson G. Case, Deputy Director, Office of Nuclear Reactor Regulation.
John G. Davis, Deputy Director, Office of Nuclear Material Safety and Safeguards.

Harold R. Denton, Director, Office of Nuclear Reactor Regulation.
Richard C. DeYoung, Deputy Director, Office of Inspection and Enforcement.
William J. Dircks, Director, Office of Nuclear Material Safety and Safeguards.
Daniel J. Donoghue, Director, Office of Administration.
James A. Fitzgerald, Assistant General Counsel.
Edward J. Hanrahan, Director, Office of Policy Evaluation.
Robert B. Minogue, Director, Office of Standards Development.
Patricia G. Norry, Deputy Director, Office of Administration.
Howard K. Shapar, Executive Legal Director.
Ray G. Smith, Deputy Director, Office of Standards Development.
Victor Stello, Director, Office of Inspection and Enforcement.

Members will serve for 3-year terms (except that some members of the first PRB will not have 3-year appointments).

**EFFECTIVE DATE:** May 1, 1980.

**FOR FURTHER INFORMATION CONTACT:** Daniel J. Donoghue, Chairman, Performance Review Board, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, 301–492–7335.

Dated at Bethesda, Md., this 9th day of May 1980.

For the Nuclear Regulatory Commission.

William J. Dircks,

*Chairman, Executive Resources Board.*

[FR Doc. 80-15442 Filed 5-19-80; 8:45 am]

BILLING CODE 7590-01-M

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[Docket Nos. 50-295 and 50-304]

## Commonwealth Edison Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 54 to Facility Operating License No. DPR–39, and Amendment No. 51 to Facility Operating License No. DPR–48 issued to the Commonwealth Edison Company (the licensee), which revised Technical Specifications for operation of Zion Station, Units 1 and 2 (the facilities), located in Zion, Illinois. The amendments are effective as of the date of issuance.

The amendments add Technical Specifications for the Overpressure Mitigating System, approve the system as the long-term solution to the generic issue, add a licensing condition requiring a secondary water chemistry monitoring program, and revise Zion Unit No. 2 Technical Specifications for control rod insertion limits. Minor changes which have been made to your proposal have been discussed with your staff.

The application for the amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated September 2, 1977, supplemented by letters dated February 26 and September 26, 1979, and applications dated September 28 and November 7, 1979; (2) Amendment Nos. 54 and 51 to License Nos. DPR–38 and DPR–49; and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. and at the Zion-Benton Public Library District, 2600 Emmaus Avenue, Zion, Illinois 60099. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 28th day of April, 1980.

For the Nuclear Regulatory Commission.

A. Schwencer,

*Chief, Operating Reactors Branch #1, Division of Operating Reactors.*

[FR Doc. 80-15448 Filed 5-19-80; 8:45 am]

BILLING CODE 7590-01-M

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[Docket No. 50-293]

## Boston Edison Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 42 to Facility Operating Licens No. DPR–35, issued to Boston Edison Company which revised Technical Specifications for operation of the Pilgrim Nuclear Power Station (the facility) located in Plymouth County, Massachusetts. The amendment is effective as of its date of issuance.

The amendment (1) authorizes operation of Pilgrim Unit 1 during Cycle 5, (2) revises the Technical Specifications to provide LCO's, Surveillance Requirements, and Bases for installed Filter Systems, (3) incorporates additional electrical power systems Technical Specifications for degraded grid voltage protection, (4) revises the surveillance requirements for diesel generator fuel oil, (5) revises the requirements for reactor coolant chemistry, (6) revises the surveillance frequency definition, (7) changes the Core Spray Sparger Break Detection Setpoint, (8) deletes a snubber from the table of Safety Related Shock Suppressors, (9) deletes surveillance requirements associated with the relief/safety valve bellows, (10) raises the High Dry well Pressure Trip Level setting from $<2.0$ psig to $<2.5$ psig, (11) adds Technical Specifications for ATWS/ARI system, (12) revises the list of Primary Containment Isolation Valves to include Reactor Water sample line isolation valves, (13) provides surveillance requirements for Fire Protection Alternate Shutdown Stations, and (14) changes the Reactor Protection System allowable time response.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the licensee's submittals dated May 1, 1975; September 1, November 12, November 15, 1976; July 20, August 8, August 24, 1977; February 1, March 22, 1978; September 27, December 12, December 31, 1979; February 5, March 28, April 3, April 7, April 17, April 24, and April 29, 1980, (2) Amendment No. 42 to License No. DPR–35 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room,

1717 H Street, N.W., Washington, D.C. and at the Plymouth Public Library, North Street, Plymouth, Massachusetts 02360. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 12th day of May, 1980.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

*Chief, Operating Reactors Branch #2, Division of Licensing.*

[FR Doc 80-15447 Filed 5-19-80; 8:45 am]

BILLING CODE 7590-01-M

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[NUREG-0619]

## BWR Feedwater Nozzle and Control Rod Drive Return Line Nozzle Cracking; Issuance and Availability

A task group with members from the Nuclear Regulatory Commission (NRC) staff has prepared a report entitled "BWR Feedwater Nozzle and Control Rod Drive Return Line Nozzle Cracking" (NUREG-0619), dated April 1980. The report provides the staff's resolution of the NRC's Generic Technical Activity A-10, which was an "Unresolved Safety Issue" pursuant to Section 210 of the Energy Reorganization Act of 1974.

The generic study resulted from the inservice discovery of cracking in feedwater nozzles and control rod drive return line nozzles.

NUREG-0619 describes the technical issues, the technical studies and analyses performed by the General Electric Company and the NRC staff, the staff's technical positions based on these studies, and the staff's plans for continued implementation of its technical positions.

The NRC staff has concluded, in the case of the feedwater nozzles, that the combination of nozzle clad removal, installation of triple sleeve spargers designed by General Electric (or others with satisfactory characteristics), procedural changes, and systems changes where deemed necessary, will assure the goal of long term operation without significant crack growth. However, no operating reactor currently satisfies all requirements, and plant specific implementation will be necessary. The staff has established proposed inservice inspection intervals based upon its evaluation of the combined proposed solutions.

With regard to the control rod drive return line nozzle, the staff has concluded that certain control rod drive hydraulic system modifications will be necessary on all operating reactors. The staff's principal considerations were the need to prevent cracking of the nozzle and the need to assure high pressure control rod drive system flow to the reactor vessel sufficient to cover the core when other sources of water are unavailable. This was the case at some times during the fire at Brown's Ferry Unit No. 1. The staff report recommends that each operating plant be required to prove this capability, which may require the simultaneous operation of the two control rod drive pumps, and that plants currently under licensing review should be required to conform to the criteria developed for operating reactors for both the feedwater nozzle and control rod drive return line nozzle issues. This requirement, plus others contained in Part II of NUREG-0619, represents a conservative departure from current licensing criteria.

Public comments on the report, including the proposed new requirements and implementation schedules, are being solicited from interested organizations, groups and individuals. Public comments will be considered before taking final action on any particular case. The staff will evaluate the comments received and, if needed, will issue a supplement or revision to NUREG-0619.

Copies of the report will be available after May 5, 1980. Copies will be sent directly to utilities, utility industry groups and associations and environmental and public interest groups. Other copies will be available for review at the NRC Public Document Room, 1717 H Street, N.W., Washington, D.C., and the Commission's local public document rooms located in the vicinity of existing nuclear power plants. Addresses of these local public document rooms can be obtained by contacting the Chief, Local Public Document Rooms Branch, Mail Stop 309, Nuclear Regulatory Commission, Washington, D.C. 20555, telephone 301/492-7536.

Comments should be forwarded to Mr. Richard P. Snaider, Generic Issues Branch, Nuclear Regulatory Commission, Washington, D.C. 20555, by July 7, 1980.

Dated at Bethesda, Maryland, this 17th day of April 1980.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

*Acting Director, Division of Operating Reactors, Office of Nuclear Reactor Regulation.*

[FR Doc. 80-15461 Filed 5-19-80; 8:45 am]

BILLING CODE 7590-01-M

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[Docket No. 50-213]

## Connecticut Yankee Atomic Power Co.; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 35 to Facility Operating License No. DPR-61, issued to Connecticut Yankee Atomic Power Company (the licensee), which revised the Technical Specifications for operation of the Haddam Neck Plant (the facility), located in Middlesex County, Connecticut. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications to permit a limited number of movements of a spent fuel cask over the Haddam Neck spent fuel pool.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 21, 1978 and supporting information submitted by letters dated May 14, 1974, April 18, 1980 and April 23, 1980, (2) Amendment No. 35 to License No. DPR-61, including the Commission's letter of transmittal, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Russell Library, 119 Broad St., Middletown, Connecticut 06457. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 24th day of April, 1980.

For the Nuclear Regulatory Commission.
Dennis L. Ziemann,
*Chief, Operating Reactors Branch #2, Division of Operating Reactors.*
[FR Doc. 80-15449 Filed 5-19-80; 8:45 am]
BILLING CODE 7590-01-M

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[Docket Nos. 50-498A, 50-499A, 50-445A and 50-446A]

## Houston Lighting & Power Co., et al. (South Texas Projects, Units 1 and 2) and Texas Utilities Generating Co., et al. (Comanche Peak Steam Electric Station, Units 1 and 2); Order Extending Procedural Dates to Accommodate Settlement Negotiations, and Notice of Prehearing Conference

May 13, 1980.

By its Order of April 10, 1980, the Licensing Board extended the scheduled procedural dates in this proceeding to permit and encourage settlement negotiations among the parties. A written status report was directed to be filed by each party on or before May 9, 1980.

These status reports have been filed, and they indicate that numerous and intensive settlement meetings have been held among the parties and with other appropriate governmental agencies. For example, the status report filed by the Department of Justice (Justice) describes 14 such meetings held between April 15 and May 5, 1980, as well as 6 telephone conferences (Settlement Status Report, pp. 2–4). The Federal Energy Regulatory Staff (FERC Staff) and Securities and Exchange Commission (SEC Staff) are involved in proceedings in their respective agencies which concern some issues and parties in the instant consolidated proceeding.

It appears from the filed status reports that substantial and good faith efforts have been made by the parties to negotiate their differences and to reach voluntary settlements, as encouraged by this Board and the Appeal Board. Some progress has been made in narrowing issues in dispute. In fact, Tex-La Electric Cooperative of Texas, Inc. (Tex-La) and Texas Power & Light Company (TP&L) have signed a letter of intent signifying understandings which have been reached to settle their controversies in the Commanche Peak portion of this proceeding. Although the other parties cannot make firm commitments at this time, most of them indicate that settlement is a reasonable possibility if a limited extension of time is granted.

Accordingly, the present schedule is extended to June 9, 1980, to encourage continued settlement discussions. All parties are directed to file written status reports, which shall be in the hands of the members of this Licensing Board by or before 4:00 p.m., Monday, June 9, 1980.

Please take note that a prehearing conference will be held on Tuesday, June 10, 1980, at 10:00 a.m., at 4350 East-West Highway, 5th Floor, Bethesda, Maryland, both to consider the status of settlement negotiations, and to adopt a revised or amended schedule to govern the evidentiary hearing and other procedural aspects of this proceeding.

Dated at Bethesda, Maryland, this 13th day of May, 1980.

For the Atomic Safety and Licensing Board.
Marshall E. Miller,
*Chairman.*
[FR Doc. 80-15441 Filed 5-19-80; 8:45 am]
BILLING CODE 7590-01-M

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## International Atomic Energy Agency Draft Safety Guide; Availability of Draft for Public Comment

The International Atomic Energy Agency (IAEA) is developing a limited number of internationally acceptable codes of practice and safety guides for nuclear power plants. These codes and guides will be developed in the following five areas: Government Organization, Siting, Design, Operation, and Quality Assurance. The purpose of these codes and guides is to provide IAEA guidance to countries beginning nuclear power programs.

The IAEA Codes of Practice and Safety Guides are developed in the following way. The IAEA receives and collates relevant existing information used by member countries. Using this collation as a starting point, an IAEA Working Group of a few experts then develops a preliminary draft. This preliminary draft is reviewed and modified by the IAEA Technical Review Committee to the extent necessary to develop a draft acceptable to them. This draft Code of Practice or Safety Guide is then sent to the IAEA Senior Advisory Group which reviews and modifies the draft as necessary to reach agreement on the draft and then forwards it to the IAEA Secretariat to obtain comments from the Member States. The Senior Advisory Group then considers the Member State comments, again modifies the draft as necessary to reach agreement and forwards it to the IAEA Director General with a recommendation that it be accepted.

As part of this program, Safety Guide SG–D5, "Man-Induced Events in Relation To Nuclear Power Plant Design," has been developed. The Working Group, consisting of K. Guenther of Federal Republic of Germany; V. Ramachandran of India; and J. F. Costello and J. O'Brien (U.S. Nuclear Regulatory Commission) of the United States of America, developed the initial draft of this Safety Guide from an IAEA collation during meetings on November 15–26, 1976, and October 24–28, 1977. The Working Group draft of this Safety Guide was modified by the IAEA Technical Review Committee on Design at its meetings on September 18–22, 1978, and April 23–27, 1979. The Senior Advisory Group subsequently reviewed and further modified this Guide at a meeting on October 8–12, 1979, and we are soliciting public comments on this modified draft (Rev. 4, November 20, 1979). Comments on this draft received by July 1, 1980, will be useful to the U.S. representatives to the Technical Review Committee and Senior Advisory Group in evaluating its adequacy prior to the next IAEA discussion. Single copies of this draft may be obtained by a written request to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5 U.S.C. 522(a))

Dated at Rockville, Maryland this 12th day of May 1980.

For the Nuclear Regulatory Commission.
Robert B. Minogue,
*Director, Office of Standards Development.*
[FR Doc. 80-15443 5-19-80; 8:45 am]
BILLING CODE 7590-01-M

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[Docket No. 50-336]

## Northeast Nuclear Energy Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 56 to Facility Operating License No. DPR-65, issued to Northeast Nuclear Energy Company, The Connecticut Light and Power Company, The Hartford Electric Light Company, and Western Massachusetts Electric Company (the licensees), which revised the license for operation of the Millstone Nuclear Power Station, Unit No. 2 (the facility) located in the Town of Waterford, Connecticut. The amendment is effective as of its date of issuance.

The amendment deletes satisfied License Condition 2.C.(3) regarding restrictions to prevent steam generator water hammer events in the feedwater systems of the facility.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The

Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 21, 1978, (2) Amendment No. 56 to License No. DPR-65, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland this 7th day of May 1980.

For the Nuclear Regulatory Commission.

Robert W. Reid,

*Chief, Operating Reactors Branch #4, Division of Operating Reactors.*

[FR Doc. 80-15445 Filed 5-19-80; 8:45 am]

BILLING CODE 7590-01-M

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[NUREG-0577]

## Potential for Low Fracture Toughness and Lamellar Tearing on PWR Steam Generator and Reactor Coolant Pump Supports; Issuance and Availability

A task force with members from the Nuclear Regulatory Commission (NRC) staff has prepared a report entitled "Potential for Low Fracture Toughness and Lamellar Tearing on PWR Steam Generator and Reactor Coolant Pump Supports" (NUREG-0577), dated August 1979. The report provides the staff's resolution of the NRC's Generic Technical Activity A-12, which was an "Unresolved Safety Issue" pursuant to Section 210 of the Energy Reorganization Act of 1974.

The generic study resulted from questions raised during the licensing review of two pressurized water reactors. The specific concern was the capability of the supports to maintain their structural integrity under accident conditions.

NUREG-0577 describes the technical issues, the technical studies performed by an NRC consultant, the NRC staff's technical positions on fracture toughness of steam generator and reactor coolant pump support materials based on these studies, and the staff's tentative plans for implementing its technical positions. It also provides recommendations for further generic research into the subject of lamellar tearing. The Electric Power Research Institute has been requested to fund and manage such research.

The NRC staff has concluded that, of the 38 PWRs reviewed during the generic study, six were designed and constructed satisfactorily with adequate materials and thus no further review is required. Eleven plants will require review of a less immediate nature than those that will be reviewed initially as described below. It is possible that, based on results of the review of the initial group, these eleven plants may not require additional review. The staff has concluded that 21 plants require further plant-specific investigation to assure adequate fracture toughness of their component supports. Resolution of this issue for many of these plants could be achieved on the basis of licensee investigation in response to the questions of Appendix D of NUREG-0577. Some, however, may require much more extensive study. An implementation review plan and procedure are provided in NUREG-0577. Subsequent to issuance of NUREG-0577, the implementation plan has been modified to place more of the burden for the review of the supports on the licensees and applicants. Proposed guidance for doing this will be provided to licensees and applicants by letter in the near future.

Public comments on the report, including proposed requirements and the implementation schedule, are being solicited from interested organizations, groups and individuals. Public comments will be considered before taking final action on any particular case. The staff will evaluate the comments received and, if needed, will issue a supplement or revision to NUREG-0577.

Copies of the report are available. Copies have been sent to utilities, utility industry groups and associations and environmental and public interest groups. Other copies are available for review at the NRC Public Document Room, 1717 H Street, N.W., Washington, D.C., and the Commission's local public document rooms located in the vicinity of existing nuclear power plants. Addresses of these local public document rooms can be obtained by contacting the Chief, Local Public Document Rooms Branch, Mail Stop 309, Nuclear Regulatory Commission, Washington, D.C. 20555, telephone 301/492-7536.

Comments should be forwarded to Mr. Richard P. Snaider, Generic Issues Branch, Nuclear Regulatory Commission, Washington, D.C. 20555 by July 7, 1980.

Dated at Bethesda, Maryland, this 5th day of May 1980.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

*Acting Director, Division of Operating Reactors, Office of Nuclear Reactor Regulation.*

[FR Doc. 80-15434 Filed 5-19-80; 8:45 am]

BILLING CODE 7590-01-M

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## Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued revisions to two guides in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.84, Revision 16, "Design and Fabrication Code Case Acceptability—ASME Section III Division 1," and Regulatory Guide 1.85, Revision 16, "Materials Code Case Acceptability—ASME Section III Division 1," list those code cases that are generally acceptable to the NRC staff for implementation in the licensing of light-water-cooled nuclear power plants. These two guides were revised to update the listings of acceptable code cases and to include the results of additional staff review.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of active

guides may be purchased at the current Government Printing Office price. A subscription service for future guides in specific divisions is available through the Government Printing Office. Information on the subscription service and current prices may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 12th day of May 1980.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

*Director, Office of Standards Development.*

[FR Doc. 80-15444 Filed 5-19-80; 8:45 am]

BILLING CODE 7590-01-M

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[Docket Nos. 50-346A, 50-440A, and 50-441A]

## Toledo Edison Co. and the Cleveland Electric Illuminating Co., et al.; Order Further Modifying Order of June 25, 1979

The Director, Office of Nuclear Reactor Regulation has issued an order modifying an Order dated June 25, 1979. The Modified Order requires the amendment of License No. NPF-3 (Davis-Besse Nuclear Power Station Unit 1) and Construction Permits Nos. CPPR-148 and 149 (Perry Nuclear Plant Units 1 and 2, respectively), to become effective immediately, pending further order of the Commission. The license amendments require the Cleveland Electric Illuminating Company to file certain amendments to its transmission schedule with the Federal Energy Regulatory Commission.

Copies of the Modification Order are available for inspection in the Commission's Public Document Room at 1717 H Street, NW., Washington, DC 20555 and in the local public document rooms at Perry Public Library, 3753 Main Street, Perry Township, Ohio 44081 and the Ida Rupp Public Library, 310 Madison Street, Port Clinton, Ohio 43452.

Dated at Bethesda, Maryland, this 13th day of May, 1980.

For the Nuclear Regulatory Commission.

Jerome Saltzman,

*Chief, Utility Finance Branch, Division of Engineering, Office of Nuclear Reactor Regulation.*

[FR Doc. 80-15446 Filed 5-19-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-266 and 50-301]

## Wisconsin Electric Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 44 to Facility Operating License No. DPR-24, and Amendment No. 49 to facility Operating License No. DPR-27 issued to Wisconsin Electric Power Company (the licensee), which revised Technical Specifications for operation of Point Beach Nuclear Plant, Unit Nos. 1 and 2 (the facilities) located in the Town of Two Creeks, Manitowoc County, Wisconsin. The amendments are effective as of the date of issuance.

The amendments authorize reactor operation at either 2250 or 2000 psia for Point Beach Unit 2, and restricts the operation of Point Beach Unit 1 to 2000 psia as required by the Order issued on January 3, 1980.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments is not required since the amendments do not involve a significant hazards consideration.

The commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated November 2, 1979, as supplemented November 27, December 14, 21, and 31, 1979 and January 31, 1980, (2) Amendment Nos. 44 and 49 to License Nos. DPR-24 and DPR-27, and (3) the Commission's related Safety Evaluation Report attached to the Order Modifying the Confirmatory Order of November 30, 1979 for Point Beach Unit No. 1, dated January 3, 1980. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Document Department, University of Wisconsin, Stevens Point Library, Stevens Point, Wisconsin 54451. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 29th day of April, 1980.

For the Nuclear Regulatory Commission.

A. Schwencer,

*Chief, Operating Reactors Branch #1, Division of Operating Reactors.*

[FR Doc. 80-15450 Filed 5-19-80; 8:45 am]

BILLING CODE 7590-01-M

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## OFFICE OF SCIENCE AND TECHNOLOGY POLICY

## Intergovernmental Science, Engineering, and Technology Advisory Panel; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the Office of Science and Technology Policy announces the following meeting:

Name: Intergovernmental Science, Engineering, and Technology Advisory Panel (ISETAP); Transportation, Commerce, and Community Development Task Force

Date: Friday, June 6, 1980; 2:00 p.m.—5:00 p.m.

Place: Olympic Hotel, Georgian Room, Seattle, Washington.

Type of meeting: Open

Contact person: Ms. Deborah Rudolph, Staff Director, ISETAP, Transportation, Commerce, and Community Development Task Force, U.S. Department of Transportation, 202/426-4208

Minutes of the meeting: Executive minutes of the meeting will be available from the office of Ms. Rudolph.

Agenda

This meeting is being held to discuss the problem of *Transportation of Hazardous Materials.*

- Discussion of ISETAP's role in relation to the priority problem of Transportation of Hazardous Materials;
- Overview of the Puget Sound Model Study on Transportation of Hazardous Materials;
- Discussions involving:
- Management and regulation issues of Transportation of Hazardous Materials, including
- Management and enforcement technologies;
- Funding;
- Coordination with and between various levels of government with regard to enforcement;
- Training; and
- Minimizing the occurrence of hazardous materials incidents.

(This meeting will not include discussion of emergency response, response equipment,

clean up, restoration or issues unique to nuclear and waste materials.)

William J. Montgomery,

*Executive Officer, Office of Science and Technology Policy.*

[FR Doc. 80-15387 Filed 5-19-80 8:45 am]

BILLING CODE 3170-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 21571; 7-6163]

### Central and South West Corp. et al.; Proposed Increase in Short-Term Borrowing Authorization of Subsidiary

May 13, 1980.

In the matter of Central and South West Corporation, 2700 One Main Place, Dallas, Texas 72250; Central Power and Light Company, P.O. Box 2121, Corpus Christi, Texas 78403; Southwestern Electric Power Company, P.O. Box 21106, Shreveport, Louisiana 71156; Public Service Company of Oklahoma, P.O. Box 201, Tulsa, Oklahoma 74102; West Texas Utilities Company, P.O. Box 841, Abilene, Texas 79604; and Central and South West Services, Inc., 2700 One Main Place, Dallas, Texas 75250; [70-6163].

Notice is hereby given that Central and South West Corporation ("CSW"), a registered holding company, and five of its subsidiaries, Central Power and Light Company ("CPL"), Southwestern Electric Power Company ("SWEPCO"), Public Service Company of Oklahoma ("PSO"), West Texas Utilities Company ("WTU"), and Central and South West Services, Inc. ("CSWS") have filed with this Commission a post-effective amendment to their application-declaration previously filed and amended in this matter pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Sections 6, 7, 9(a), 10, 12(b) and 12(f) of the Act and Rules 43, 45 and 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration as amended by said post-effective amendment, which is summarized below, for a complete statement of the proposed transaction.

By orders dated June 30, 1978, October 27, 1978, March 29, 1979, May 9, 1979, June 14, 1979, July 19, 1979, July 31, 1979, October 24, 1979, February 5, 1980 and March 20, 1980 in this matter (HCAR Nos. 20608, 20749, 20978, 21041, 21097, 21150, 21166, 21269, 21421 and 21482), CSW and its subsidiaries were authorized to incur short-term borrowings through December 31, 1981 in a maximum aggregate collective amount of $250,000,000 and in the following individual amounts: CSW, $200,000,000; CPL, $100,000,000; SWEPCO, $75,000,000; PSO, $90,000,000; WTU, $15,000,000; and CSWS, $4,000,000. The short-term borrowings are pursuant to a CSW System money pool under which CSW and its subsidiaries coordinate their short-term borrowings and make borrowings outside the money pool from banks and through the issuance of commercial paper. The money pool consists of funds from the following sources: (i) surplus funds of CSW; (ii) surplus of funds of the subsidiaries; (iii) borrowings by CSW or the subsidiaries from banks; and (iv) proceeds from CSW's sales of commercial paper.

CSW administers the money pool by matching up, to the extent possible, short-term cash surplus and loan requirements of itself and its subsidiaries. Subsidiary requests for short-term loans are met first from surplus funds of the other subsidiaries which are available to the money pool and then from CSW's corporate funds, to the extent available. When these sources of funds are insufficient to meet short-term loan requests, CSW is authorized to issue and sell its commercial paper to commercial paper dealers and to certain approved financial institutions, and to borrow from banks.

By post-effective amendment, CSW and PSO request that PSO's short-term borrowing limit be increased to $180,000,000 through December 31, 1981 subject to the passage of the amendment to PSO's Restated Articles of Incorporation, as amended ("Articles") by its preferred shareholders (see File No. 70-6453), provided in no event shall short-term debt exceed 20% of capitalization. It is stated that CSW is not requesting an increase in the CSW System limit of $250,000,000. It is further stated that PSO's ability to sell first mortgage bonds and preferred stock has been limited. In view of PSO's continuing need for funds it is securing a $90,000,000 non-negotiable bank loan (see File No. 70-6446). The proposed increase in short-term borrowing authorization will give PSO the ability to prepay the bank notes at any time with short-term debt. Such prepayment would occur if in PSO's opinion it were economically in PSO's best interest. While the bank notes will be beneficial to PSO in meeting its current needs, PSO will not be able to increase or decrease at will the amount of the notes outstanding. If a note is prepaid, the prepaid amount cannot be borrowed in the future. Short-term debt has the advantage of being able to be changed based on the daily needs of PSO.

The fees and expenses to be incurred in connection with the proposed transaction are estimated at $150. It is stated that no state or federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than June 6, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration, as amended by said post-effective amendment, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended by said post-effective amendment or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

*Secretary.*

[FR Doc. 80-15433 Filed 5-19-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 21570; 31-773]

### Cool Water Coal Gasification Program; Application for Exemption Pursuant To Section 2(a)(3)(A)

May 12, 1980.

Notice is hereby given that Southern California Edison Company, 2224 Walnut Grove Avenue, Rosemead, Calif. 91770 ("So Cal Ed"), an electric utility company which is organized and provides electric utility service in

California, and Texaco, Inc. ("Texaco"), a Delaware corporation, have filed an application under Section 2(a)(3)(A) of the Public Utility Holding Company Act of 1935 ("Act") on behalf of the Cool Water Coal Gasification Program ("Coal Gas"), an unincorporated venture in which So Cal Ed and Texaco are participating, for an order declaring Coal Gas not to be an "electric utility company" under the Act. All interested persons are referred to the application, which is summarized below, for a description of Coal Gas and a statement as to the basis upon which the exemption is sought.

Texaco and So Cal Ed have entered into an agreement, to which other persons may hereafter become parties as "participants" or "sponsors", to test and demonstrate the feasibility of integrating a commercial-size coal gasifier utilizing a gasification process developed by Texaco with a conventional combined cycle electric generating plant. Under the agreement, which establishes Coal Gas, Texaco and So Cal Ed propose to design, build, test, and demonstrate the coal gasification/combined cycle generating plant ("Plant") at a generating plant site owned by So Cal Ed near Daggett, California. The Plant will be designed to produce carbon monoxide and hydrogen (*i.e.*, synthesis gas) from coal to be supplied by So Cal Ed. So Cal Ed will pay a fee to Coal Gas for processing its coal, and will own all of the resulting synthesis gas. The gas will be supplied to a new generating unit which will have a 90–100 megawatt net capacity, or, in the event of any interruptions in its operation, to an existing So Cal Ed owned generating unit at the Plant site.

At the present time, Texaco, So Cal Ed and Energy Power Research Institute have expressed an intent to become participants in Coal Gas. It is expected that other persons will become participants or sponsors. A participant will be required to commit a minimum of $25 million to Coal Gas and agree to assume a proportionate share of its costs. A sponsor will be required to commit a minimum of $5 million but not more than $25 million to Coal Gas and agree to assume a proportionate share of its costs up to the amount of each sponsor's contribution. Coal Gas will require no funding other than the funding provided by the participants and sponsors. Each participant will have one vote on Coal Gas' board of control and on a management committee. Sponsors will have no management responsibilities. The agreement further provides that at the end of the estimated duration of the Coal Gas program (seven years), or upon earlier termination, Coal Gas will dispose of the Plant. So Cal Ed will, in that event, have a right of first refusal to purchase all or parts of the Plant.

Section 2(a)(3)(A) provides that the Commission may declare a company which owns or operates facilities for the generation, transmission or distribution of electric energy for sale not to be an electric utility company if "such company is primarily engaged in one or more businesses other than the business of an electric utility company, and by reason of the small amount of electric energy sold by such company it is not necessary in the public interest or for the protection of investors or consumers that such company be considered an electric utility company. . . ." Rule 10(a)(1) provides, in pertinent part, that a company is exempt from the duties, liabilities, and obligations imposed upon it as a holding company with respect to a subsidiary which, insofar as it is a public utility company, is declared not to be an electric utility company under Section 2(a)(3).

The application states that Coal Gas will be primarily engaged in the business of developing and testing a coal gasification process and that, by reason of the experimental nature of the Plant and the limited duration of the project, it is uncertain whether any significant amount of electricity will be sold by Coal Gas. The objective of the venture is to develop a process for producing synthesis gas from coal for use by electric utilities. The power generation equipment is intended only to demonstrate the commercial feasibility of that process. In this regard, it is noted that less than one-third of the total cost of the Plant, estimated at $292 million, is allocated to the electric generation equipment and related facilities. All power produced by Coal Gas will be sold by So Cal Ed to its customers at rates set by the California Public Utilities Commission and the Federal Energy Regulatory Commission.

Notice is further given that any interested person may, not later than June 5, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney-at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted in the manner provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may take such other action as it deems appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including notice of the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

*Secretary.*

[FR Doc. 80-15431 Filed 5-19-80; 8:45 am]

BILLING CODE 8010-01-M

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**[Rel. No. 16802]**

## Receipt of Amendments to Consolidated Tape Plan

May 12, 1980.

On March 31, 1980, the Consolidated Tape Association ("CTA") submitted to the Commission a proposed restatement and amendment of the joint industry plan (the "Plan") filed with and declared effective pursuant to the predecessor to Rule 11Aa3–1 [17 CFR 240.11Aa3–1] under the Securities Exchange Act of 1934 ("Act") governing the consolidated transaction reporting system.[1] On April 23, 1980, the CTA submitted to the Commission a further proposed amendment to the Plan. The proposed amendments would effect numerous technical changes to the Plan. In addition, the proposed amendments would effect certain substantive changes to the Plan.

First, a proposed amendment to section II(a) of the Plan would reflect the subscription of the Boston Stock Exchange, Inc. and the Cincinnati Stock Exchange, Inc. to the Plan.

Second, the proposed amendments would revise certain aspects of the voting arrangements under the Plan. Currently, the Articles of Association of the Plan provide for two voting members of the CTA to be appointed each by the signatory which reported the greatest number of last sale reports included over Network A and Network B and one voting member to be appointed each by the other four signatories. The amendments propose that each signatory may appoint one individual as

[1] *See* Securities Exchange Act Release No. 16589 (February 26, 1980), 45 FR 12378.

a voting member of the CTA. In addition, section III(a) of the Plan provides that the vote of a majority of the eight voting members of the CTA shall be required for any action taken by the CTA and section III(b) currently provides that no proposed amendment to the Plan may be filed with the Commission if it is objected to by any Plan participant which, during the preceding twelve months, reported 51% or more of the transactions reported over either Network A or Network B. The proposed amendment would continue the requirement of majority voting in section III(a),[2] but would amend section III(b) to provide that no amendment to the Plan could be effective unless executed by each of the Plan participants.

Third, a proposed amendment to section V(e) of the Plan would provide that transactions reported over moving tickers shall not be accompanied by market identifiers.[3] Currently, section V(e) provides that transaction reports emanating from markets other than the New York Stock Exchange, Inc. ("NYSE") and the American Stock Exchange, Inc. ("Amex") shall be identified by an ampersand followed by a single alphabetic character identifying the market of execution, and that transanctions occurring on the NYSE and Amex shall not be accompanied by any market identifier.

Fourth, a proposed amendment to section VII(b) of the Plan would eliminate the requirement that the NASD's rules governing the reporting of transactions executed in the over-the-counter market by NASD members be filed as an amendment to the Plan. The proposed amendment would continue to require that the NASD develop and adopt rules governing the reporting of transactions by its members, which rules would (1) specify the NASD member having responsibility for reporting each particular transaction, (2) be designed to avoid duplicate reporting of transactions on the consolidated tape, and (3) specify procedures for determining the price to be reported with respect to each particular transaction.

Finally, a proposed amendment to section V(c) of the Plan would eliminate the current exception from reporting for transactions involving purchases by an issuer of its own securities off the floor of an exchange at a time when bids or purchases on an exchange would not be permitted under proposed Rule 13e-2 under the Act.[4]

In order to assist the Commission in determining whether to approve the proposed amendments,[5] interested persons are invited to submit their views and comments on the proposal in writing to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549, on or before June 19, 1980. The amendments to the Plan will be available for public inspection in the Commission's public reference room. All such communications should refer to File No. S7-433.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

*Secretary.*

[FR Doc. 80-15432 Filed 5-19-80; 8:45 am]

BILLING CODE 8010-01-M

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[Rel. No. 21572; 70-6426]

## Southern Co., et al.; Proposed Issuance of Common Stock to Fund Employee Stock Ownership Plan

May 13, 1980.

In the Matter of The Southern Company, 64 Perimeter Center East, P.O. Box 720071, Atlanta, Georgia 30346;

Alabama Power Company, 600 North 18th Street, P.O. Box 2641, Birmingham, Alabama 35291;

Georgia Power Company, 270 Peachtree Street, N.W., P.O. Box 4545, Atlanta, Georgia 30303;

Gulf Power Company, 75 North Pace Boulevard, P.O. Box 1151, Pensacola, Florida 32520;

Mississippi Power Company, 2992 West Beach, P.O. Box 4079, Gulfport, Mississippi 39501;

Southern Company Services, Inc., 800 Shades Creek Parkway, P.O. Box 2625, Birmingham, Alabama 35202; and

Southern Electric Generating Company, 600 North 18th Street, P.O. Box 2641, Birmingham, Alabama 35291;

(70-6426).

Notice is hereby given that The Southern Company ("Southern"), a registered holding company, and its subsidiaries named above have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Sections 6(a), 7, 9, and 10 of the Act and Rule 50(a)(5) promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the application-declaration which is summarized below, for a complete statement of the proposed transactions.

Southern proposes to issue through October 15, 1981 up to a maximum of $40,000,000 in value of its authorized but unissued shares of common stock, par value $5 per share (the "Additional Common Stock"), in order to provide common stock to fund The Employee Stock Ownership Plan of The Southern Company System (the "Plan") for the Plan years 1979 and 1980, including any reinvestment of cash dividends on such stock by direct purchases of common stock from Southern. The exact number of shares to be issued by Southern will be determined in each case by the aggregate amount of contributions to be invested by the Trust in respect of the Plan year and the purchase price per share of Southern's common stock determined as set forth below. Southern proposes to apply the proceeds it receives from the sale of the Additional Common Stock for further equity investments as authorized by this Commission by Order dated March 28, 1980 (HCAR No. 21501) and as may be hereafter so authorized and for other corporate purposes.

In order to encourage and assist employees of Southern's subsidiaries to acquire ownership of Southern's common stock and thereby promote in the employees a strong interest in the successful operation of The Southern Company system, the subsidiaries named above (the "Employing Companies") have adopted the Plan, effective as of January 1, 1976, in accordance with Section 301(d) of the Tax Reduction Act of 1975, as amended ("Tax Act"), and Section 401(a) of the Internal Revenue Code of 1954, as amended (the "Code"). (See HCAR No. 20165). The Internal Revenue Service has issued determinations that the Plan and its Trust (the "Trust") qualify as a stock bonus plan and the employee stock ownership plan under Sections 401(a) and 501(a) of the Code and Section 301(d) of the Tax Act.

Under the Plan, the Employing Companies have agreed to contribute to

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[2] As indicated, the proposed amendment to the Plan would increase the number of participants from six to eight. As a result, the number of voting members under the Plan would continue to be eight.

[3] The Commission recently adopted Rule 11Ac1-2 under the Act which, among other things, provides that, effective April 5, 1980, transaction reports with respect to reported securities displayed on a moving ticker either be reported without market identifiers or include market identifiers on a non-discriminatory basis. *See* Securities Exchange Act Release No. 16590 (February 26, 1980), 45 FR 12391.

[4] *See* Securities Exchange Act Release No. 10539. (December 13, 1973), 38 FR 34341.

[5] The Commission notes that the Plan continues to provide that vendors are not permitted to retransmit transaction information disseminated over the "high" speed data stream for purposes of creating a moving ticker display. As a result, the Plan will shortly be in conflict with Rule 11Aa3-1 under the Act which will provide, as of July 5, 1980, that no national securities exchange or association may prohibit retransmission of the entire data stream of transaction reports on a current continuing basis for purposes of creating a moving ticker display.

the Trust with respect to each calendar year common stock of Southern (or cash to be used to purchase such common stock) having an aggregate value equal to 1% of the amount of their qualified investment ("Qualified Investment") in property in respect of which investment tax credit has been claimed by the Employing Companies in their consolidated Federal income tax return for that year. Contributions with respect to any Plan year may be reduced by limited amounts equal to certain expenses incurred in establishing and administering the Plan. In addition, as a result of an amendment to the Plan, the Employing Companies may elect, commencing with the 1979 tax year, to make further contributions of common stock or cash in an annual amount of up to ½ of 1% of their Qualified Investment to the extent that such contributions are matched for that year by voluntary contributions to the Trust by Plan Participants for their own accounts. The Plan, as so amended, has not yet been ruled upon by the Internal Revenue Service as being in compliance with the applicable sections of the Code and the Tax Act. Should the Service refuse to so rule or otherwise issue an unfavorable determination of the Plan, this feature of the Plan may be deleted.

The purchase price per share of Additional Common Stock purchased directly from Southern by the Employing Companies for contribution to the Trust or by the Trust (with contributed cash) will be amount to be determined by Southern equal to (1) the closing price of Southern's common stock based on consolidated trading as defined by the Consolidated Tape Association and reported as part of the consolidated trading prices of New York Stock Exchange listed securities for the trading day immediately preceding the date of purchase, or (2) the average of such closing prices for the twenty consecutive trading days immediately preceding the date of purchase or (3) such other amount, if any, as may be prescribed by statute or required by the Internal Revenue Service in rules or regulations relating to plans similar to the Plan.

Under the Plan, the Trust is required to reinvest cash dividends paid on shares of Southern's common stock allocated to a participant's account in additional shares of common stock, unless the participant elects to have such cash dividends distributed to him currently. In reinvesting these cash dividends, the Trust may purchase common stock under Southern's Dividend Reinvestment and Stock Purchase Plan (at the price provided for in such plan), on the open market or by private purchase, including purchases directly from Southern (at the stock's fair market value).

The fees and expenses to be incurred in connection with the proposed transactions are estimated not to exceed $34,000, including legal fees of $20,000, charges of Southern Company Services, Inc. of $2,000 and New York Stock Exchange listing fees of $9,500. It is stated that no State or Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may not later than June 9, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, stating the date of the hearing (if ordered) and any postponements therof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
*Secretary.*

[FR Doc. 80-15434 Filed 5-19-80; 8:45 am]
BILLING CODE 8010-01-M

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[Rel. No. 34-16803; File No. SR-PSE-80-03]

## Pacific Stock Exchange Inc.; Proposed Rule Change by Self-Regulatory Organization

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. 94-24, 16 (June 4, 1975), notice is hereby given that on April 10, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule changes as follows:

*Statement of the Terms of Substance of the Proposed Rule Change*

The Pacific Stock Exchange Incorporated ("PSE") proposes to amend Rule VI, Section 64, adopt new Options Floor Procedure Advices A-10, B-10, B-11, and G-11, and amend Options Floor Procedure Advice B-3.

Summaries of the changes and new Floor Procedure Advices are set forth below.

Rule VI, Section 64 Discretionary Transactions

This Section has been amended to clarify the prohibition against Floor Broker's use of discretion and to limit Market Makers' exercise of discretion to accounts where they have a direct interest in such accounts.

Options Floor Procedure Advice B-10

Subject: *Discretionary Transactions by Market Makers.* This Advice restates the prohibition set forth in Rule VI, Section 64, and interprets the meaning of the phrase "direct interest in an account" for purposes of the exercise of discretion by Market Makers. Direct interest is defined to include only a participation in the profits or losses in an account or, in the case of a partnership or corporation, a supervisory responsibility over such account. Finally, the Advice establishes certain procedural requirements for the exercise of such discretion.

Options Floor Procedure Advice A-10

Subject: *Broker Responsibility on Print-Throughs.*

This Advice is intended to remind Members of the industry practice that Floor Brokers, and the Exchange, in the case of an order on the limit order book, are responsible for failing to fill a customer's order when the particular price "prints through." The advice distinguishes a print through occurring during the day from a print through occurring at the opening of trading. The Advice states that in the case of a print through occurring at the opening, the order should be filled at the opening price or if a more favorable price is available, at the more favorable price. In the case of a print through occuring during the day, the Floor Broker is responsible for the limit price or if a more favorable price is available, at the more favorable price. This rule has been proposed to avoid any unjust enrichment to a Floor Broker who has failed to execute a customer order and

also to limit a Floor Broker's liability to the number of contracts that printed through.

Options Floor Procedure Advice B–3

Subject: *Market Maker Supplemental Appointments.*

This Advice has been amended to express the Options Appointment Committee's determination that the interests of a fair and orderly market are best served by extending to all Market Makers supplemental appointments to all securities admitted to trading on the Options Floor. Any Market Maker may be relieved of such supplemental appointment upon application.

Options Floor Procedure Advice B–11

Subject: *Orders Entered From "Off The Floor".*

This Advice states that Market Makers may not effect opening transactions in their Market Maker accounts from off the Floor of the Exchange.

In addition, the Advice establishes procedures for clearing firms and Floor Brokers to observe with respect to marking orders received from "off the Floor".

Options Floor Procedure Advice G–11

Subject: *"marking".*

This Advice is intended to inform members that deliberate attempts to influence the closing price of options traded on the Exchange are considered to be serious violations of the Constitution and Rules of the Exchange. The term "marking" is explained in two examples of improper attempts to influence the market price of options.

The purpose of the proposed rule changes are as follows:

Rule VI, Section 64 and Options Floor Procedure Advice B–10.

The purpose of the amendment to Rule VI, Section 64 is to further clarify the prohibition against the exercise of discretion by Floor Brokers and to limit the exercise of discretion by Market Makers to accounts in which they have a direct interest. The purpose of the Advice on this subject is to limit the exercise of discretion to Market Makers who have a financial interest in, or a supervisory responsibility for, a trading account.

Options Floor Procedure Advice A–10

Subject: *Broker Responsibility on Print-Throughs.*

The purpose of this Advice is to explain to Members what the Exchange believes to be the generally accepted practice in the securities industry with respect to brokers' responsibility for print throughs.

Options Floor Procedure Advice B–3

Subject: *Market Maker Supplemental Appointments.*

The purpose of this amandment is to require that all Market Makers be subject to the obligations imposed in Section 79 of Rule VI, whenever the Market Maker enters the trading crowd at a post other than the one to which he has a primary appointment.

Options Floor Procedure Advice B–11

Subject: *Orders Entered From Off the Floor.*

The purpose of this Advice is to ensure that Market Makers do not receive exempt credit for transactions which are entered from off the Floor of the Exchange.

Options floor Procedure Advice G–11

Subject: *"Marking".*

The purpose of this Advice is to inform Members what constitutes marking and to caution Members that marking is contrary to just and equitable principles of trade and will result in disciplinary action by the Exchange.

*Basis Under the Act for the Proposed Rules Changes*

The basis for the amendments to existing Rules and Advices and for the adoption of new Advices are set forth below:

Rules VI, Section 64, Discretionary Transactions and Options Floor Procedure Advice B–10.

Subject: *Disretionary Transactions by Market Makers*

Pursuant to Section 6(b)(5) of the Act, the Exchange believes that just and equitable principles of trade will be promoted through the limitation of the use of discretion over an account to persons who have legitimate interest in the handling of an account and who are registered as Market Makers.

Options Floor Procedure Advice A–10

Subject: *Broker Responsibility on Print Throughs.*

Pursuant to Section 6(b)(5) of the Act, the Advice is intended to promote just and equitable principles of trade and generally to protect investors and the public interest by ensuring that in the case of print throughs, customers receive fair treatment.

Options Floor Procedure Advice G–11

Subject: *Marking.*

Pursuant to Section 6(b)(5) of the Act; the Advice is intended to promote just and equitable principles of trade and generally to protect investors and the public interest by ensuring that all bids and offers made by members on the Floor reflect the true state of the market for the security involved.

Options Floor Procedure Advice B–11

Subject: *Orders Entered From Off The Floor.*

Options Floor Procedure Advice B–3

Subject: *Market Marker Supplemental Appointments.*

Since the purpose of these two Advices is to impose new responsibilities on Market Makers with respect to supplemental appointments and to limit their market making activities to situations in which they are physically present of the Floor, the Exchange believes that just and equitable principles of trade are promoted pursuant to Section 6(b)(5) of the Act.

Comments have neither been solicited nor received from members, participants or others on the proposed rule change.

The proposed rule change imposes no burden on competition.

On or before June 23, 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 concering the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of 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 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 June 9, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

*Secretary.*

May 12, 1980.

EXHIBIT 2

Rule VI

Discretionary Transactions

Section 64

A. No Floor Broker shall execute or cause to be executed any transaction on this Exchange with respect to which transaction such Floor Broker is vested with discretion as to (1) the choice of the class *or series* of option to be bought or sold, (2) the number of option contracts be bought or sold (3) whether any such transaction shall be one of purchase or sale [however, the provisions of this paragraph shall not apply to any discretionary transaction executed by a Marked Maker for an account in which he has an interest].

B. *A Market Maker shall not exercise discretion in an account unless he has a direct interest in such account.*

Pse Options Floor Procedure Advice

Subject: *Market Maker Supplementary [Assignments] Appointments.*

Section 75 of Rule VI permits registered Market Makers to apply for principal and/or supplemental appointments in one or more classes of options. The Rule provides that the Options Appointment Committee "may make one or more supplemental appointments for each class." Pursuant to this Rule, [the Exchange will, upon request, extend to any] *and in the Appointments Committee's judgment, the interests of a fair and orderly market are best served by extending to all* Market Makers [a] supplemental [registration in any or] *appointments* to all securities admitted to trading on the Options Trading Floor. *All Marked Makers shall be deemed to be appointed without further action, provided that any Market Maker may, upon application, be relieved of such supplemental appointment.*

However, Market Makers are [cautioned] *reminded* that [in accepting] such *assignment* [they will be assuming appropriate] carry additional responsibilities [therein] as set forth in Section 79(c) of Rule VI.

Pse Options Floor Procedure Advice

Subject: *Broker responsibility on Print-Throughs.*

*Pursuant to Rule VI, Section 62(a), the Options Floor Trading Committee has made a determination regarding print-throughs on limit orders held either by a Floor Broker, or an Order Book Official. This determination distinguishes print-throughs which occur intra-day from print-throughs occurring on the opening.*

*With regard to trading during the day, the Options Floor Trading Committee finds that it is a generally accepted industry practice that a broker is responsible for whatever number of contracts print-through a limit order. When a print-through is discovered, the broker should ascertain whether the limit price or a more favorable price is available. If a more favorable price is available, the order for the customer should be filled at the more favorable price; if a more favorable price is not available, the broker, or the Exchange, to the extent provided in Rule VI, Section 72 in the case of a book trade, is responsible at the original limit price for whatever number of contracts have been traded through the limit.*

*The Options Floor Trading Committee has determined that print-throughs on the opening should be treated differently than those which occur intra-day. On the opening, the Floor Broker, or the Exchange, to the extent provided in Rule VI, Section 72 in the case of a book trade, is responsible at the opening price for the number of contracts which trade through the customer's limit rather than at the limit price. If a more favorable price than the opening price is available, the order should be filled at the more favorable price.*

Pse Options Floor Procedure Advice

Subject: *Disretionary Transactions by Marked Makers.*

*Section 64 of Rule VI provides that a Floor Broker shall not exercise discretion with respect to choice of class or series of options to be bought or sold, number of contracts to be bought or sold, or whether the transaction shall be a purchase or sale. It further provides that a Market Maker shall not exercise discretion over an account unless he has a direct interest in such account.*

*The Options Floor Trading Committee has determined that a Market Maker may not exercise discretion over any account other than:*

*(i) a joint account approved pursuant to Rule VI, Section 81, or*

*(ii) an account in which he has a direct interest.*

*For purpose of this Advise and Rule VI, Section 64, the term "direct interest" in an account shall be limited in its meaning to include only a participation in the profits and losses in such account, or in the case of a partnership or corporation, a representative of such partnership or corporation who has a supervisory responsibility over such account. Furthermore, only persons registered as Market Makers and subject to the performance obligations set forth in Rule VI, Section 79, may exercise discretion over an account.*

[FR Doc. 80-15430 Filed 5-19-80; 8:45 am]

BILLING CODE 8010-01-M

## SUSQUEHANNA RIVER BASIN COMMISSION

### Public Hearing; Proposed Comprehensive Plan Amendment

The Susquehanna River Basin Commission will hold a public hearing to receive comments from citizens, government agencies, and others on a proposed amendment to its "Comprehensive Plan for Management and Development of the Water Resources of the Susquehanna River Basin." The hearing has been scheduled for Thursday, July 10, 1980, at the Quality Inn, Exit 26—I-81 and Pa. Rt. 22, Harrisburg, Pa., beginning at 1:00 p.m.

The Susquehanna River Basin Compact (Pub. L. 91-575), 84 Stat. 1509 et seq., requires the Commission to maintain a Comprehensive Plan for the immediate and long-range use, management and development of the water and related resources of the basin. Initially adopted in December 1973, the Plan provides a basinwide strategy to guide the Commission and others in the management, use and conservation of the basin's resources. The Plan is also used to evaluate proposed water resource developments that the Commission must, by law, approve.

The Commission is currently undertaking a three-part program involving the management of the water resources of the basin to assure availability of water for all users. One element of this program includes the development of a basinwide water supply program. A necessary first step in moving toward the development of a basinwide water supply program is the recognition in the Comprehensive Plan of certain pre-existing uses of the basin's waters. With this recognition, these uses may then be considered and planned for in the formation of future program efforts.

If adopted, the proposed amendment to the Comprehensive Plan will, for future planning purposes, indicate the Commission's recognition of and intention to protect diversions existing prior to the effective date of the Compact. Future management programs will be structured in accordance with these planning purposes.

The July 10th hearing will be informal in nature. Interested parties are invited to attend the hearing and to participate by making oral or written statements presenting their data, views and comments on the proposed amendment. Those wishing to personally appear to present their views are urged to notify the Commission in advance that they desire to do so. However, any person who wishes to be heard will be given opportunity to be heard, whether or not they have given such notice. After the hearing, the Commission will evaluate all relevant material and decide whether to adopt as proposed, modify, or not adopt the amendment.

The Commission has a background report available upon request discussing the need for and in support of the proposed amendment. For a copy of the proposed amendment or additional information, contact the Secretary, Richard A. Cairo, Susquehanna River

Basin Commission, 1721 N. Front St., Harrisburg, Pa. 17102, (717) 238-0423.

Dated: May 13, 1980.

Robert J. Bielo,

*Executive Director.*

[FR Doc. 80-15381 Filed 5-19-80; 8:45 am]

BILLING CODE 7040-01-M

## DEPARTMENT OF THE TREASURY

### Customs Service

[T.D. 80-132]

### Tariff Classification; Notice That Certain Machine-Processed Cigarette Leaf Tobacco Is Reclassified As a Partially Manufactured Tobacco Product

**AGENCY:** United States Customs Service, Department of the Treasury.

**ACTION:** Decision concerning an American manufacturer's petition.

**SUMMARY:** The Customs Service has reviewed a petition filed by an American producer of flue-cured tobacco requesting that certain machine-threshed cigarette leaf tobacco, currently classified by Customs as scrap tobacco under item 170.60, Tarriff Schedules of the United States (TSUS), be reclassified as stemmed cigarette leaf filler tobacco under item 170.35, TSUS. The Customs Sevice has reviewed the voluminous record and concludes that the subject merchandise is neither scrap tobacco nor is it in leaf form, but has been processed to the extent that it may be considered a partially manufactured product classifiable under the provision for tobacco, manufactured or not manufactured, not specially provided for, in item 170.80, TSUS.

**DATES:** This decision will be effective with respect to merchandise entered or withdrawn from warehouse for consumption on or after 30 days from the date of publication of this notice in the Customs Bulletin.

**FOR FURTHER INFORMATION CONTACT:** John G. Hurley, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5865).

**SUPPLEMENTARY INFORMATION:**

#### Background

On September 28, 1979, a notice was published in the Federal Register (44 FR 56089) indicating that the Customs Service had received a petition from an American producer of flue-cured tobacco, filed under section 516 of the Tariff Act of 1930, as amended (19 U.S.C. 1516), requesting that certain imported machine-threshed cigarette leaf tobacco, currently classified by Customs under the provisions for scrap tobacco in item 170.60, Tariff Schedules of the United States (TSUS), be reclassified under the provision for stemmed cigarette leaf filler tobacco in item 170.35, TSUS. Comments concerning the petition were to have been received no later than November 27, 1979.

The merchandise in question is produced in the manner set forth below. Tobacco leaves, approximately 10 to 20 inches in length, are received at the warehouse, graded and sorted, and then placed on a blending line where the undesirable leaves are removed. On a blending conveyor, tips of the leaves and a portion of the stems are removed, leaving the butts. The moisture content of the butts is increased to make them more pliable, and the moisturized butts are then threshed and separated in 4 or 5 stages. In the separating process, the butts are torn into various sizes. As a result, the desirable lighter fragments are blown into a collecting belt and the heavier elements fall through screens of decreasing size. Those which are heavier, containing stem fragments, pass through a screen having grid wires spaced ⅛ inch apart and are not blended in with the desired product. The combined tip and butt fragments are processed further by partial drying, colling and re-moisturizing to achieve a uniform moisture content. The product will then be compacted by hydraulic ram into cartons, cases, or hogsheads under pressure. This operation will cause additional fragmentation. The stem content of machine-threshed tobacco is said to be about 3 percent. Approximately 60 percent of this threshed product is described as being 1 to 2 inches in length; 25 percent, ½ to 1 inch in length; about 14 percent, ¼ to ½ inch in length; and 1 percent, ⅛ inch or less in length. This latter size is not in issue. Before being manufactured into cigarettes, the threshed tobacco is mixed with other types of tobacco, further shredded, humidified, and treated with additives.

The petitioner claims that the early administrative decisions reflect the legislative and judicial decisions in defining scrap tobacco as cut pieces of tobacco leaf, and cut slices of tobacco stems resulting from manufacturing of leaf tobacco. Scrap tobacco, the pititioner asserts, is the unintended by-product of handling, curing, or manufacturing of tobacco, incuding floor sweepings. In contrast, the subject merchandise is a desireable product.

The petitioner alleges that, with respect to the prevailing commercial meaning of stemmed leaf, the trade considers any stemmed leaf product acceptable as stemmed leaf tobacco if the size of the tobacco lamina constituting the product is 81 to 85 percent, ½ inch or more in size. It is the petitioner's view that the subject merchandise meets this criterion.

The petitioner asserts that the increase in the importation of tobacco classifed as scrap from 1976 through 1978 results in a loss of revenue as the result of lower duty assessed. It is further asserted that importations of this tobacco have had an adverse economic impact on the domestic growers.

#### Discussion of Comments

Several hundred comments were received by the Customs Service in response to the instant American manufacturer's petition. The majority of comments from associations of tobacco farmers and individual tobacco farmers in the United States supported the petition. These farmers support the petitioner's claim that importations of the subject merchandise have had an adverse impact on domestic growers.

Several briefs and comments, however, filed on behalf of tobacco processors, oppose the petition and support the current classification as scrap tobacco under item 170.60, TSUS, or, in the alternative, as tobacco, manufactured or not manufactured, not specially provided for, under item 170.80, TSUS. These briefs contend that the term "scrap" includes not only the unintended by-products resulting from processing of various tobacco products, but also small pieces which are intentionally produced; this, they maintain, is manufactured scrap. The briefs emphasize that the term "leaf" in the tariff schedules has always referred to the whole tobacco leaf or half-leaf. The machine-threshed product cannot be considered a leaf in view of the legislative and judicial history of the subject. The briefs note that the tariff schedules still define tobacco in leaf form, and that these legal definitions have no meaning if not referring to the actual leaf.

A report dated November 6, 1979, was also prepared by the Comptroller General of the United States, in which it was concluded that the subject tobacco was not scrap for tariff purposes, but should be classified as stemmed leaf filler tobacco in item 170.35, TSUS. The report concluded that, because this tobacco was not classified at the higher rate, as much as $188 million may have been lost over the past 10 years.

Determination

For tariff purposes, waste has traditionally included not only manufactured articles which have become useless for the original purpose for which they were made and fit only for remanufacture, but also includes refuse, surplus, and useless stuff resulting from manufacture or manufacturing processes. *Harley Co.* v. *United States,* T.D. 41644 (1926).

With respect to tobacco, the term "scrap tobacco" includes tobacco in the form of fragments and broken pieces resulting from the handling of leaf cigarette tobacco, as well as small pieces ¼ inch in diameter and shredded pieces up to ½ inch, resulting from the manufacture of tobacco products. The *Summary of Tariff Information* (1929) stated that the term "scrap tobacco" included three distinct kinds:

(1) Leaf tobacco scrap, the fragments of leaves broken in sorting, handling and stemming;

(2) Factory scrap, the cuttings and clippings which accumulate in manufacture of cigars;

(3) Manufactured scrap, generally the cheapest form of smoking tobacco consisting of leaves broken or cut into coarse pieces heavily sweetened for smoking or chewing.

In contrast, in *Latimer* v. *United States,* 223 U.S. 501 (1912), the Supreme Court considered a product consisting of small pieces of tobacco broken in the manufacture and handling of tobacco which where used in the manufacture of a cheap grade of cigarettes and stogies not to be scrap, but tobacco manfactured or not manufactured.

Customs has ruled that flue-cured tobacco, of a cigarette type, which consisted of pieces of lamina measuring from less than an inch to over 5 inches, was not cigarette leaf tobacco, stemmed or nonstremmed, or scrap, but tobacco, manufactured or not manufactured. Basically, the history of the classification of tobacco as scrap discloses a product which fits the basic definition of waste or scrap, i.e., that of a product unsuitable for its original purpose and fit only for remanufacture. In contrast, the machine-threshed tobacco in issue is a desired product, and is processed for the purpose of manufacturing cigarettes. Accordingly, the subject merchandise cannot be classified as scrap.

The next question is whether the instant product is classifiable as a leaf tobacco. The petition accurately describes the tobacco processed as a stemmed leaf *product,* but this does not establish it as a *leaf* for tariff purposes. A review of the various tariff laws reflects what Congress intended by the term "leaf." For instance, in the Tariff Act of March 3, 1883 (Schedule F., Tobacco), leaf tobacco is described as a tobacco leaf which is 85 percent of the requisite size and necessary fineness of texture to be suitable for wrapper. In the tariff Act of August 27, 1884 (Schedule F., Tobacco and Manufactures of.), tobacco manufactures were described as processing or manufacturing tobacco by such diverse means as cutting, pressing, grinding, crushing, or rubbing the tobacco leaf. In the Tariff Act of August 5, 1909, (Schedule F., Tobacco and Manufactures of.), the unstemmed tobacco leaf is described as the natural leaf, not manufactured or altered in any way. The *Summary of Tariff Information* (1920), states that the term scrap tobacco usually refers to clippings accumulating in working cigars, although cheap leaf may be included.

In the *Dictionary of Tariff Information* (1924), tobacco was defined by the U.S. Tariff Commission as dried cured leaves of Nicotania Tobacco (with or without midrib or stem) commonly know as leaf tobacco.

In the *Summaries of Trade and Tariff Information* (1967), cigarette leaf tobacco (not stemmed in item 170.32) or (stemmed 170.35) is described as filler tobacco "(i.e. tobacco essentially in leaf form other than wrapper tobacco)."

It is pertinent to note that the headnote definitions of wrapper and leaf tobacco have not been changed since the enactment of the current tariff schedule. Headnotes to Part 13, Schedule 1, TSUS, still refer to wrapper tobacco as that quality of leaf tobacco which has the requisite color, texture and burn, and is of sufficient size for cigar wrappers, and the term filler tobacco means all other leaf tobacco. Headnote 2 defines the method of determining the percentage of wrapper tobacco by using the number of *leaves* of tobacco.

The only conclusion possible is that Congress, even in regard to the tariff which went into effect January 1980, has never intended to materially alter the definition of leaf tobacco. It might be noted that at the April 23–27, 1979, Hearings before the House of Representatives Ways and Means Subcommittee on Trade relating to the Multilateral Trade Negotiations (1979) (Serial 96–13, pp. 724–6), a spokesman for the Leaf Tobacco Exporters Association and the Tobacco Association of the United States, stated that members of the two associations purchased 70 percent of the U.S. tobacco, and indicated satisfaction with the current tariff structure. He noted that the United States exports about $2 billion annually of tobacco and tobacco products and imports about $500 million.

With respect to the petitioner's claim that the current classification at a lower rate of duty has resulted in a loss of revenue, it is worth noting that reclassification might merely cause importers to import whole tobacco in whole leaf form rather than tobacco which has already been machine-threshed, resulting in even less duty than that actually assessed.

Therefore, in view of the legislative and administrative history concerning classification of tobacco processed in the manner described, it is concluded that the subject tobacco product is correctly classifiable as tobacco, manufactured or not manufactured, not specially provided for, in item 170.80, TSUS.

This decision will be effective with respect to merchandise entered or withdrawn from warehouse for consumption on or after 30 days from the date of publication of this notice in the Customs Bulletin.

Dated: May 15, 1980.

R. E. Chasen,

*Commissioner of Customs.*

[FR Doc. 80-15378 Filed 5-19-80; 8:45 am]

BILLING CODE 4810-22-M

## Office of the Secretary

**[Dept. Circular Public Debt Series No. 17-80]**

## Treasury Notes of May 31, 1982; Series S-1982

### I. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $4,000,000,000 of United States securities, Designated Treasury Notes of May 31, 1982, Series S-1982 (CUSIP No. 912827 KS 0). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities, to the extent that the aggregate amount of tenders for such

accounts exceeds the aggregate amount of maturing securities held by them.

2. Description of Securities

2.1. The securities will be dated June 2, 1980, and will bear interest from that date, payable on a semiannual basis on November 30, 1980, and each subsequent 6 months on May 31 and November 30, until the principal becomes payable. They will mature May 31, 1982, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Tuesday, May 27, 1980. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, May 26, 1980.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $5,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.750. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.5., must be made or completed on or before Monday, June 2, 1980. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be

received at such institution no later than Thursday, May 29, 1980. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)."

If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

**6. General Provisions**

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Paul H. Taylor,
*Fiscal Assistant Secretary.*

**Supplementary Statement**

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

[FR Doc. 80-15422 Filed 5-19-80; 10:44 am]
BILLING CODE 4810-40-M

# Sunshine Act Meetings

Federal Register
Vol. 45, No. 99
Tuesday, May 20, 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

**DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE.**

**TIME AND DATE:** 4:30 p.m., Tuesday, May 20, 1980. If necessary, the Commitee will reconvene on Friday, May 23, 1980, at 4:30 p.m. to complete the discussion.

**PLACE:** Offices of the Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue N.W., Washington, D.C. 20551.

**STATUS:** It is anticipated that the following item will be considered in a closed session subject to a vote by the members of the Committee at the beginning of the meeting. Although there is no legal requirement that advice notice be given of this meeting, we believe there is substantial public interest in making known that the meeting has been scheduled.

**MATTER TO BE CONSIDERED:** Differential on interest rates that may be paid by banks and other depository institutions on money market certificates.

**CONTACT PERSON FOR MORE INFORMATION:** Mr. Joseph R. Coyne, Assistant to the Board of Governors of the Federal Reserve System; (202) 452-3204.

Dated: May 15, 1980.

Normand R. V. Bernard.

*Executive Secretary of the Committee.*

[S-998-80 Filed 5-16-80; 11:58 am]

BILLING CODE 6210-01-M

### 2

**FEDERAL ENERGY REGULATORY COMMISSION.**

May 16, 1980.

**AGENCY HOLDING MEETING:** Federal Energy Regulatory Commission.

**TIME AND DATE:** 10 a.m., May 16, 1980.

**PLACE:** 825 North Capitol Street NE., Washington, D.C. 20426.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Deliberations concerning a matter under investigation and agency participation in a civil action.

**CONTACT PERSON FOR MORE INFORMATION:** Kenneth F. Plumb, Secretary, telephone (202) 357-8400.

The following members of the Commission voted that agency business requires the holding of a closed meeting on less than the one week's notice required by the Government in the Sunshine Act:

Chairman Curtis.
Commissioner Sheldon.
Commissioner Holden.
Commissioner Hall.

Kenneth F. Plumb,

*Secretary.*

[S-997-80 5-16-80; 9:58 am]

BILLING CODE 6450-85-M

### 3

**NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE.**

**TIME:** 8:30 a.m.-5 p.m. and 8:30 a.m.-4 p.m.

**DATES:** June 5 and 6, 1980.

**PLACE:** Atlanta University (June 5 from 8:30 to 12 noon), Marriott-Hotel (June 5 from 12:30-5; June 6 from 8:30 a.m. to 4 p.m.).

**STATUS:** Open.

**MATTERS TO BE DISCUSSED:**

Opening Remarks, Chairman Benton.
Review of Agenda.
Approval of Minutes.
Presentation by American Association of Law Libraries.
Discussion of Aspen Institute Meeting.
White House Conference—Update.
Report on Ad Hoc Committee on WHC Implementation Legislation.
Public/Private Sector Task Force.
International Relations Planning Group.
Community Information and Referral Task Force.
Cultural Minorities Task Force.
Role of the Special Library in Networking Task Force.
Committee on Library and Postal Services.
Interagency Task Force on WHC Final Report.
Discussion of Fiscal Years 1980, 1981, and 1982 Budget.
Future Meetings.
Chairman and Commissioners' Comments.
Executive Director and Staff Members' Comments.

Alphonse F. Trezza,

*Executive Director, NCLIS.*

May 14, 1980.

[S-999-80 Filed 5-16-80; 2:39 pm]

BILLING CODE 7527-01-M

### 4

**NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE.**

**TIME:** 3-5 p.m. and 9-12 noon.

**DATE:** June 5 and 6, 1980, respectively.

**PLACE:** Marriott Hotel, Atlanta, Georgia.

**STATUS:** Closed.

**MATTERS TO BE DISCUSSED:** Executive Session (closed meeting, Sec. 1703.202 (2) and (6) of the Code of Federal Regulations, 45 CFR, Part 1703).

**CONTACT PERSON FOR MORE INFORMATION:** Alphonse F. Trezza, Executive Director, NCLIS Area Code 202-653-6252.

Alphonse F. Trezza,

*Executive Director, NCLIS.*

May 14, 1980.

[S-1000-80 Filed 5-16-80; 2:39 pm]

BILLING CODE 7527-01-M

### 5

**NATIONAL MEDIATION BOARD.**

**TIME AND DATE:** 2 p.m., Wednesday, June 4, 1980.

**PLACE:** Board hearing room, eighth floor, 1425 K Street NW., Washington, D.C.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:**

(1) Ratification of Board actions taken by notation voting during the month of May, 1980.

(2) Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

**SUPPLEMENTARY INFORMATION:** Copies of the monthly report of the Board's notation voting actions will be available from the Executive Secretary's Office following the meeting.

**CONTACT PERSON FOR MORE INFORMATION:** Mr. Rowland K. Quinn, Jr., Executive Secretary, telephone: (202) 523-5920.

Date of notice: May 15, 1980.

[S-1001-80 Filed 5-16-80; 2:39 pm]

BILLING CODE 7550-01-M

6

**SECURITIES AND EXCHANGE COMMISSION.**

**"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:** 45 FR 30596, May 8, 1980.

**STATUS:** Closed meeting.

**PLACE:** Room 825, 500 North Capitol Street, Washington, D.C.

**DATE PREVIOUSLY ANNOUNCED:** Tuesday, May 6, 1980.

**CHANGES IN THE MEETING:** The following additional item was considered at a closed meeting scheduled on Wednesday, May 14, 1980. following the 10 a.m. open meeting:

Institution and Settlement of administrative proceedings of an enforcement nature.

Chairman Williams and Commissioners Loomis, Pollack, and Friedman determined that Commission business required the above change 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.

May 14, 1980.

[FR Doc. S-996-80 Filed 5-16-80; 9:05 pm]

BILLING CODE 8010-01-M

Federal Register

Tuesday
May 20, 1980

Part II

# Department of the Interior

Fish and Wildlife Service

## Republication of Lists of Endangered and Threatened Species and Correction of Technical Errors in Final Rules

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 17

## Republication of the Lists of Endangered and Threatened Species and Correction of Technical Errors in Final Rules

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule; republication of the U.S. Lists of Endangered and Threatened Wildlife and Plants and correction of technical errors.

**SUMMARY:** The Service hereby issues a republication of the lists of Endangered and Threatened Wildlife and Plants, 50 CFR 17.11 and 17.12. The last republication was January 17, 1979 (44 FR 3636–3654). Technical errors are also corrected.

**DATE:** These lists include all species listed as of May 10, 1980, and are effective May 20, 1980, except the bonytail chub (final rule effective May 23, 1980) and the Goodenough gambusia (final rule effective May 30, 1980). The texts of 50 CFR 17.11 and 17.12 are also effective May 20, 1980 (*see* 45 FR 13010, February 27, 1980).

**ADDRESSES:** Comments concerning this republication should be sent to the Director (OES), U.S. Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240.

**FOR FURTHER INFORMATION CONTACT:** Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, Washington, D.C. 20240, (703) 235–2771.

**SUPPLEMENTARY INFORMATION:** The lists incorporate species officially listed as Endangered or Threatened under the Endangered Species Act of 1973, as amended, and 50 CFR Part 424. The previous republication was January 17, 1979 (44 FR 3636–3654). The animal species added to § 17.11 since that publication are Caribbean monk seal, Ryukyu rabbit, Simien fox, Malabar large spotted civet, Iriomote cat, Fea's muntjac, Formosan sika, Ryukyu sika, North China sika, Shansi sika, South China sika, Corsican red deer, Barbary deer, Yarkand deer, Bactrian deer, western giant eland, Jentink's duiker, Tora hartebeest, Swayne's hartebeest, Zanzibar suni, sand gazelle, Saudi Arabian gazelle, Pelzeln's gazelle, Arabian gazelle, Arabian tahr, West African manatee, Grevy's zebra, Hartmann's zebra, Virginia big-eared bat, Ozark big-eared bat, red-necked parrot, saltwater crocodile, two unnamed boas from Mauritius, Virgin Islands tree boa, San Esteban Island chuckwalla, Fiji banded and Fiji crested iguanas, Bolson tortoise, Plymouth red-bellied turtle, totoaba, bonytail chub, Goodenough gambusia, and Kern primrose sphinx moth. Plant species added to §17.12 are bunched arrowhead, Tennessee purple coneflower, *Lipochaeta venosa,* Truckee barberry, Chapman rhododendron, green pitcher plant, Harper's beauty, purple-spined hedgehog cactus, Wright fishhook cactus, Uinta Basin hookless cactus, Lee pincushion cactus, Arizona hedgehog cactus, Brady pincushion cactus, Siler pincushion cactus, Raven's mazanita, MacFarlane's four-o'clock, Lloyd's hedgehog cactus, black lace cactus, Peebles Navajo cactus, Kuenzler hedgehog cactus, Nicoll's Turk's head cactus, Knowlton cactus, *Stenogyne angustifolia* var. *angustifolia, Haplostachys haplostachya* var. *angustifolia,* Cooke's kokio, Mesa Verde cactus, bunched cory cactus, Lloyd's Mariposa cactus, dwarf bear-poppy, Chilean false larch or alerce, *Ancistrocactus tobuschii,* Davis' green pitaya, Nellie cory cactus, Sneed pincushion cactus, spineless hedgehog cactus, Guatemalan fir or pinabete. Some populations of the American alligator have been reclassified and all the non-U.S. populations of the American crocodile were added to the previously listed U.S. population. The following captive self-sustaining populations of species have been removed from the list (*see* the September 17, 1979, Federal Register [44 FR 54007]): jaguar, black lemur, ring-tailed lemur, leopard, tiger, brown eared pheasant, Edward's pheasant, bar-tailed pheasant, Mikado pheasant, Palawan peacock pheasant, Swinhoe's pheasant.

Since the republication of the lists is a consolidation of previous rules, and the technical changes are purely to aid the reader, this document is not a rule as contemplated under Executive Order 12044 and 43 CFR 14.2(e). Therefore, the provisions of that rule do not apply, and a determination of significance is not required. In addition, the Service finds for good cause that this document shall be effective as indicated above and that notice and public comment are unnecessary. Technical errors detected in previous lists and the Federal Register of February 27, 1980 (45 FR 13010–13026, to be codified at 50 CFR §§ 17.11 and 17.12), have been corrected. Some scientific names have been changed to reflect current usage. Synonyms or alternative names are indicated by (=). Readers are requested to advise the Service of any errors, particularly with regard to the historic ranges of the listed taxa.

Dated: May 14, 1980.

Lynn A. Greenwalt,

*Director, Fish and Wildlife Service.*

### Regulations Promulgation

Accordingly, §§ 17.11 and 17.12 are revised and republished to Title 50 of the Code of Federal Regulations as set forth below:

## PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

1. 50 CFR 17.11 and 17.12 are revised to read as follows:

### § 17.11 Endangered and threatened wildlife.

(a) The list in this section contains the names of all species of wildlife which have been determined by the Director to be Endangered or Threatened. It also contains the names of species of wildlife treated as Endangered or Threatened because they are sufficiently similar in appearance to Endangered or Threatened species (see § 17.50 *et seq.*).

(b) The columns entitled "Common Name", "Scientific Name", and "Vertebrate Population where Endangered or Threatened" define the species of wildlife within the meaning of the Act. Thus, differently classified geographic populations of the same vertebrate subspecies or species shall be identified by their differing geographic boundaries, even though the other two columns are identical. The term "Entire" means that all populations throughout the present range of a vertebrate species are listed. Although common names are included, they cannot be relied upon for identification of any specimen, since they may vary greatly in local usage. The Director shall use the most recently accepted scientific name. In cases in which confusion might arise, a synonym will be provided in parentheses. The Services shall rely to the extent practicable on the *International Code of Zoological Nomenclature.*

(c) In the "Status" column the following symbols are used: "E" for Endangered, "T" for Threatened, and "E [or T] (S/A)" for similarity of appearance species.

(d) For information purposes only, the "Historic Range" indicates the general known distribution of the species or subspecies as reported in the scientific literature. The present distribution may be greatly reduced from this historic range. This column does not imply any limitation on the application of the prohibitions in the Act or implementing rules. Such prohibitions apply to all

individuals of the species, wherever found. When the list is updated annually any change in the range will be added.

(e) For informational purposes only, a footnote to the Federal Register publication(s) originally listing a species is provided under the column "When Listed." Footnote numbers to §§ 17.11 and 17.12 are in the same numerical sequence, since plants and animals may be listed in the same Federal Register document. That document includes a statement indicating the basis for the listing.

(f) The "Special Rules" and "Critical Habitat" columns provide a cross-reference to other sections in Part 17 or Parts 222, 226 or 227. The term "N/A" (not applicable) appearing in either of these two columns indicates that there are no special rules and/or Critical Habitat for that particular species. However, all other appropriate rules in Part 17 and Parts 217–227 and 402 still apply to that species. In addition, there may be other rules in this Title 50 that relate to such wildlife, e.g., port-of-entry requirements. It is not intended that the references in the "Special Rules" column list all the regulations of the two Services which might apply to the species or to the regulations of other Federal agencies or State or local governments.

(g) The listing of a particular taxon includes all lower taxonomic units. For example, the genus *Hylobates* (gibbons) is listed as Endangered throughout its entire range (China, India, and SE Asia); consequently, all species, subspecies, and populations of that genus are considered listed as Endangered for the purposes of the Act. In 1978 (43 FR 6230–6233) the species *Haliaeetus leucocephalus* (bald eagle) was listed as Threatened in "USA (WA, OR, MN, WI, MI)" rather than its entire population; thus, all individuals of the bald eagle found in those five States are considered listed as Threatened for the purposes of the Act.

(h) The "List of Endangered and Threatened Wildlife" is provided below:

| Species | | Historic range | Vertebrate population where endangered or threatened | Status | When listed | Critical habitat | Special rules |
|---|---|---|---|---|---|---|---|
| Common name | Scientific name | | | | | | |
| MAMMALS | | | | | | | |
| Anoa | *Bubalus anoa depressicornis* | Indonesia | Entire | E | 3 | NA | NA |
| Anoa | *Bubalus anoa quarlesi* | Indonesia | Entire | E | 15 | NA | NA |
| Anteater, scaly | *Manis temminckii* | Africa | Entire | E | 15 | NA | NA |
| Antelope, bontebok | *Damaliscus dorcas dorcas* | South Africa | Entire | E | 15 | NA | NA |
| Antelope, giant sable | *Hippotragus niger variani* | Angola | Entire | E | 15 | NA | NA |
| Antelope, Mongolian saiga | *Saiga tatarica mongolica* | Mongolia | Entire | E | 15 | NA | NA |
| Argali | *Ovis ammon hodgsoni* | China (Tibet) | Entire | E | 15 | NA | NA |
| Armadillo, giant | *Priodontes giganteus* | Venezuela and Guyana to Argentina. | Entire | E | 15 | NA | NA |
| Armadillo, pink fairy | *Chlamyphorus truncatus* | Argentina | Entire | E | 3 | NA | NA |
| Ass, African wild | *Equus asinus* | Somalia, Sudan, Ethiopia | Entire | E | 3 | NA | NA |
| Ass, Asian wild | *Equus hemionus* | Southwestern and Central Asia | Entire | E | 3 | NA | NA |
| Avahis | *Avahi* spp. (all species) | Malagasy Republic (=Madegascar). | Entire | E | 3 | NA | NA |
| Aye-Aye | *Daubentonia* | Malagasy Republic (=Madegascar). | Entire | E | 3 | NA | NA |
| Babiroussa | *Babyrousa babyrussa* | Indonesia | Entire | E | 15 | NA | NA |
| Bandicoot, barred | *Perameles bougainville* | Australia | Entire | E | 4 | NA | NA |
| Bandicoot, desert | *Perameles eremiana* | Australia | Entire | E | 6 | NA | NA |
| Bandicoot, lesser rabbit | *Macrotis leucura* | Australia | Entire | E | 4 | NA | NA |
| Bandicoot, pig-footed | *Chaeropus ecaudatus* | Australia | Entire | E | 4 | NA | NA |
| Bandicoot, rabbit | *Macrotis lagotis* | Australia | Entire | E | 4 | NA | NA |
| Banteng | *Bos banteng* | Southeast Asia | Entire | E | 3 | NA | NA |
| Bat, gray | *Myotis grisescens* | Central and Southeast U.S.A. | Entire | E | 13 | NA | NA |
| Bat, Hawaiian hoary | *Lasiurus cinereus semotus* | U.S.A. (Hawaii) | Entire | E | 2 | NA | NA |
| Bat, Indiana | *Myotis sodalis* | East and Midwestern U.S.A. | Entire | E | 1 | 17.95(a) | NA |
| Bat, Ozark big-eared | *Plecotus townsendii ingens* | U.S.A. (MO, OK, AR) | Entire | E | 85 | NA | NA |
| Bat, Virginia big-eared | *Plecotus townsendii virginianus* | U.S.A. (KY, WV, VA, IN, IL, OH) | Entire | E | 85 | 17.95(a) | NA |
| Bear, brown | *Ursus arctos pruinosus* | China (Tibet) | Entire | E | 15 | NA | NA |
| Bear, brown | *Ursus arctos arctos* | Palearctic | Italy | E | 15 | NA | NA |
| Bear, brown or grizzly | *Ursus arctos horribilis* | Canada, Western U.S.A. | U.S.A.—48 conterminous States. | T | 1, 2#, 9 | NA | 17.40(b) |
| Bear, Mexican grizzly | *Ursus arctos nelsoni* | Mexico | Entire | E | 3 | NA | NA |
| Beaver | *Castor fiber birulai* | Mongolia | Entire | E | 15 | NA | NA |
| Bison, wood | *Bison bison athabascae* | Canada, Northwest U.S.A. | Canada | E | 3 | NA | NA |
| Bobcat | *Felis rufus escuinape* | Central Mexico | Entire | E | 15 | NA | NA |
| Camel, Bactrian | *Camelus bactrianus* | Mongolia, China | Entire | E | 15 | NA | NA |
| Cat, Andean | *Felis jacobita* | Chile, Peru, Bolivia, Argentina | Entire | E | 15 | NA | NA |
| Cat, black-footed | *Felis nigripes* | Southern Africa | Entire | E | 15 | NA | NA |
| Cat, flat-headed | *Felis planiceps* | Malaysia | Entire | E | 15 | NA | NA |
| Cat, Iriomote | *Mayailurus iriomotensis* | Japan (Iriomote Island, Ryukyu Island). | Entire | E | 50 | NA | NA |
| Cat, leopard | *Felis bengalensis bengalensis* | Eastern Asia | Entire | E | 15 | NA | NA |
| Cat, marbled | *Felis marmorata* | Nepal, Malaysia, Burma, Indonesia. | Entire | E | 15 | NA | NA |
| Cat, Temminck's | *Felis temminckii* | China (Tibet), Malaysia, Indonesia (Sumatra). | Entire | E | 15 | NA | NA |
| Cat, tiger | *Felis tigrina* | Costa Rica to Northern South America. | Entire | E | 5 | NA | NA |
| Chamois, Apennine | *Rupicapra rupicapra ornata* | Italy | Entire | E | 15 | NA | NA |
| Cheetah | *Acinonyx jubatus* | Africa to India | Entire | E | 3, 5 | NA | NA |
| Chimpanzee | *Pan troglodytes* | West and Central Africa | Entire | T | 16 | NA | 17.40(b) |
| Chimpanzee, pigmy | *Pan paniscus* | Zaire | Entire | T | 16 | NA | 17.40(b) |
| Chinchilla | *Chinchilla brevicaudata boliviana* | Bolivia | Entire | E | 15 | NA | NA |
| Civet, Malabar large-spotted | *Viverra megaspila civettina* | India | Entire | E | 50 | NA | NA |
| Colobus, black | *Colobus satanas* | Equatorial Guinea, People's Republic of Congo, Cameroon, Gabon. | Entire | E | 16 | NA | NA |
| Colobus, Tana River red | *Colobus badius rufomitratus* | Kenya | Entire | E | 3, 16 | NA | NA |
| Colobus, Zanzibar red | *Colobus kirkii* | Tanzania | Entire | E | 3 | NA | NA |
| Cougar, eastern | *Felis concolor cougar* | Eastern North America | Entire | E | 6 | NA | NA |

| Species | | Historic range | Vertebrate population where endangered or threatened | Status | When listed | Critical habitat | Special rules |
|---|---|---|---|---|---|---|---|
| Common name | Scientific name | | | | | | |
| Deer, Bactrian | *Cervus elaphus bactrianus* | U.S.S.R., Afghanistan | Entire | E | 50 | NA | NA |
| Deer, Bawean | *Axis porcinus kuhli* | Indonesia | Entire | E | 3 | NA | NA |
| Deer, Barbary | *Cervus elaphus barbarus* | Morocco, Tunisia, Algeria | Entire | E | 50 | NA | NA |
| Deer, Cedros Island mule | *Odocoileus hemionus cedrosensis.* | Mexico (Cedros Island) | Entire | E | 10 | NA | NA |
| Deer, Columbian white-tailed | *Odocoileus virginianus leucurus* | U.S.A. (WA, OR) | Entire | E | 1 | NA | NA |
| Deer, Corsican red | *Cervus elaphus corsicanus* | Corsica, Sardinia | Entire | E | 50 | NA | NA |
| Deer, Eld's brown-antlered | *Cervus eldi* | India to Southeast Asia | Entire | E | 3 | NA | NA |
| Deer, hog | *Axis (=Cervus) porcinus annamiticus.* | Thailand, Indochina | Entire | E | 15 | NA | NA |
| Deer, key | *Odocoileus virginianus clavium* | U.S.A. (southern FL) | Entire | E | 1 | NA | NA |
| Deer, marsh | *Blastocerus dichotomus* | Argentina, Uruguay, Paraguay, Brazil. | Entire | E | 3 | NA | NA |
| Deer, McNeill's | *Cervus elaphus macneilli* | China (Sinkiang, Tibet) | Entire | E | 3 | NA | NA |
| Deer, musk | *Moschus mochiferus moschiferus.* | South-central Asia | Entire | E | 15 | NA | NA |
| Deer, pampas | *Ozotoceras bezoarcticus* | Brazil, Argentina, Uruguay, Paraguay. | Entire | E | 15 | NA | NA |
| Deer, Persian fallow | *Dama dama mesopotamica* | Iraq, Iran | Entire | E | 3 | NA | NA |
| Deer, Philippine | *Axis calamianensis* | Philippines (Calamian Islands) | Entire | E | 15 | NA | NA |
| Deer, swamp | *Cervus duvauceli* | India, Nepal | Entire | E | 3 | NA | NA |
| Deer, Yarkand | *Cervus elaphus yarkandensis* | China (Sinkiang) | Entire | E | 50 | NA | NA |
| Dibbler | *Antechinus apicalis* | Australia | Entire | E | 4 | NA | NA |
| Dog, Asiatic wild (=Dhole) | *Cuon, alpinus* | U.S.S.R., Korea, China, India, Southeast Asia. | Entire | E | 3 | NA | NA |
| Drill | *Papio leucophaeus* | Equatorial West Africa | Entire | E | 16 | NA | NA |
| Dugong | *Dugong dugon* | East Africa to southern Japan, including U.S.A. (Trust Territories). | Entire | E | 4 | NA | NA |
| Duiker, Jentink's | *Cephalophus jentinki* | Sierra Leone, Liberia, Ivory Coast. | Entire | E | 50 | NA | NA |
| Eland, Western giant | *Taurotragus derbianus derbianus* | Senegal to Ivory Coast | Entire | E | 50 | NA | NA |
| Elephant, African | *Loxodonta africana* | Africa | Entire | T | 40 | NA | 17.40(e) |
| Elephant, Asian | *Elephas maximus* | South-central and Southeast Asia | Entire | E | 15 | NA | NA |
| Ferret, black-footed | *Mustela nigripes* | Western U.S.A., Western Canada. | Entire | E | 1, 3 | NA | NA |
| Forester, Tasmanian (kangaroo) | *Macropus giganteus tasmaniensis* | Australia (Tasmania) | Entire | E | 6 | NA | NA |
| Fox, Northern swift | *Vulpes velox hebes* | U.S.A. (northern plains), Canada | Canada | E | 3 | NA | NA |
| Fox, San Joaquin kit | *Vulpes macrotis mutica* | U.S.A. (California) | Entire | E | 1 | NA | NA |
| Fox, Simien | *Simia simensis* | Ethiopia | Entire | E | 50 | NA | NA |
| Gazelle, Clark's (=Dibatag) | *Ammodorcas clarkei* | Somalia, Ethiopia | Entire | E | 3 | NA | NA |
| Gazelle, Cuvier's | *Gazella cuvieri* | Morocco, Tunisia | Entire | E | 3 | NA | NA |
| Gazelle, Mhorr | *Gazella dama mhorr* | Morocco | Entire | E | 3 | NA | NA |
| Gazelle, Moroccan (=Dorcas) | *Gazella dorcas massaesyla* | Morocco, Algeria | Entire | E | 3 | NA | NA |
| Gazelle, Rio de Oro Dama | *Gazella dama lozanoi* | Spanish Sahara | Entire | E | 3 | NA | NA |
| Gazelle, Arabian | *Gazella gazella* | Arabian Peninsula including Israel | Entire | E | 50 | NA | NA |
| Gazelle, Sand | *Gazella subgutterosa marica* | Jordan, Arabian Peninsula | Entire | E | 50 | NA | NA |
| Gazelle, Saudi Arabian | *Gazella dorcas saudiya* | Israel, Iraq, Jordan, Syria, Saudi Arabia, Kuwait. | Entire | E | 50 | NA | NA |
| Gazelle, Pelzeln's | *Gazella dorcas pelzelni* | Somalia | Entire | E | 50 | NA | NA |
| Gazelle, slender-horned (=Rhim) | *Gazella leptoceros* | Sudan, Egypt, Algeria, Libya | Entire | E | 3 | NA | NA |
| Gelada (baboon) | *Theropithecus gelada* | Northern Ethiopia | Entire | T | 16 | NA | 17.40(c) |
| Gibbons | *Hylobates* spp. (including *Nomascus*). | China, India, southeastern Asia | Entire | E | 3, 15 | NA | NA |
| Goral | *Nemorhaedus goral* | East Asia | Entire | E | 15 | NA | NA |
| Gorilla | *Gorilla gorilla* | Central and Western Africa | Entire | E | 3 | NA | NA |
| Hare, hispid | *Caprolagus hispidus* | India, Nepal | Entire | E | 15 | NA | NA |
| Hartebeest, Swayne's | *Alcelaphus buselaphus swaynei* | Ethiopia, Somalia | Entire | E | 3, 50 | NA | NA |
| Hartebeest, Tora | *Alcelaphus buselaphus tora* | Ethiopia, Sudan, Egypt | Entire | E | 50 | NA | NA |
| Hog, pigmy | *Sus salvanius* | India, Nepal, Bhutan, Sikkim | Entire | E | 3 | NA | NA |
| Horse, Przewalski's | *Equus przewalskii* | Mongolia | Entire | E | 15 | NA | NA |
| Huemul, North Andean | *Hippocamelus antisiensis* | Ecuador, Peru, Chile, Bolivia, Argentina. | Entire | E | 15 | NA | NA |
| Huemul, South Andean | *Hippocamelus bisulcus* | Chile, Argentina | Entire | E | 15 | NA | NA |
| Hyena, Barbary | *Hyaena hyaena barbara* | Morocco | Entire | E | 3 | NA | NA |
| Hyena, brown | *Hyaena brunnea* | Southern Africa | Entire | E | 3 | NA | NA |
| Ibex, Pyrenean | *Capra pyrenaica pyrenaica* | Spain | Entire | E | 3 | NA | NA |
| Ibex, Walia | *Capra walie* | Ethiopia | Entire | E | 3 | NA | NA |
| Impala, black-faced | *Aepyceros melampus petersi* | Southwest Africa, Nambia, Angola. | Entire | E | 3 | NA | NA |
| Indris | *Indris* spp. (all species) | Malagasy Republic (=Madagascar) Comoro Island. | Entire | E | 3 | NA | NA |
| Jaguar | *Panthera onca* | U.S.A. (TX, NM, AZ), Central and South America. | Mexico southward. | E | 5 | NA | NA |
| Jaguarundi | *Felis yagouaroundi cacomitli* | U.S.A. (TX), Mexico | Entire | E | 15 | NA | NA |
| Jaguarundi | *Felis yagouaroundi fossata* | Mexico, Nicaragua | Entire | E | 15 | NA | NA |
| Jaguarundi | *Felis yagouaroundi panamensis* | Nicaragua, Costa Rica, Panama | Entire | E | 15 | NA | NA |
| Jaguarundi | *Felis yagouaroundi tolteca* | U.S.A. (AZ), Mexico | Entire | E | 15 | NA | NA |
| Kangaroo, eastern gray (see also Forester, Tasmanian). | *Macropus giganteus* (all subspecies except *tasmaniensis*). | Australia | Entire | T | 7 | NA | 17.40(a) |
| Kangaroo, red | *Megalela rufa* | Australia | Entire | T | 7 | NA | 17.40(a) |
| Kangaroo, western gray | *Macropus fuliginosus* | Australia | Entire | T | 7 | NA | 17.40(a) |
| Kouprey | *Bos sauveli* | Vietnam, Laos, Cambodia, Thailand. | Entire | E | 3 | NA | NA |
| Langur, capped | *Presbytis pileatus* | India, Burma | Entire | E | 15 | NA | NA |
| Langur, entellus | *Presbytis entellus* | China (Tibet), India, Pakistan, Kashmir, Sri Lanka, Sikkim, Bangladesh. | Entire | E | 15 | NA | NA |
| Langur, Douc | *Pygathrix nemaeus* | Cambodia, Laos, China, Vietnam | Entire | E | 3 | NA | NA |
| Langur, golden | *Presbytis geei* | India (Assam), Bhutan | Entire | E | 15 | NA | NA |
| Langur, long-tailed | *Presbytis potenziani* | Indonesia | Entire | T | 16 | NA | 17.40(c) |
| Langur, Pagi Island | *Simias concolor* | Indonesia | Entire | E | 3 | NA | NA |

| Species | | Historic range | Vertebrate population where endangered or threatened | Status | When listed | Critical habitat | Special rules |
|---|---|---|---|---|---|---|---|
| Common name | Scientific name | | | | | | |
| Langur, purple-faced | *Presbytis senex* | Sri Lanka (=Ceylon) | Entire | T | 16 | NA | 17.40(c) |
| Lechwe, red | *Kobus leche* | Southern Africa | Entire | E | 3, 15 | NA | NA |
| Lemurs | *Lemuridae* (incl. Cheirogaleidae, Lepilemuridae); all members of genera *Lemur, Phaner, Hapalemur, Lepilemur, Microcebus, Allocebus, Cheirogaleus, Varecia.* | Malagasy Republic (=Madagascar). | Entire | E | 3, 15 | NA | NA |
| Leopard | *Panthera pardus* | Africa, India, Southeast Asia | Entire | E | 3, 5 | NA | NA |
| Leopard, clouded | *Neofelis nebulosa* | Southeast and South-central Asia, Taiwan. | Entire | E | 3, 15 | NA | NA |
| Leopard, snow | *Panthera uncia* | Central Asia | Entire | E | 5 | NA | NA |
| Linsang, spotted | *Prionodon pardicolor* | Nepal, Assam, Vietnam, Cambodia, Laos, Burma. | Entire | E | 15 | NA | NA |
| Lion, Asiatic | *Panthera leo persica* | Western Iran to India | Entire | E | 3 | NA | NA |
| Loris, lesser slow | *Nycticebus pygmaeus* | Indochina | Entire | T | 16 | NA | 17.40(c) |
| Lynx, Spanish | *Felis lynx pardina* | Spain | Entire | E | 3 | NA | NA |
| Macaque, Formosan rock | *Macaca cyclopis* | Taiwan | Entire | T | 16 | NA | 17.40(c) |
| Macaque, Japanese | *Macaca fuscata* | Japan (Shikoku, Kyushu and Honshu Island). | Entire | T | 16 | NA | 17.40(c) |
| Macaque, lion-tailed | *Macaca silenus* | India | Entire | E | 3 | NA | NA |
| Macaque, stump-tailed | *Macaca arctoides* | India (Assam) to southern China | Entire | T | 16 | NA | 17.40(c) |
| Macaque, Toque | *Macaca sinica* | Sri Lanka (=Ceylon) | Entire | T | 16 | NA | 17.40(c) |
| Manatee, Amazonian | *Trichechus inunguis* | South America; Amazon River Basin. | Entire | E | 3 | NA | NA |
| Manatee, West African | *Trichechus senegalensis* | West Coast of Africa from Senegal River Cuanza River. | Entire | T | 52 | NA | NA |
| Manatee, West Indian (Florida) | *Trichechus manatus* | U.S.A. (southeastern), Caribbean Ocean, South America. | Entire | E | 1, 3 | 17.95(a) | NA |
| Mandrill | *Papio sphinx* | Equatorial West Africa | Entire | E | 16 | NA | NA |
| Mangabey, Tana River | *Cercocebus galeritus* | Kenya | Entire | E | 3 | NA | NA |
| Mangabey, white-collared | *Cercocebus torquatus* | Senegal to Ghana; Nigeria to Gabon. | Entire | E | 16 | NA | NA |
| Margay | *Felis wiedii* | U.S.A. (NM, AZ), Central and South America. | Mexico southward. | E | 5 | NA | NA |
| Markhor, Chiltan | *Capra falconeri chiltanensis* | Pakistan | Entire | E | 15 | NA | NA |
| Markhor, Kabal | *Capra falconeri megaceros* | Afghanistan, Pakistan | Entire | E | 15 | NA | NA |
| Markhor, straight-horned | *Capra flaconeri jerdoni* | Pakistan, Afghanistan | Entire | E | 15 | NA | NA |
| Marmoset, cotton-top | *Saguinus oedipus* | Panama, Costa Rica, Colombia | Entire | E | 16 | NA | NA |
| Marmoset, Goeldi's | *Callimico goeldi* | Brazil, Colombia, Ecuador, Peru | Entire | E | 3 | NA | NA |
| Marsupial, eastern jerboa | *Antechinomys laniger* | Australia | Entire | E | 4 | NA | NA |
| Marsupial-mouse large desert | *Sminthopsis psammophila* | Australia | Entire | E | 4 | NA | NA |
| Marsupial-mouse, long-tailed | *Sminthopsis longicaudata* | Australia | Entire | E | 4 | NA | NA |
| Marten, Formosan yellow-throated | *Martes flavigula chrysospila* | Taiwan | Entire | E | 3 | NA | NA |
| Monkey, black howler | *Alouatta pigra* | Mexico, Guatemala, Belize | Entire | T | 16 | NA | 17.40(c) |
| Monkey Diana | *Cercopithecus diana* | Coastal West Africa | Entire | E | 16 | NA | NA |
| Monkey, Francois' leaf | *Presbytis francoisi* | China (Kwangsi), Indochina | Entire | E | 16 | NA | NA |
| Monkey, howler | *Alouatta villosa* | Mexico to South America | Entire | E | 15 | NA | NA |
| Monkey, L'hoest's | *Cercopithecus lhoesti* | Upper Eastern Congo Basin, Cameroon. | Entire | E | 16 | NA | NA |
| Monkey, proboscis | *Nasalis larvatus* | Borneo | Entire | E | 15 | NA | NA |
| Monkey, red-backed squirrel | *Saimiri oerstedi* | Costa Rica, Panama | Entire | E | 3 | NA | NA |
| Monkey, red-bellied | *Cercopithecus erythrogaster* | Western Nigeria | Entire | E | 16 | NA | NA |
| Monkey, red-eared nose-spotted | *Cercopithecus erythrotis* | Nigeria, Cameroon, Fernando Po. | Entire | E | 16 | NA | NA |
| Monkey, spider | *Ateles geoffroyi frontatus* | Costa Rica, Nicaragua | Entire | E | 3 | NA | NA |
| Monkey, spider | *Ateles geoffroyi panamensis* | Costa Rica, Panama | Entire | E | 3 | NA | NA |
| Monkey, Tonkin snub-nosed | *Rhinopithecus avunculus* | Vietnam | Entire | T | 16 | NA | 17.40(c) |
| Monkey, woolly spider | *Brachyteles arachnoides* | Brazil | Entire | E | 3 | NA | NA |
| Monkey, yellow-tailed woolly | *Lagothrix flavicauda* | Andes of northern Peru | Entire | E | 16 | NA | NA |
| Mouse, Australian native | *Notomys pedunculatus* | Australia | Entire | E | 15 | NA | NA |
| Mouse, Australian native | *Notomys aquilo* | Australia | Entire | E | 15 | NA | NA |
| Mouse, Field's | *Pseudomys fieldi* | Australia | Entire | E | 4 | NA | NA |
| Mouse, Gould's | *Pseudomys gouldi* | Australia | Entire | E | 6 | NA | NA |
| Mouse, New Holland | *Pseudomys novaehollandiae* | Australia | Entire | E | 4 | NA | NA |
| Mouse, salt marsh harvest | *Reithrodontomys raviventris* | U.S.A. (California) | Entire | E | 2 | NA | NA |
| Mouse, Shark Bay | *Pseudomys praeconis* | Australia | Entire | E | 4 | NA | NA |
| Mouse, Shortridge's | *Pseudomys shortridgei* | Australia | Entire | E | 4 | NA | NA |
| Mouse, Smoky | *Pseudomys fumeus* | Australia | Entire | E | 4 | NA | NA |
| Mouse, western | *Pseudomys occidentalis* | Australia | Entire | E | 4 | NA | NA |
| Muntjac, Fea's | *Muntiacus feae* | Northern Thailand, Burma | Entire | E | 50 | NA | NA |
| Native-cat, eastern | *Dasyurus viverrinus* | Australia | Entire | E | 6 | NA | NA |
| Numbat | *Myrmecobius fascietus* | Australia | Entire | E | 4, 6 | NA | NA |
| Ocelot | *Felis pardalis* | Southwest U.S.A., Central and South America. | Mexico southward. | E | 5 | NA | NA |
| Orangutan | *Pongo pygmaeus* | Borneo, Sumatra | Entire | E | 3 | NA | NA |
| Oryx, Arabian | *Oryx leucoryx* | Arabian Peninsula | Entire | E | 3 | NA | NA |
| Otter, Cameroon clawless | *Paraonyx microdon* | Cameroon | Entire | E | 3 | NA | NA |
| Otter, giant | *Pteronura brasiliensis* | South America | Entire | E | 3 | NA | NA |
| Otter, La Plata | *Lutra platensis* | Argentina, Bolivia, Uruguay, Brazil | Entire | E | 3 | NA | NA |
| Otter, long-tailed | *Lutra longicauds* | South America | Entire | E | 15 | NA | NA |
| Otter, marine | *Lutra felina* | Peru, south to Straits of Magellan | Entire | E | 15 | NA | NA |
| Otter, southern river | *Lutra provocax* | Chile, Argentina | Entire | E | 15 | NA | NA |
| Otter, southern sea | *Enhydra lutris nereis* | West coast U.S.A. (WA) south to Mexico (Baja California). | Entire | T | 21 | NA | NA |
| Panther, Florida | *Felis concolor coryi* | U.S.A. (LA and AR east to SC and FL). | Entire | E | 1 | NA | NA |
| Planigale, little | *Planigale subtilissima* | Australia | Entire | E | 4 | NA | NA |
| Planigale, southern | *Planigale tenuirostris* | Australia | Entire | E | 4 | NA | NA |
| Porcupine, thin-spined | *Chaetomys subspinosus* | Brazil | Entire | E | 3 | NA | NA |

| Species | | Historic range | Vertebrate population where endangered or threatened | Status | When listed | Critical habitat | Special rules |
|---|---|---|---|---|---|---|---|
| Common name | Scientific name | | | | | | |
| Possum, mountain pigmy | *Burramys parvus* | Australia | Entire | E | 4 | NA | NA |
| Possum, scaly-tailed | *Wyulda squamicaudata* | Australia | Entire | E | 4 | NA | NA |
| Prairie dog, Mexican | *Cynomys mexicanus* | Mexico | Entire | E | 3 | NA | NA |
| Prairie dog, Utah | *Cynomys parvidens* | U.S.A. (Utah) | Entire | E | 6 | NA | NA |
| Pronghorn, peninsular | *Antilocapra americana peninsularis.* | Mexico (Baja California) | Entire | E | 10 | NA | NA |
| Pronghorn, Sonoran | *Antilocapra americana sonoriensis.* | U.S.A. (AZ), Mexico | Entire | E | 1, 3 | NA | NA |
| Pudu | *Pudu pudu* | Southern South America | Entire | E | 15 | NA | NA |
| Puma, Costa Rican | *Felis concolor costaricensis* | Nicaragua, Panama, Costa Rica | Entire | E | 15 | NA | NA |
| Quokka | *Setonix brachyurus* | Australia | Entire | E | 6 | NA | NA |
| Rabbit, Ryukyu | *Pentalogus furnesi* | Japan (Ryukyu Island) | Entire | E | 50 | NA | NA |
| Rabbit, volcano | *Romerolagus diazi* | Mexico | Entire | E | 3 | NA | NA |
| Rat, false water | *Xeromys myoides* | Australia | Entire | E | 4 | NA | NA |
| Rat, stick-nest | *Leporillus conditor* | Australia | Entire | E | 6 | NA | NA |
| Rat, Morro Bay kangaroo | *Dipodomys heermanni* | U.S.A. (California) | Entire | E | 2 | 17.95(a) | NA |
| Rat—kangaroo, brush-tailed | *Bettongia penicillata* | Australia | Entire | E | 4 | NA | NA |
| Rat—kangaroo, Gaimard's | *Bettongia gaimardi* | Australia | Entire | E | 6 | NA | NA |
| Rat—kangaroo, Lesuer's | *Bettongia lesueur* | Australia | Entire | E | 4 | NA | NA |
| Rat—kangaroo, plain | *Caloprymnus campestris* | Australia | Entire | E | 4 | NA | NA |
| Rat—kangaroo, Queensland | *Bettongia tropica* | Australia | Entire | E | 4 | NA | NA |
| Rhinoceros, great Indian | *Rhinoceros unicornis* | India, Nepal | Entire | E | 4 | NA | NA |
| Rhinoceros, Javan | *Rhinoceros sondaicus* | Indonesia, Indochina, Burma, | Entire | E | 3 | NA | NA |
| Rhinoceros, northern white | *Ceratotherium simum cottoni* | Zaire, Sudan, Uganda, Central African Republic. | Entire | E | 3 | NA | NA |
| Rhinoceros, Sumatran | *Didermoceros sumatrensis* | Bangladesh to Vietnam to Indonesia (Borneo). | Entire | E | 3 | NA | NA |
| Saki, white-nosed | *Chiropotes albanasus* | Brazil | Entire | E | 3 | NA | NA |
| Seal, Caribbean monk | *Monachus tropicalis* | Caribbean Sea, Gulf of Mexico | Entire | E | 1, 2#, 45 | NA | NA |
| Seal, Hawaiian monk | *Monachus schauinslandi* | Hawaiian Archipelago | Entire | E | 18 | NA | NA |
| Seal, Mediterranean monk | *Monachus monachus* | Mediterranean, Northwest African Coast and Black Sea. | Entire | E | 3 | NA | NA |
| Seledang (=Guar) | *Bos gaurus* | Bangladesh, Southeast Asia, India. | Entire | E | 3 | NA | NA |
| Serow, Sumatran | *Capricornis sumatraensis* | Sumatra | Entire | E | 15 | NA | NA |
| Serval, Barbary | *Felis serval constantina* | Algeria | Entire | E | 3 | NA | NA |
| Shapo | *Ovis vignei* | Kashmir | Entire | E | 15 | NA | NA |
| Shou | *Cervus elaphus wallichi* | Tibet, Bhutan | Entire | E | 3 | NA | NA |
| Siamang | *Symphalangus syndactylus* | Malaysia, Indonesia | Entire | E | 15 | NA | NA |
| Sifakas | *Propithecus* spp. (all species) | Malagasy Republic (=Madagascar). | Entire | E | 4 | NA | NA |
| Sika (deer), Formosan | *Cervus nippon taiouanus* | Taiwan | Entire | E | 50 | NA | NA |
| Sika (deer), North China | *Cervus nippon mandarinus* | China (Shantung and Chihli Provinces). | Entire | E | 50 | NA | NA |
| Sika (deer), Ryukyu | *Cervus nippon keramae* | Japan (Ryukyu Island) | Entire | E | 50 | NA | NA |
| Sika (deer), Shansi | *Cervus nippon grassianus* | China (Shansi Province) | Entire | E | 50 | NA | NA |
| Sika (deer), South China | *Cervus nippon kopschi* | Southern China | Entire | E | 50 | NA | NA |
| Sloth, Brazilian three-toed | *Bradypus torquatus* | Brazil | Entire | E | 3, 4 | NA | NA |
| Solenodon, Cuban | *Atopogale cubana* | Cuba | Entire | E | 3 | NA | NA |
| Solenodon, Haitian | *Solenodon paradoxus* | Dominican Republic, Haiti | Entire | E | 3 | NA | NA |
| Squirrel, Delmarva Peninsula fox | *Sciurus niger cinereus* | U.S.A. (DelMarVa Peninsula to Southeast PA). | Entire | E | 1 | NA | NA |
| Stag, Barbary | *Cervus elephus barbarus* | Tunisia, Algeria | Entire | E | 3 | NA | NA |
| Stag, Kashmir | *Cervus elephus hanglu* | Kashmir | Entire | E | 3 | NA | NA |
| Suni, Zanzibar | *Nesotragus moschatus moschatus.* | Zanzibar (and neighboring states) | Entire | E | 50 | NA | NA |
| Tahr, Arabian | *Hemitragus jayakari* | Oman | Entire | E | 50 | NA | NA |
| Tamaraw | *Bubalus mindorensis* | Philippines | Entire | E | 4 | NA | NA |
| Tamarin, golden-rumped (=golden-headed Tamarin; =golden-lion Marmoset). | *Leontideus* spp. (all species) | Brazil | Entire | E | 3 | NA | NA |
| Tamarin, pied | *Saguinus bicolor* | Northern Brazil | Entire | E | 18 | NA | NA |
| Tamarin, white-footed | *Saguinus leucopus* | Northern Colombia | Entire | T | 16 | NA | 17.40(c) |
| Tapir, Asian | *Tapirus indicus* | Burma, Laos, Cambodia, Vietnam, Malaysia, Indonesia, Thailand. | Entire | E | 15 | NA | NA |
| Tapir, Brazilian | *Tapirus terrestris* | Colombia and Venezuela south to Paraguay and Argentina. | Entire | E | 3 | NA | NA |
| Tapir, Central American | *Tapirus bairdii* | Southern Mexico to Colombia and Ecuador. | Entire | E | 3 | NA | NA |
| Tapir, mountain | *Tapirus pinchaque* | Colombia, Ecuador and possibly Peru and Venezuela. | Entire | E | 3 | NA | NA |
| Tarsier, Philippine | *Tarsius syrichta* | Philippines | Entire | T | 16 | NA | 17.40(c) |
| Tiger | *Panthera tigris* | Temperate and Tropical Asia | Entire | E | 3, 5 | NA | NA |
| Tiger, Tasmanian (=Thylacine) | *Thylacinus cynocephalus* | Australia | Entire | E | 3 | NA | NA |
| Uakari (all species) | *Cacajao* spp. (all species) | Peru, Brazil, Ecuador, Columbia, Venezuela. | Entire | E | 3 | NA | NA |
| Urial | *Ovis orientalis ophion* | Cyprus | Entire | E | 15 | NA | NA |
| Vicuna | *Vicugna vicugna* | South American Andes | Entire | E | 3 | NA | NA |
| Wallaby, banded hare | *Lagostrophus fasciatus* | Australia | Entire | E | 4 | NA | NA |
| Wallaby, brindled nail-tailed | *Onychogalea frenata* | Australia | Entire | E | 4 | NA | NA |
| Wallaby, crescent nail-tailed | *Onychogalea lunata* | Australia | Entire | E | 4 | NA | NA |
| Wallaby, Parma | *Macropus parma* | Australia | Entire | E | 4 | NA | NA |
| Wallaby, Western hare | *Lagorchestes hirsutus* | Australia | Entire | E | 4 | NA | NA |
| Wallaby, yellow-footed rock | *Petrogale xanthopus* | Australia | Entire | E | 6 | NA | NA |
| Whale, blue | *Balaenoptera musculus* | Oceanic | Entire | E | 3 | NA | NA |
| Whale, bowhead | *Balaena mysticetus* | Oceanic (north latitudes only) | Entire | E | 3 | NA | NA |
| Whale, finback | *Balaenoptera physalus* | Oceanic | Entire | E | 3 | NA | NA |

| Species | | Historic range | Vertebrate population where endangered or threatened | Status | When listed | Critical habitat | Special rules |
|---|---|---|---|---|---|---|---|
| Common name | Scientific name | | | | | | |
| Whale, gray | *Eschrichtius robustus* | North Pacific Ocean: coastal and Bering Sea. | Entire | E | 3 | NA | NA |
| Whale, humpback | *Megaptera novaeangliae* | Oceanic | Entire | E | 3 | NA | NA |
| Whale, right | *Balaena glacialis* | Oceanic | Entire | E | 3 | NA | NA |
| Whale, Sei | *Balaenoptera borealis* | Oceanic | Entire | E | 3 | NA | NA |
| Whale, sperm | *Physeter catodon* | Oceanic | Entire | E | 3 | NA | NA |
| Wolf, gray | *Canis lupus* | Holarctic | U.S.A. (48 conterminous States other than MN), Mexico. | E | 1, 6, 13, 15, 35 | 17.95(a) | NA |
| Wolf, gray | *Canis lupus* | Holarctic | U.S.A. (MN) | T | 35 | 17.95(a) | 17.40(d) |
| Wolf, maned | *Chrysocyon brachyurus* | Argentina, Bolivia, Brazil, Paraguay, Uruguay. | Entire | E | 4 | NA | NA |
| Wolf, red | *Canis rufus* | U.S.A. (southeast U.S.A. west to central TX). | Entire | E | 1 | NA | NA |
| Wombat, Barnard's | *Lasiorhinus barnardi* | Australia | Entire | E | 4 | NA | NA |
| Wombat, Queensland hairy-nosed. | *Lasiorhinus gillespiei* | Australia | Entire | E | 6 | NA | NA |
| Yak, wild | *Bos grunniens mutus* | China (Tibet), India | Entire | E | 3 | NA | NA |
| Zebra, Grevy's | *Equus grevyi* | Kenya, Ethiopia, Sudan | Entire | T | 54 | NA | NA |
| Zebra, mountain | *Equus zebra* | South Africa | Entire | E | 15, 54 | NA | NA |
| BIRDS | | | | | | | |
| Akepa, Hawaii (honeycreeper) | *Loxops coccinea coccinea* | U.S.A. (Hawaii) | Entire | E | 2 | NA | NA |
| Akepa, Maui (honeycreeper) | *Loxops coccinea ochracea* | U.S.A. (Hawaii) | Entire | E | 2 | NA | NA |
| Akialoa, Kuai (honeycreeper) | *Hemignathus procerus* | U.S.A. (Hawaii) | Entire | E | 1 | NA | NA |
| Akipolaau (honeycreeper) | *Hemignathus wilsoni* | U.S.A. (Hawaii) | Entire | E | 1 | NA | NA |
| Albatross, short-tailed | *Diomedea albatrus* | North Pacific Ocean: Japan, U.S.S.R., U.S.A. (AK, CA, HA, OR, WA). | Entire, except U.S.A. | E | 3 | NA | NA |
| Blackbird, yellow-shouldered | *Agelaius xanthomus* | U.S.A. (Puerto Rico) | Entire | E | 17 | 17.95(b) | NA |
| Bobwhite, masked (quail) | *Colinus virginianus ridgwayi* | U.S.A. (Arizona), Mexico (Sonora) | Entire | E | 1, 3 | NA | NA |
| Booby, Abbott's | *Sula abbotti* | Indian Ocean: Christmas Island | Entire | E | 15 | NA | NA |
| Bristlebird, western | *Dasyornis brachypterus longirostris.* | Australia | Entire | E | 3 | NA | NA |
| Bristlebird, western rufous | *Dasyornis broadbenti litoralis* | Australia | Entire | E | 15 | NA | NA |
| Bulbul, Mauritius olivaceous | *Hypsipetes borbonicus olivaceus* | Mauritius | Entire | E | 3 | NA | NA |
| Bullfinch, Sao Miguel (finch) | *Pyrrhula pyrrhula murina* | Eastern Atlantic Ocean: Azores | Entire | E | 3 | NA | NA |
| Bushwren, New Zealand | *Xenicus longipes* | New Zealand | Entire | E | 3 | NA | NA |
| Bustard, great Indian | *Choriotis nigriceps* | India, Pakistan | Entire | E | 3 | NA | NA |
| Cahow (=Bermuda Petrel) | *Pterodroma cahow* | North Atlantic Ocean: Bermuda | Entire | E | 3 | NA | NA |
| Condor, Andean | *Vultur gryphus* | Colombia to Chile and Argentina | Entire | E | 4 | NA | NA |
| Condor, California | *Gymnogyps californianus* | U.S.A. (OR, CA), Mexico (Baja California). | Entire | E | 1 | 17.95(b) | NA |
| Coot, Hawaiian | *Fulica americana alai* | U.S.A. (Hawaii) | Entire | E | 2 | NA | NA |
| Cotinga, banded | *Cotinga maculata* | Brazil | Entire | E | 15 | NA | NA |
| Cotinga, white-winged | *Xipholena atropurpurea* | Brazil | Entire | E | 15 | NA | NA |
| Crane, black-necked | *Grus nigricollis* | China (Tibet) | Entire | E | 15 | NA | NA |
| Crane, Cuba sandhill | *Grus canadensis nesiotes* | West Indies: Cuba | Entire | E | 15 | NA | NA |
| Crane, hooded | *Grus monacha* | Japan, U.S.S.R. | Entire | E | 4 | NA | NA |
| Crane, Japanese | *Grus japonensis* | China, Japan, Korea, U.S.S.R. | Entire | E | 3 | NA | NA |
| Crane, Mississippi sandhill | *Grus canadensis pulla* | U.S.A. (Mississippi) | Entire | E | 6 | (17.95(b) | NA |
| Crane, Siberian white | *Grus leucogeranus* | U.S.S.R. (Siberia) to India, including Iran and China. | Entire | E | 4 | NA | NA |
| Crane, white-naped | *Grus vipio* | Mongolia | Entire | E | 15 | NA | NA |
| Crane, whooping | *Grus americana* | Canada, U.S.A. (Rocky Mountains east to Carolines), Mexico. | Entire | E | 1, 3 | 17.95(b) | NA |
| Creeper, Hawaiian | *Loxops maculata mana* | U.S.A. (Hawaii) | Entire | E | 10 | NA | NA |
| Creeper, Molokai (=Kakawahie) | *Loxops maculata flammea* | U.S.A. (Hawaii) | Entire | E | 2 | NA | NA |
| Creeper, Oahu (=alauwahio) | *Loxops maculata maculata* | U.S.A. (Hawaii) | Entire | E | 2 | NA | NA |
| Crow, Hawaiian (=alala) | *Corvus tropicus* | U.S.A. (Hawaii) | Entire | E | 1 | NA | NA |
| Cuckoo-shrike, Mauritius | *Coquus (=Coracina) typicus* | Indian Ocean: Mauritius | Entire | E | 3 | NA | NA |
| Cuckoo-shrike, Reunion | *Coquus (=Coracina) newtoni* | Indian Ocean: Reunion | Entire | E | 3 | NA | NA |
| Curassow, razor-billed | *Mitu (=Crax) mitu mitu* | Brazil (Eastern) | Entire | E | 15 | NA | NA |
| Curassow, red-billed | *Crax blumenbachii* | Brazil | Entire | E | 4 | NA | NA |
| Curassow, Trinidad, white-headed. | *Pipile pipile pipile* | West Indies: Trinidad | Entire | E | 3 | NA | NA |
| Curlew, Eskimo | *Numenus borealis* | Alaska and northern Canada to Argentina. | Entire | E | 1, 3 | NA | NA |
| Dove, cloven-feathered | *Drepanoptila holosericea* | Southwest Pacific Ocean: New Caledonia. | Entire | E | 3 | NA | NA |
| Dove, Grenada | *Leptotila wellsi* | West Indies: Grenada | Entire | E | 3 | NA | NA |
| Dove, Palau ground | *Gallicolumba canifrons* | West Pacific Ocean: U.S.A. (Palau Islands). | Entire | E | 3 | NA | NA |
| Duck, Hawaiian (=koloa) | *Anas wyvilliana* | U.S.A. (Hawaii) | Entire | E | 1 | NA | NA |
| Duck, Laysan | *Anas laysanensis* | U.S.A. (Hawaii) | Entire | E | 1 | NA | NA |
| Duck, pink-headed | *Rhodonessa caryophyllacea* | India | Entire | E | 15 | NA | NA |
| Duck, white-winged wood | *Cairina scutulata* | India, Malaysia, Indonesia, Thailand. | Entire | E | 3 | NA | NA |
| Eagle, Greenland white-tailed | *Haliaeetus albicilla groenlandicus.* | Greenland and adjacent Atlantic islands. | Entire | E | 15 | NA | NA |
| Eagle, harpy | *Harpia harpyja* | Mexico south to Argentina | Entire | E | 15 | NA | NA |
| Eagle, Philippine (=monkey-eating). | *Pithecophaga jefferyi* | Philippines | Entire | E | 3 | NA | NA |
| Eagle, bald | *Haliaeetus leucocephalus* | North America south to northern Mexico. | U.S.A. (conterminous States, except WA, OR, MN, WI, MI). | E | 1, 34 | NA | NA |

| Species | | Historic range | Vertebrate population where endangered or threatened | Status | When listed | Critical habitat | Special rules |
|---|---|---|---|---|---|---|---|
| Common name | Scientific name | | | | | | |
| Eagle, bald | *Haliaeetus leucocephalus* | North America south to northern Mexico. | U.S.A. (WA, OR, MN, WI, MI). | T | 34 | NA | 17.41(a) |
| Eagle, Spanish Imperial | *Aquila heliaca adalberti* | Spain, Morocco, Algeria | Entire | E | 3 | NA | NA |
| Egret, Chinese | *Egretta eulophotes* | China, Korea | Entire | E | 3 | NA | NA |
| Falcon, American peregrine | *Falco peregrinus anatum* | Canada, U.S.A., Mexico | Entire | E | 2, 3 | 17.95(a) | NA |
| Falcon, Arctic peregrine | *Falco peregrinus tundrius* | Alaska to Greeland, south to Argentina. | Entire | E | 2, 3 | NA | NA |
| Falcon, Eurasian peregrine | *Falco peregrinus peregrinus* | Europe, Eurasia south to Africa and Mideast. | Entire | E | 15 | NA | NA |
| Finch, Laysan (Honeycreeper) | *Telespyza (=Psittirostra) cantans.* | U.S.A. (Hawaii) | Entire | E | 1 | NA | NA |
| Finch, Nihoa (honeycreeper) | *Telespyza (=Psittirostra) ultima* | U.S.A. (Hawaii) | Entire | E | 1 | NA | NA |
| Flycatcher, Euler's | *Empidonax euleri johnstonei* | West Indies: Grenada | Entire | E | 3 | NA | NA |
| Flycatcher, Palau fantail | *Rhipidura lepida* | West Pacific Ocean: U.S.A. (Palau Islands). | Entire | E | 3 | NA | NA |
| Flycatcher, Seychelles paradise | *Terpsiphone corvina* | Indian Ocean: Seychelles | Entire | E | 3 | NA | NA |
| Flycatcher, Tahiti | *Pomarea nigra* | South Pacific Ocean: Tahiti | Entire | E | 3 | NA | NA |
| Flycatcher, Tinian monarch | *Monarcha takatsukasae* | Western Pacific Ocean: U.S.A. (Marianas Islands). | Entire | E | 3 | NA | NA |
| Fody, Seychelles (weaver-finch) | *Foudia sechellarum* | Indian Ocean: Seychelles | Entire | E | 3 | NA | NA |
| Frigatebird, Andrew's | *Fregata andrewsi* | East Indian Ocean | Entire | E | 15 | NA | NA |
| Gallinule, Hawaiian | *Gallinula chloropus sandvicensis* | U.S.A. (Hawaii) | Entire | E | 1 | NA | NA |
| Goose, Aleutian Canada | *Branta canadensis leucopareia* | Western U.S.A. (AK, CA, OR, WA), Japan. | Entire | E | 1, 3 | NA | NA |
| Goose, Hawaiian (=Nene) | *Branta sandvicensis* | U.S.A. (Hawaii) | Entire | E | 1 | NA | NA |
| Goshawk, Christmas Island | *Accipiter fasciatus natalis* | Indian Ocean: Christmas Island | Entire | E | 3 | NA | NA |
| Grackle, slender-billed | *Cassidix palustris* | Mexico | Entire | E | 3 | NA | NA |
| Grasswren, Eyrean (flycatcher) | *Amytornis goyderi* | Australia | Entire | E | 3 | NA | NA |
| Grebe, Atitlan | *Podilymbus gigas* | Guatemala | Entire | E | 3 | NA | NA |
| Greenshank, Nordmann's | *Tringa guttifer* | U.S.S.R., Japan, south to Malaya, Borneo. | Entire | E | 15 | NA | NA |
| Guan, horned | *Oreophasis derbianus* | Guatemala, Mexico | Entire | E | 3 | NA | NA |
| Gull, Audouin's | *Larus audouinii* | Mediterranean Sea | Entire | E | 3 | NA | NA |
| Gull, relict | *Larus relictus* | India, China | Entire | E | 15 | NA | NA |
| Hawk, Anjouan Island sparrow | *Accipiter francesii pusillus* | Indian Ocean: Comoro Islands | Entire | E | 3 | NA | NA |
| Hawk, Galapagos | *Buteo galapagoensis* | Ecuador (Galapagos Island) | Entire | E | 3 | NA | NA |
| Hawk, Hawaiian (=Io) | *Buteo solitarius* | U.S.A. (Hawaii) | Entire | E | 1 | NA | NA |
| Hermit, hook-billed (hummingbird) | *Glaucis (=Ramphodon) dohrnii* | Brazil | Entire | E | 15 | NA | NA |
| Honeycreeper, crested (=akohekohe). | *Palmeria dolei* | U.S.A. (Hawaii) | Entire | E | 1 | NA | NA |
| Hornbill, helmeted | *Rhinoplax vigil* | Thailand, Malaysia | Entire | E | 15 | NA | NA |
| Ibis, Japanese crested | *Nipponia nippon* | China, Japan, U.S.S.R., Korea | Entire | E | 3 | NA | NA |
| Kagu | *Rhynochetos jubatus* | Southwestern Pacific Ocean: New Caledonia. | Entire | E | 3 | NA | NA |
| Kakapo (=owl-parrot) | *Strigops habroptilus* | New Zealand | Entire | E | 3 | NA | NA |
| Kestrel, Mauritius | *Falco punctatus* | Indian Ocean: Mauritius | Entire | E | 3 | NA | NA |
| Kestrel, Seychelles | *Falco araea* | Indian Ocean: Seychelles Islands. | Entire | E | 3 | NA | NA |
| Kite, Cuba hook-billed | *Chondrohierax uncinatus wilsonii* | West Indies: Cuba | Entire | E | 3 | NA | NA |
| Kite, Grenada hook-billed | *Chondrohierax uncinatus mirus* | West Indies: Grenada | Entire | E | 3 | NA | NA |
| Kite, Everglade (snail kite) | *Rostrhamus sociabilis plumbeus* | U.S.A. (Florida) | Entire | E | 1 | 17.95(b) | NA |
| Kokako (wattlebird) | *Callaeas cinerea* | New Zealand | Entire | E | 3 | NA | NA |
| Macaw, glaucous | *Anodorhynchus glaucus* | Paraguay, Uruguay, Brazil | Entire | E | 15 | NA | NA |
| Macaw, indigo | *Anodorhynchus leari* | Brazil | Entire | E | 15 | NA | NA |
| Macaw, little blue | *Cyanopsitta spixii* | Brazil | Entire | E | 15 | NA | NA |
| Magpie-robin, Seychelles (thrush) | *Copsychus sechellarum* | Indian Ocean: Seychelles Islands. | Entire | E | 3 | NA | NA |
| Malkoha, red-faced (cuckoo) | *Phaenicophaeus pyrrhocephalus* | Sri Lanka (=Ceylon) | Entire | E | 3 | NA | NA |
| Mallard, Marianas | *Anas oustaleti* | West Pacific Ocean: (Guam, Marianas Island). | Entire | E | 23 | NA | NA |
| Megapode, La Perouse's | *Megapodius laperouse* | West Pacific Ocean: U.S.A. (Palau Island, Marianas Island). | Entire | E | 3 | NA | NA |
| Megapode, Maleo | *Macrocephalon maleo* | Indonesia (Celebes) | Entire | E | 3 | NA | NA |
| Millerbird, Nihoa (willow warbler) | *Acrocephalus familiaris kingi* | U.S.A. (Hawaii) | Entire | E | 1 | NA | NA |
| Nukupuu (honeycreeper) | *Hemignathus lucidus* | U.S.A. (Hawaii) | Entire | E | 1, 2 | NA | NA |
| Oo, Kauai (=Oo Aa) (honeyeater) | *Moho braccatus* | U.S.A. (Hawaii) | Entire | E | 1 | NA | NA |
| Ostrich, Arabian | *Struthio camelus syriacus* | Jordan, Saudi Arabia | Entire | E | 3 | NA | NA |
| Ostrich, West African | *Struthio camelus spatzi* | Spanish Sahara | Entire | E | 3 | NA | NA |
| Ou (honeycreeper) | *Psittirostra psittacea* | U.S.A. (Hawaii) | Entire | E | 1 | NA | NA |
| Owl, Anjouan scops | *Otus rutilus capnodes* | Indian Ocean: Comoro Island | Entire | E | 3 | NA | NA |
| Owl, giant scops | *Otus gurneyi* | Phillipines: Marinduque and Mindanao Island. | Entire | E | 15 | NA | NA |
| Owl, Palau | *Otus podargina* | West Pacific Ocean: U.S.A. (Palau Islands). | Entire | E | 3 | NA | NA |
| Owl, Seychelles | *Otus insularis* | Indian Ocean: Seychelles Island | Entire | E | 3 | NA | NA |
| Owlet, Mr. Morden's | *Otus ireneae* | Kenya | Entire | E | 3 | NA | NA |
| Palila (honeycreeper) | *Psittirostra bailleui* | U.S.A. (Hawaii) | Entire | E | 1 | 17.95(b) | NA |
| Parakeet, Forbes' | *Cyanoramphus auriceps forbesi* | New Zealand | Entire | E | 3, 15 | NA | NA |
| Parakeet, golden | *Aratinga guarouba* | Brazil | Entire | E | 4 | NA | NA |
| Parakeet, golden-shouldered (=hooded). | *Psephotus chrysopterygius* | Australia | Entire | E | 3 | NA | NA |
| Parakeet, Mauritius | *Psittacula echo* | Indian Ocean: Mauritius | Entire | E | 3 | NA | NA |
| Parakeet, ochre-marked | *Pyrrhura cruentata* | Brazil | Entire | E | 3 | NA | NA |
| Parakeet, orange-bellied | *Neophema chrysogaster* | Australia | Entire | E | 4 | NA | NA |
| Parakeet, paradise | *Psephotus pulcherrimus* | Australia | Entire | E | 4 | NA | NA |
| Parakeet, scarlet-chested | *Neophema splendida* | Australia | Entire | E | 4 | NA | NA |
| Parakeet, turquois night | *Neophema pulchella* | Australia | Entire | E | 3 | NA | NA |
| Parrot, Australian | *Geopsittacus occidentalis* | Australia | Entire | E | 3 | NA | NA |
| Parrot, Bahaman or Cuban | *Amazona leucocephala* | West Indies: Cuba, Bahamas, Caymans. | Entire | E | 3, 15 | NA | NA |

| Species | | Historic range | Vertebrate population where endangered or threatened | Status | When listed | Critical habitat | Special rules |
|---|---|---|---|---|---|---|---|
| Common name | Scientific name | | | | | | |
| Parrot, ground | *Pezoporus wallicus* | Australia | Entire | E | 6 | NA | NA |
| Parrot, imperial | *Amazona imperialis* | West Indies: Dominica | Entire | E | 3 | NA | NA |
| Parrot, Puerto Rican | *Amazona vittata* | U.S.A. (Puerto Rico) | Entire | E | 1 | NA | NA |
| Parrot, red-browed | *Amazona rhodocorytha* | Brazil | Entire | E | 3 | NA | NA |
| Parrot, red-capped | *Pionopsitta pileata* | Brazil | Entire | E | 15 | NA | NA |
| Parrot, red-necked | *Amazona arausiaca* | West Indies: Dominica | Entire | E | 50 | NA | NA |
| Parrot, red-spectacled | *Amazona pretrei pretrei* | Brazil, Argentina | Entire | E | 15 | NA | NA |
| Parrot, St. Lucia | *Amazona versicolor* | West Indies: St. Lucia | Entire | E | 3 | NA | NA |
| Parrot, St. Vincent | *Amazona guildingii* | West Indies: St. Vincent | Entire | E | 3 | NA | NA |
| Parrot, thick-billed | *Rhynchopsitta pachyrhyncha* | Mexico, U.S.A. (AZ, NM) | Mexico | E | 3 | NA | NA |
| Parrot, vinaceous-breasted | *Amazona vinacea* | Brazil | Entire | E | 15 | NA | NA |
| Parrotbill, Maui (honeycreeper) | *Pseudonestor xanthophrys* | U.S.A. (Hawaii) | Entire | E | 1 | NA | NA |
| Pelican, brown | *Pelecanus occidentalis* | U.S.A (Carolinas to Texas, CA), West Indies, Central and South America: Coastal. | Entire | E | 2, 3 | NA | NA |
| Penguin, Galapagos | *Spheniscus mendiculus* | Ecuador (Galapagos Island) | Entire | E | 3 | NA | NA |
| Petrel, Hawaiian dark-rumped | *Pterodroma phaeopygia sandwichensis.* | U.S.A. (Hawaii) | Entire | E | 2, 4, 1 | NA | NA |
| Pheasant, bar tailed | *Syrmaticus humiae* | Burma, China | Entire | E | 3 | NA | NA |
| Pheasant, Blyth's tragopan | *Tragopan blythii* | Burma, China, India | Entire | E | 3 | NA | NA |
| Pheasant, brown eared | *Crossoptilon mantchuricum* | China | Entire | E | 3 | NA | NA |
| Pheasant, Cabot's tragopan | *Tragopan caboti* | China | Entire | E | 3 | NA | NA |
| Pheasant, Chinese monal | *Lophophorus lhuysii* | China | Entire | E | 3 | NA | NA |
| Pheasant, Edward's | *Lophura edwardsi* | Vietnam | Entire | E | 3 | NA | NA |
| Pheasant, Elliot's | *Syrmaticus ellioti* | China | Entire | E | 15 | NA | NA |
| Pheasant, imperial | *Lophura imperialis* | Vietnam | Entire | E | 3 | NA | NA |
| Pheasant, Mikado | *Syrmaticus mikado* | Taiwan | Entire | E | 3 | NA | NA |
| Pheasant, Palawan peacock | *Polyplectron emphanum* | Philippines | Entire | E | 3 | NA | NA |
| Pheasant, Sclater's monal | *Lophophorus sclateri* | Burma, China, India | Entire | E | 3 | NA | NA |
| Pheasant, Swinhoe's | *Lophura swinhoii* | Taiwan | Entire | E | 3 | NA | NA |
| Pheasant, western tragopan | *Tragopan melanocephalus* | India, Pakistan | Entire | E | 3 | NA | NA |
| Pheasant, white eared | *Crossoptilon crossoptilon* | China (Tibet), India | Entire | E | 4 | NA | NA |
| Pigeon, Azores wood | *Columba palumbus azorica* | East Atlantic Ocean: Azores | Entire | E | 3 | NA | NA |
| Pigeon, Chatham Island | *Hemiphaga novaeseelandiae chathamensis.* | New Zealand | Entire | E | 3 | NA | NA |
| Pigeon, Mindoro zone-tailed | *Ducula mindorensis* | Philippines | Entire | E | 15 | NA | NA |
| Pigeon, Puerto Rican plain | *Columba inornata wetmorei* | U.S.A. (Puerto Rico) | Entire | E | 2 | NA | NA |
| Piping-guan, black-fronted | *Pipile jacutinga* | Argentina | Entire | E | 15 | NA | NA |
| Pitta, Koch's | *Pitta kochi* | Philippines | Entire | E | 15 | NA | NA |
| Plover, New Zealand shore | *Thinornis novaeseelandiae* | New Zealand | Entire | E | 3 | NA | NA |
| Poo-uli | *Melamprosops phaeosoma* | U.S.A. (Hawaii) | Entire | E | 10 | NA | NA |
| Prairie chicken, Attwater's greater | *Tympanuchus cupido attwateri* | U.S.A. (Texas) | Entire | E | 1 | NA | NA |
| Quail, Merriam's Montezuma | *Cyrtonyx montezumae merriami* | Mexico (Vera Cruz) | Entire | E | 15 | NA | NA |
| Quetzel, resplendent | *Pharomachrus mocinno* | Mexico to Panama | Entire | E | 15 | NA | NA |
| Rail, Aukland Island | *Rallus pectoralis muelleri* | New Zealand | Entire | E | 3 | NA | NA |
| Rail, California clapper | *Rallus longirostrisi obsoletus* | U.S.A. (California) | Entire | E | 2 | NA | NA |
| Rail, light-footed clapper | *Rallus longirostris levipes* | U.S.A. (California), Mexico (Baja California). | Entire | E | 2 | NA | NA |
| Rail, Lord Howe wood | *Tricholimnas sylvestris* | Australia (Lord Howe Island) | Entire | E | 15 | NA | NA |
| Rail, Yuma clapper | *Rallus longirostris yumanensis* | Mexico, U.S.A. (AZ, CA) | Entire | E | 1 | NA | NA |
| Rhea, Darwin's | *Pterocnemia pennata* | Argentina, Bolivia, Peru, Uruguay | Entire | E | 3 | NA | NA |
| Robin, Chatham Island | *Petroica traversi* | New Zealand | Entire | E | 3 | NA | NA |
| Robin, scarlet-breasted (flycatcher). | *Petroica multicolor multicolor* | Australia (Norfolk Island) | Entire | E | 3 | NA | NA |
| Rockfowl, grey-necked | *Picathartes oreas* | Cameron | Entire | E | 3 | NA | NA |
| Rockfowl, white-necked | *Picathartes gymnocephalus* | Africa: Togo to Sierra Leone | Entire | E | 3 | NA | NA |
| Roller, long-tailed ground | *Uratelornis chimaera* | Malagasy Republic (=Madagascar). | Entire | E | 3 | NA | NA |
| Scrub-bird, noisy | *Atrichornis clamosus* | Australia | Entire | E | 3 | NA | NA |
| Shama, Cebu black (thrush) | *Copsychus niger cebuensis* | Philippines | Entire | E | 3 | NA | NA |
| Shearwater, Newell's Manx | *Puffinus puffinus newelli* | U.S.A. (Hawaii) | Entire | T | 10 | NA | NA |
| Shrike, San Clemente loggerhead | *Lanius ludovicianus mearnsi* | U.S.A. (California) | Entire | E | 26 | NA | NA |
| Siskin, red | *Carduelis (=Spinus) cucullatus* | South America | Entire | E | 15 | NA | NA |
| Sparrow, Cape Sable seaside | *Ammospiza maritima mirabilis* | U.S.A. (Florida) | Entire | E | 1 | 17.95(b) | NA |
| Sparrow, dusky seaside | *Ammospiza maritima nigrescens* | U.S.A. (Florida) | Entire | E | 1 | 17.95(b) | NA |
| Sparrow, San Clemente sage | *Amphispiza belli clementeae* | U.S.A. (California) | Entire | T | 26 | NA | NA |
| Sparrow, Santa Barbara song | *Melospiza melodia graminea* | U.S.A. (California) | Entire | E | 6 | NA | NA |
| Starling, Ponape mountain | *Aplonis pelzelni* | West Pacific Ocean: U.S.A. (Caroline Island). | Entire | E | 3 | NA | NA |
| Starling, Rothschild's (myna) | *Leucopsar rothschildi* | Indonesia (Bali) | Entire | E | 3 | NA | NA |
| Stilt, Hawaiian | *Himantopus himantopus knudseni* | U.S.A. (Hawaii) | Entire | E | 2 | NA | NA |
| Stork, oriental white | *Ciconia ciconia boyciana* | China, Japan, Korea, U.S.S.R. | Entire | E | 3 | NA | NA |
| Teal, Campbell Island flightless | *Anas aucklandica nesiotis* | New Zeland (Campbell Island) | Entire | E | 15 | NA | NA |
| Tern, California least | *Sterna albifrons browni* | Mexico, U.S.A. (CA) | Entire | E | 2, 3 | NA | NA |
| Thrasher, white-breasted | *Ramphocinclus brachyurus* | West Indies: St. Lucia, Martinique. | Entire | E | 3 | NA | NA |
| Thrush, large Kauai | *Phaeornis obscurus myadestina* | U.S.A. (Hawaii) | Entire | E | 2 | NA | NA |
| Thrush, Molokai (=olomau) | *Phaeornis obscurus rutha* | U.S.A. (Hawaii) | Entire | E | 2 | NA | NA |
| Thrush, New Zealand (wattlebird) | *Turnagra capensis* | New Zealand | Entire | E | 3 | NA | NA |
| Thursh, small Kauai (=puaiohi) | *Phaeornis palmeri* | U.S.A. (Hawaii) | Entire | E | 1 | NA | NA |
| Tinamou, solitary | *Tinamus solitarius* | Brazil, Paraguay, Argentina | Entire | E | 15 | NA | NA |
| Trembler, Martinique brown (thrasher). | *Cinclocerthia ruficauda gutturalis* | West Indies: Martinique | Entire | E | 3 | NA | NA |
| Wanderer, plain | *Pedionomous torquatus* | Australia | Entire | E | 6 | NA | NA |
| Warbler (wood), Bachman's | *Vermivora bachmanii* | Cuba, U.S.A. (Southeastern) | Entire | E | 1, 3 | NA | NA |
| Warbler (wood), Barbados yellow | *Dendroica petechia petechia* | West Indies: Barbados | Entire | E | 3 | NA | NA |
| Warbler (wood), Kirtland's | *Dendrocia kirtlandii* | U.S.A. (principally MI), Canada, West Indies: Bahama Islands. | Entire | E | 1, 3 | NA | NA |

| Species | | Historic range | Vertebrate population where endangered or threatened | Status | When listed | Critical habitat | Special rules |
|---|---|---|---|---|---|---|---|
| Common name | Scientific name | | | | | | |
| Warbler (willow), reed | *Acrocephalus luscinia* | Western Pacific Ocean: Marianas Islands. | Entire | E | 3 | NA | NA |
| Warbler (willow), Rodriques | *Bebromis rodericanus* | Mauritius (Rodrigues Islands) | Entire | E | 3 | NA | NA |
| Warbler (wood), Semper's | *Leucopeza semperi* | West Indies: St. Lucia | Entire | E | 3 | NA | NA |
| Warbler (willow), Seychelles | *Bebromis sechellensis* | Indian Ocean: Seychelles Island | Entire | E | 3 | NA | NA |
| Whipbird, Western | *Psophodes nigrogularis* | Australia | Entire | E | 3 | NA | NA |
| Whip-poor-will, Puerto Rican | *Caprimulgus noctitherus* | U.S.A. (Puerto Rico) | Entire | E | 6 | NA | NA |
| White-eye, Norfolk Island | *Zosterops albogularis* | Indian Ocean: Norfolk Islands | Entire | E | 15 | NA | NA |
| White-eye, Ponape great | *Rukia longirostra* (=*sanfordi*) | West Pacific Ocean: U.S.A. (Caroline Islands). | Entire | E | 3 | NA | NA |
| White-eye, Seychelles | *Zosterops modesta* | Indian Ocean: Seychelles | Entire | E | 3 | NA | NA |
| Woodpecker, imperial | *Campephilus imperialis* | Mexico | Entire | E | 3 | NA | NA |
| Woodpecker, ivory-billed | *Campephilus principalis* | U.S.A. (southcentral and southeastern), Cuba. | Entire | E | 1, 3 | NA | NA |
| Woodpecker, red-cockaded | *Picoides* (=*Dendrocopos*) *borealis.* | U.S.A. (southcentral and southeastern). | Entire | E | 2 | NA | NA |
| Woodpecker, Tristam's | *Dryocopus javensis richardsi* | Korea | Entire | E | 3 | NA | NA |
| Wren, Guadeloupe house | *Troglodytes aedon guadeloupensis.* | West Indies: Guadeloupe | Entire | E | 3 | NA | NA |
| Wren, St. Lucia house | *Troglodytes aedon mesoleucus* | West Indies: St. Lucia | Entire | E | 3 | NA | NA |
| REPTILES | | | | | | | |
| Alligator, American | *Alligator mississippiensis* | Southeastern U.S.A | Wherever found in wild except those areas where listed as threatened as set forth below. | E | 1, 11, 51, 60 | NA | NA |
| Alligator, American | *Alligator mississippiensis* | Southeastern U.S.A | U.S.A. (FL and certain areas of GA, LA [except in those parishes listed as T(S/A)], SC, TX). | T | 20, 47, 51, 60 | NA | 17.42(a) |
| Alligator, American | *Alligator mississippiensis* | Southeastern U.S.A | U.S.A. (in wild in LA [Cameron, St. Mary, Vermilion, Iberia, Terrebonne, St. Charles, LaFourche, St. Bernard, St. Tammany, Jefferson, Calcasieu, and Plaquemines Parishes]). | T(S/A) | 11, 47, 51, 60 | NA | 17.42(a) |
| Alligator, American | *Alligator mississippiensis* | Southeastern U.S.A | In captivity wherever found. | T(S/A) | 11, 47, 51 | NA | 17.42(a) |
| Alligator, Chinese | *Alligator sinensis* | China | Entire | E | 15 | NA | NA |
| Anole, Culebra giant | *Anolis roosevelti* | U.S.A. (Puerto Rico: Culebra Island). | Entire | E | 25 | 17.95(c) | NA |
| Boa, Jamaican | *Epicrates subflavus* | Jamaica | Entire | E | 3 | NA | NA |
| Boa, Mona | *Epicrates monensis monensis* | U.S.A. (Puerto Rico) | Entire | T | 33 | 17.95(c) | NA |
| Boa, Puerto Rico | *Epicrates inornatus* | U.S.A. (Puerto Rico) | Entire | E | 2 | NA | NA |
| Boa, Round Island [no common name]. | *Casarea dussumieri* | Indian Ocean: Mauritius | Entire | E | 88 | NA | NA |
| Boa, Round Island [no common name]. | *Bolyeria multocarinata* | Indian Ocean: Mauritius | Entire | E | 88 | NA | NA |
| Boa, Virgin Islands tree | *Epicrates monensis granti* | U.S. and British Virgin Islands | Entire | E | 86 | NA | NA |
| Caiman, Apaporis River | *Caiman crocodilus apaporiensis* | Colombia | Entire | E | 15 | NA | NA |
| Caiman, black | *Melanosuchus niger* | Amazon basin | Entire | E | 15 | NA | NA |
| Caiman, broad-snouted | *Caiman latirostris* | Brazil, Argentina, Paraguay, Uruguay. | Entire | E | 15 | NA | NA |
| Caiman, Yacare | *Caiman crocodilus yacare* | Bolivia, Argentina, Peru, Brazil | Entire | E | 3 | NA | NA |
| Chuckwalla, San Esteban Island | *Sauromalus varius* | Mexico | Entire | E | 88 | NA | NA |
| Crocodile, African dwarf | *Osteolaemus tetraspis tetraspis* | West Africa | Entire | E | 15 | NA | NA |
| Crocodile, African slender-snouted | *Crocodylus cataphractus* | Western and central Africa | Entire | E | 5 | NA | NA |
| Crocodile, American | *Crocodylus acutus* | U.S.A. (FL), Mexico, South America, Central America, Caribbean. | Entire | E | 10, 87 | 17.95(c) | NA |
| Crocodile, Ceylon mugger | *Crocodylus palustris kimbula* | Sri Lanka | Entire | E | 15 | NA | NA |
| Crocodile, Congo dwarf | *Osteolaemus tetraspis osborni* | Congo River drainage | Entire | E | 15 | NA | NA |
| Crocodile, Cuban | *Crocodylus rhombifer* | Cuba | Entire | E | 3 | NA | NA |
| Crocodile, Morelet's | *Crocodylus moreletii* | Mexico, Belize, Guatemala | Entire | E | 3 | NA | NA |
| Crocodile, mugger | *Crocodylus palustris palustris* | India, Pakistan, Iran, Bangladesh | Entire | E | 15 | NA | NA |
| Crocodile, Nile | *Crocodylus niloticus* | Africa | Entire | E | 3 | NA | NA |
| Crocodile, Orinoco | *Crocodylus intermedius* | South America: Orinoco River Basin. | Entire | E | 3 | NA | NA |
| Crocodile, Philippine | *Crocodylus novaeguinea mindorensis.* | Philippine Islands | Entire | E | 15 | NA | NA |
| Crocodile, saltwater (=estuarine) | *Crocodylus porosus* | Southeast Asia, Australia, Papua-New Guinea, Pacific Islands. | Entire, except Papua-New Guinea. | E | 87 | NA | NA |
| Crocodile, Siamese | *Crocodylus siamensis* | Southeast Asia, Malay Peninsula | Entire | E | 15 | NA | NA |

| Species | | Historic range | Vertebrate population where endangered or threatened | Status | When listed | Critical habitat | Special rules |
|---|---|---|---|---|---|---|---|
| Common name | Scientific name | | | | | | |
| Gavial (=gharial) | *Gavialus gangeticus* | Pakistan, Burma, Bangladesh, India. | Entire | E | 3, 15 | NA | NA |
| Gecko, day | *Phelsuma newtoni* | Indian Ocean: Mauritius | Entire | E | 3 | NA | NA |
| Gecko, Round Island day | *Phelsuma guentheri* | Indian Ocean: Mauritius | Entire | E | 3 | NA | NA |
| Iguana, Anegada ground | *Cyclura pinguis* | West Indies: British Virgin Islands (Anegada Island). | Entire | E | 3 | NA | NA |
| Iguana, Barrington land | *Conolophus pallidus* | Ecuador (Galapagos Island) | Entire | E | 3 | NA | NA |
| Iguana, Fiji banded | *Brachylophus fasciatus* | Fiji, Tonga | Entire | E | 86 | NA | NA |
| Iguana, Fiji crested | *Brachylophus sp* | Fiji | Entire | E | 86 | NA | NA |
| Iguana, Mona ground | *Cyclura stejnegeri* | U.S.A. (Puerto Rico: Mona Island) | Entire | T | 33 | 17.95(c) | NA |
| Lizard, blunt-nosed leopard | *Crotaphytus silus* | U.S.A. (California) | Entire | E | 1 | NA | NA |
| Lizard, Island night | *Klauberina riversiana* | U.S.A. (California) | Entire | T | 26 | NA | NA |
| Lizard, St. Croix ground | *Ameiva polops* | U.S.A. (Virgin Islands: Green Cay, Protestant Cay). | Entire | E | 24 | 17.95(c) | NA |
| Monitor, Bengal | *Varanus bengalensis* | Iran, Iraq, India, Sri Lanka, Malaysia, Afghanistan, Burma, Vietnam, Thailand. | Entire | E | 15 | NA | NA |
| Monitor, desert | *Varanus griseus* | North Africa to Neareast, Caspian Sea through U.S.S.R. to Pakistan, Northwest India. | Entire | E | 15 | NA | NA |
| Monitor, Komodo Island | *Varanus komodensis* | Indonesia (Komodo, Rintja, Padar, and western Flores Island. | Entire | E | 15 | NA | NA |
| Monitor, yellow | *Varanus flavescens* | West Pakistan through India to Bangladesh. | Entire | E | 15 | NA | NA |
| Python, Indian | *Python molurus molurus* | Sri Lanka and India | Entire | E | 15 | NA | NA |
| Rattlesnake, New Mexican ridge-nosed. | *Crotalus willardi obscurus* | U.S.A. (NM), Mexico | Entire | T | 43 | 17.95(c) | NA |
| Snake, Atlantic salt marsh | *Nerodia fasciata taeniata* | U.S.A. (Florida) | Entire | T | 30 | NA | NA |
| Snake, eastern indigo | *Drymarchon corais couperi* | U.S.A. (AL, FL, GA, MS, SC) | Entire | T | 32 | NA | NA |
| Snake, San Francisco garter | *Thamnophis sirtalis tetrataenia* | U.S.A. (California) | Entire | E | 1 | NA | NA |
| Terrapin, river (=Tuntong) | *Batagur baska* | Malaysia, Bangladesh, Burma, India, Indonesia. | Entire | E | 3 | NA | NA |
| Tomistoma | *Tomistoma schlegelii* | Malaysia, Indonesia | Entire | E | 15 | NA | NA |
| Tortoise, angulated | *Geochelone yniphora* | Malagasy Republic (=Madagascar). | Entire | E | 15 | NA | NA |
| Tortoise, Bolson | *Gopherus flavomarginatus* | Mexico | Entire | E | 46 | NA | NA |
| Tortoise, Galapagos | *Geochelone elephantopus* | Ecuador (Galapagos Islands) | Entire | E | 3 | NA | NA |
| Tortoise, Indian flap-shell | *Lissemys punctata punctata* | India, Pakistan, Bangladesh | Entire | E | 15 | NA | NA |
| Tortoise, radiated | *Geochelone (=Testudo) radiata* | Malagasy Republic (=Madagascar). | Entire | E | 3 | NA | NA |
| Tuatara | *Sphenodon punctatus* | New Zealand | Entire | E | 3 | NA | NA |
| Turtle, aquatic box | *Terrapene coahuila* | Mexico | Entire | E | 6 | NA | NA |
| Turtle, black softshell | *Trionyx nigricans* | Bangladesh | Entire | E | 15 | NA | NA |
| Turtle, Burmese peacock | *Morenia ocellata* | Burma | Entire | E | 15 | NA | NA |
| Turtle, Cuatro Cienegas softshell | *Trionyx ater* | Mexico | Entire | E | 15 | NA | NA |
| Turtle, geometric | *Geochelone geometrica* | Union of South Africa | Entire | E | 15 | NA | NA |
| Turtle, geeen sea | *Chelonia mydas* | Circumglobal in tropical and temperate seas and oceans. | Wherever found except where listed as endangered below. | T | 42 | NA | 17.42(b) and Parts 220 and 227. |
| Turtle, green sea | *Chelonia mydas* | Circumglobal in tropical and temperate seas and oceans. | Breeding colony populations in FL and on Pacific coast of Mexico. | E | 42 | NA | NA |
| Turtle, hawksbill sea (=carey) | *Eretmochelys imbricata* | Tropical seas | Entire | E | 3 | NA | NA |
| Turtle, Indian sawback | *Kachuga tecta tecta* | India | Entire | E | 15 | NA | NA |
| Turtle, Indian softshell | *Trionyx gangeticus* | Pakistan, India | Entire | E | 15 | NA | NA |
| Turtle, Kemp's (=Atlantic) Ridley sea. | *Lepidochelys kempii* | Tropical and temperate seas | Entire | E | 4 | NA | NA |
| Turtle, leatherback sea | *Dermochelys coriacea* | Tropical, temperate, and subpolar seas. | Entire | E | 3 | 17.95(c) | NA |
| Turtle, loggerhead sea | *Caretta caretta* | Circumglobal in tropical and temperate seas and oceans. | Entire | T | 42 | NA | 17.42(b) and Parts 220 and 227. |
| Turtle, Olive (Pacific) Ridley sea | *Lepidochelys olivacea* | Circumglobal in tropical and temperate seas and oceans. | Wherever found except where listed as endangered below. | T | 42 | NA | 17.42(b) and Parts 220 and 227. |
| Turtle, Olive (Pacific) Ridley sea | *Lepidochelys olivacea* | Circumglobal in tropical and temperate seas and oceans. | Breeding colony populations on Pacific coast of Mexico. | E | 42 | NA | NA |
| Turtle, peacock softshell | *Trionyx hurum* | India, Bangladesh | Entire | E | 15 | NA | NA |
| Turtle, Plymouth red-bellied | *Chrysemys (=Pseudemys) rubriventris bangsi.* | U.S.A. (Massachusetts) | Entire | E | 90 | 17.95(c) | NA |
| Turtle, short-necked or western swamp. | *Pseudemydura umbrina* | Australia | Entire | E | 3 | NA | NA |
| Turtle, South American river [no common name]. | *Podocnemis expansa* | South America: Orinoco and Amazon River basins. | Entire | E | 3 | NA | NA |
| Turtle, South American river [no common name]. | *Podocnemis unifilis* | South America: Orinoco and Amazon River basins. | Entire | E | 3 | NA | NA |
| Turtle, spotted pond | *Geoclemmys (=Damonia) hamiltonii.* | North India, Pakistan | Entire | E | 15 | NA | NA |
| Turtle, three-keeled Asian | *Geoemyda (=Nicoria) tricarinata.* | Central India to Bangladesh and Burma. | Entire | E | 15 | NA | NA |

| Species | | Historic range | Vertebrate population where endangered or threatened | Status | When listed | Critical habitat | Special rules |
|---|---|---|---|---|---|---|---|
| Common name | Scientific name | | | | | | |
| **AMPHIBIANS** | | | | | | | |
| Coqui, golden | *Eleutherodactylus jasperi* | U.S.A. (Puerto Rico) | Entire | T | 29 | 17.95(d) | NA |
| Frog, Israel painted | *Discoglossus nigriventer* | Israel | Entire | E | 3 | NA | NA |
| Frog, Panamanian golden | *Atelopus varius zeteki* | Panama | Entire | E | 15 | NA | NA |
| Frog, Stephen Island | *Leiopelma hamiltoni* | New Zealand | Entire | E | 3 | NA | NA |
| Salamander, Chinese giant | *Andrias davidianus davidianus* | Western China | Entire | E | 15 | NA | NA |
| Salamander, desert slender | *Batrachoseps aridus* | U.S.A. (California) | Entire | E | 6 | NA | NA |
| Salamander, Japanese giant | *Andrias davidianus japonicus* | Japan | Entire | E | 15 | NA | NA |
| Salamander, Red Hills | *Phaeognathus hubrichti* | U.S.A. (Alabama) | Entire | T | 19 | NA | NA |
| Salamander, Santa Cruz long-toed | *Ambystoma macrodactylum croceum.* | U.S.A. (California) | Entire | E | 1 | NA | NA |
| Salamander, Texas blind | *Typhlomolge rathbuni* | U.S.A. (Texas) | Entire | E | 1 | NA | NA |
| Toad, African viviparous | *Nectophrynoides* spp | Tanzania, Guinea | Entire | E | 15 | NA | NA |
| Toad, Cameroon | *Bufo superciliaris* | Equatorial Africa | Entire | E | 15 | NA | NA |
| Toad, Houston | *Bufo houstonensis* | U.S.A. (Texas) | Entire | E | 2 | 17.95(d) | NA |
| Toad, Monte Verde | *Bufo periglenes* | Costa Rica | Entire | E | 15 | NA | NA |
| Treefrog, pine barrens | *Hyla andersonii* | U.S.A. (FL, AL, NC, SC, NJ) | Florida | E | 29 | 17.95(d) | NA |
| **FISHES** | | | | | | | |
| Ala Balik (trout) | *Salmo platycephalus* | Turkey | Entire | E | 3 | NA | NA |
| Ayumodoki (loach) | *Hymenophysa (=Botia) curta* | Japan | Entire | E | 3 | NA | NA |
| Blindcat, Mexican | *Prietella phreatophila* | Mexico | Entire | E | 3 | NA | NA |
| Bonytail, Pahranagat | *Gila robusta jordani* | U.S.A. (Nevada) | Entire | E | 2 | NA | NA |
| Bonytoungue, Asian | *Scleropages formosus* | Thailand, Indonesia, Malaysia | Entire | E | 15 | NA | NA |
| Catfish [no common name] | *Pangasius sanitwongsei* | Thailand | Entire | E | 3 | NA | NA |
| Catfish, giant | *Pangasianodon gigas* | Thailand | Entire | E | 3 | NA | NA |
| Cavefish, Alabama | *Speoplatyrhinus poulsoni* | U.S.A. (Alabama) | Entire | T | 28 | 17.95(e) | NA |
| Chub, bonytail | *Gila elegans* | U.S.A. (AZ, CA, CO, NV, UT, WY) | Entire | E | 92 | NA | NA |
| Chub, humpback | *Gila cypha* | U.S.A. (AZ, CO, UT, WY) | Entire | E | 1 | NA | NA |
| Chub, Mohave | *Gila mohavensis* | U.S.A. (California) | Entire | E | 2 | NA | NA |
| Chub, slender | *Hybopsis cahni* | U.S.A. (TN, VA) | Entire | T | 28 | 17.95(e) | 17.44(c) |
| Chub, spotfin | *Hybopsis monacha* | U.S.A. (AL, GA, NC, TN, VA) | Entire | T | 28 | 17.95(e) | 17.44(c) |
| Cicek (minnow) | *Acanthorutilus handlirschi* | Turkey | Entire | E | 3 | NA | NA |
| Cisco, longjaw | *Coregonus alpenae* | U.S.A. and Canada (Lakes Michigan, Huron, Erie). | Entire | E | 1, 4 | NA | NA |
| Cui-ui | *Chasmistes cujus* | U.S.A. (Nevada) | Entire | E | 1 | NA | NA |
| Dace, Kendall Warm Springs | *Rhinichthys osculus thermalis* | U.S.A. (Wyoming) | Entire | E | 2 | NA | NA |
| Dace, Moapa | *Moapa coriacea* | U.S.A. (Nevada) | Entire | E | 1 | NA | NA |
| Darter, bayou | *Etheostoma rubrum* | U.S.A. (Mississippi) | Entire | T | 10 | NA | 17.44(b) |
| Darter, fountain | *Etheostoma fonticola* | U.S.A. (Texas) | Entire | E | 2 | NA | NA |
| Darter, leopard | *Percina pantherina* | U.S.A. (AR, OK) | Entire | T | 31 | 17.95(e) | 17.44(d) |
| Darter, Maryland | *Etheostoma sellare* | U.S.A. (Maryland) | Entire | E | 1 | NA | NA |
| Darter, Okaloosa | *Etheostoma okaloosae* | U.S.A. (Florida) | Entire | E | 6 | NA | NA |
| Darter, slackwater | *Etheostoma boschungi* | U.S.A. (AL, TN) | Entire | T | 28 | NA | 17.44(c) |
| Darter, snail | *Percina tanasi* | U.S.A. (Tennessee) | Entire | E | 12 | NA | NA |
| Darter, watercress | *Etheostoma nuchale* | U.S.A. (Alabama) | Entire | E | 2 | NA | NA |
| Gambusia, Big Bend | *Gambusia gaigei* | U.S.A. (Texas) | Entire | E | 1 | NA | NA |
| Gambusia, Clear Creek | *Gambusia heterochir* | U.S.A. (Texas) | Entire | E | 1 | NA | NA |
| Gambusia, Goodenough | *Gambusia amistadensis* | U.S.A. (Texas) | Entire | E | 93 | NA | NA |
| Gambusia, Pecos | *Gambusia nobilis* | U.S.A. (NM, TX) | Entire | E | 2 | NA | NA |
| Killifish, Pahrump | *Empetrichythys latos* | U.S.A. (Nevada) | Entire | E | 1 | NA | NA |
| Madtom, Scioto | *Noturus trautmani* | U.S.A. (Ohio) | Entire | E | 10 | NA | NA |
| Madtom, yellowfin | *Noturus flavipinnis* | U.S.A. (GA, TN, VA) | Entire | T | 28 | NA | 17.44(c) |
| Nekogigi | *Coreobagrus ichikawai* | Japan | Entire | E | 3 | NA | NA |
| Pike, blue | *Stizostedion vitreum glaucum* | U.S.A. and Canada (Lakes Erie, Ontario). | Entire | E | 1 | NA | NA |
| Pupfish, Comanche Springs | *Cyprinodon elegans* | U.S.A. (Texas) | Entire | E | 1 | NA | NA |
| Pupfish, Devil's Hole | *Cyprinodon diabolis* | U.S.A. (Nevada) | Entire | E | 1 | NA | NA |
| Pupfish, Owens River | *Cyprinodon radiosus* | U.S.A. (California) | Entire | E | 1 | NA | NA |
| Pupfish, Tecopa | *Cyprinodon nevadensis calidae* | U.S.A. (California) | Entire | E | 2 | NA | NA |
| Pupfish, Warm Springs | *Cyprinodon nevadensis pectoralis* | U.S.A. (Nevada) | Entire | E | 2 | NA | NA |
| Squawfish, Colorado River | *Ptychocheilus lucius* | U.S.A. (AZ, CA, CO, NM, NV, UT, WY). | Entire | E | 1 | NA | NA |
| Stickleback, unarmored threespine | *Gasterosterus aculeatus williamsoni.* | U.S.A. (California) | Entire | E | 2 | NA | NA |
| Sturgeon, shortnose | *Acipenser brevirostrum* | U.S.A. and Canada (Atlantic Coast). | Entire | E | 1 | NA | NA |
| Tango, Miyako (Tokyo bitterling) | *Tanakia tanago* | Japan | Entire | E | 3 | NA | NA |
| Temolek, Ikan (minnow) | *Probarbus jullieni* | Thailand, Cambodia, Vietnam, Malaysia, Laos. | Entire | E | 15 | NA | NA |
| Topminnow, Gila | *Poeciliopsis occidentalis* | U.S.A. (AZ, NM), Mexico | Entire | E | 1 | NA | NA |
| Totoaba (seatrout or weakfish) | *Cynoscion macdonaldi* | Mexico (Gulf of California) | Entire | E | 45 | NA | NA |
| Trout, Arizona | *Salmo apache* | U.S.A. (Arizona) | Entire | T | 1, 8 | NA | 17.44(a) |
| Trout, Gila | *Salmo gilae* | U.S.A. (New Mexico) | Entire | E | 1 | NA | NA |
| Trout, greenback cutthroat | *Salmo clarki stomias* | U.S.A. (Colorado) | Entire | T | 1, 38 | NA | 17.44(l) |
| Trout, Lahontan cutthroat | *Salmo clarki henshawi* | U.S.A. (CA, NV) | Entire | T | 2, 8 | NA | 17.44(a) |
| Trout, Little Kern golden | *Salmo aguabonita whitei* | U.S.A. (California) | Entire | T | 37 | 17.95(e) | 17.44(e) |
| Trout, Palute cutthroat | *Salmo clarki seleniris* | U.S.A. (California) | Entire | T | 1, 8 | NA | 17.44(a) |
| Woundfin | *Plagopterus argentissimus* | U.S.A. (AZ, NV, UT) | Entire | E | 2 | NA | NA |
| **SNAILS** | | | | | | | |
| Snail, Chittenango ovate amber | *Succinea chittenangoensis* | U.S.A. (New York) | NA | T | 41 | NA | NA |
| Snail, flat-spired three-toothed | *Triodopsis platysayoides* | U.S.A. (West Virginia) | NA | T | 41 | NA | NA |
| Snail, Iowa Pleistocene | *Discus macclintocki* | U.S.A. (Iowa) | NA | E | 41 | NA | NA |
| Snail, Manus Island tree | *Papustyla pulcherrima* | Admiralty Islands (Manus Islands) | NA | E | 3 | NA | NA |
| Snail, noonday | *Mesodon clarki nantahala* | U.S.A. (North Carolina) | NA | T | 41 | NA | NA |
| Snail, painted snake coiled forest | *Anguispira picta* | U.S.A. (Tennessee) | NA | T | 41 | NA | NA |
| Snail, Stock Island | *Orthalicus reses* | U.S.A. (Florida) | NA | T | 41 | NA | NA |
| Snail, Virginia fringed mountain | *Polygyriscus virginianus* | U.S.A. (Virginia) | NA | E | 41 | NA | NA |

| Species | | Historic range | Vertebrate population where endangered or threatened | Status | When listed | Critical habitat | Special rules |
|---|---|---|---|---|---|---|---|
| Common name | Scientific name | | | | | | |
| CLAMS | | | | | | | |
| Pearly mussel, Alabama lamp | *Lampsilis virescens* | U.S.A. (AL, TN) | NA | E | 15 | NA | NA |
| Pearly mussel, Appalachian monkeyface. | *Quadrula sparsa* | U.S.A. (TN, VA) | NA | E | 15 | NA | NA |
| Pearly mussel, birdwing | *Conradilla caelata* | U.S.A. (TN, VA) | NA | E | 15 | NA | NA |
| Pearly mussel, Cumberland bean | *Villosa (=Micromya) trabalis* | U.S.A. (Kentucky) | NA | E | 15 | NA | NA |
| Pearly mussel, Cumberland monkeyface. | *Quadrula intermedia* | U.S.A. (AL, TN, VA) | NA | E | 15 | NA | NA |
| Pearly mussel, Curtis' | *Epioblasma (=Dysnomia) florentina curtisi.* | U.S.A. (Missouri) | NA | E | 15 | NA | NA |
| Pearly mussel, dromedary | *Dromus dromas* | U.S.A. (TN, VA) | NA | E | 15 | NA | NA |
| Pearly mussel, green-blossom | *Epioblasma (=Dysnomia) torulosa gubernaculum.* | U.S.A. (TN, VA) | NA | E | 15 | NA | NA |
| Pearly mussel, Higgin's eye | *Lampsilis higginsi* | U.S.A. (IL, IA, MN, MO, NE, WI) | NA | E | 15 | NA | NA |
| Pearly mussel, Nicklin's | *Megalonaias nicklineana* | Mexico | NA | E | 15 | NA | NA |
| Pearly mussel, orange-footed | *Plethobasis cooperianus* | U.S.A. (AL, IN, IA, KY, OH, PA, TN). | NA | E | 15 | NA | NA |
| Pearly mussel, pale lilliput | *Toxolasma (=Carunculina) cylindrella.* | U.S.A. (AL, MO, TN, WV) | NA | E | 15 | NA | NA |
| Pearly mussel, pink mucket | *Lampsilis orbiculata* | U.S.A. (AL, IL, IN, KY, MO, OH, PA, TN, WV). | NA | E | 15 | NA | NA |
| Pearly mussel, Sampson's | *Epioblasma (=Dysnomia) sampsoni.* | U.S.A. (IL, IN) | NA | E | 15 | NA | NA |
| Pearly mussel, Tampico | *Cyrtonaias tampicoensis tecomatensis.* | Mexico | NA | E | 15 | NA | NA |
| Pearly mussel, tubercled-blossom | *Epioblasma (=Dysnomia) torulosa torulosa.* | U.S.A. (IL, KY, TN, WV) | NA | E | 15 | NA | NA |
| Pearly mussel, turgid-blossom | *Epioblasma (=Dysnomia) turgidula.* | U.S.A. (AL, AR, MO, TN) | NA | E | 15 | NA | NA |
| Pearly mussel, white cat's eye | *Epioblasma (=Dysnomia) sulcata delicata.* | U.S.A. (IN, MI, OH) | NA | E | 15 | NA | NA |
| Pearly mussel, white wartyback | *Plethobasis circalricosus* | U.S.A. (AL, TN) | NA | E | 15 | NA | NA |
| Pearly mussel, yellow-blossom | *Epioblasma (=Dysnomia— florentina florentina.* | U.S.A. (AL, TN) | NA | E | 15 | NA | NA |
| Pigtoe, fine-rayed | *Fusconaia cuneolus* | U.S.A. (AL, TN, VA) | NA | E | 15 | NA | NA |
| Pigtoe, rough | *Pleurobema plenum* | U.S.A. (KY, TN, VA) | NA | E | 15 | NA | NA |
| Pigtoe, shiny | *Fusconaia edgariana* | U.S.A. (AL, TN, VA) | NA | E | 15 | NA | NA |
| Pocketbook, fat | *Potamilus (=Proptera) capax* | U.S.A. (AR, IN, MO, OH) | NA | E | 15 | NA | NA |
| Riffle shell clam, tan | *Epioblasma walkeri* | U.S.A. (KY, TN, VA) | NA | E | 27 | NA | NA |
| CRUSTACEANS | | | | | | | |
| Isopod, Socorro | *Exosphaeroma thermophilus* | U.S.A. (New Mexico) | NA | E | 36 | NA | NA |
| INSECTS | | | | | | | |
| Butterfly, Bahama swallowtail | *Papilio andraemon bonhotei* | U.S.A. (FL), Bahamas | NA | T | 13 | NA | 17.47(a) |
| Butterfly, El Segundo blue | *Euphilotes (=Shijimiaeoides) battoides allyni.* | U.S.A. (California) | NA | E | 14 | NA | NA |
| Butterfly, Lange's metalmark | | | | | | | *Apodemia mormo langei* |
| | | U.S.A. (California) | NA | E | 14 | NA | NA |
| Butterfly, Lotis blue | | | | | | | *Lycaeides argyrognomon lotis* |
| | | U.S.A. (California) | NA | E | 14 | NA | NA |
| Butterfly, mission blue | | | | | | | *Icaricia icarioides missionensis* |
| | | U.S.A. (California) | NA | E | 14 | NA | NA |
| Butterfly, San Bruno elfin | | | | | | | *Callophrys mossii bayensis* |
| | | U.S.A. (California) | NA | E | 14 | NA | NA |
| Butterfly, Schaus swallowtail | | | | | | | *Papilio aristodemus ponceanus* |
| | | U.S.A. (Florida) | NA | T | 13 | NA | 17.47(a) |
| Butterfly, Smith's blue | | | | | | | *Euphilotes (=Shijimiaeoides) enoptes smithi* |
| | | U.S.A. (California) | NA | E | 14 | NA | NA |
| Moth, Kern primrose sphinx | | | | | | | *Euproserpinus euterpe* |
| | | U.S.A. (California) | NA | T | 91 | NA | NA |

1—32 FR 4001; March 11, 1967.
2—35 FR 16047; October 13, 1970.
3—35 FR 8495; June 2, 1970.
4—35 FR 18320; December 2, 1970.
5—37 FR 6476; March 30, 1972.
6—38 FR 14678; June 4, 1973.
7—39 FR 44991; December 30, 1974.
8—40 FR 29864; July 16, 1975.
9—40 FR 31736; July 28, 1975.
10—40 FR 44151; September 25, 1975.
11—40 FR 44418; September 26, 1975.
12—40 FR 47506; October 9, 1975.
13—41 FR 17740; April 28, 1976.
14—41 FR 22044; June 1, 1976.
15—41 FR 24064; June 14, 1976.
16—41 FR 45993; October 19, 1976.
17—41 FR 51021; November 19, 1976.
18—41 FR 51612; November 23, 1976.
19—41 FR 53034; December 3, 1976.
20—42 FR 2076; January 10, 1977.
21—42 FR 2968; January 14, 1977.
22—42 FR 28056; June 1, 1977.
23—42 FR 28137; June 2, 1977.
24—42 FR 28545; June 3, 1977.
25—42 FR 37373; July 21, 1977.
26—42 FR 40585; August 11, 1977.
27—42 FR 42353; August 23, 1977.
28—42 FR 45528; September 9, 1977.
29—42 FR 58755; November 11, 1977.
30—42 FR 60745; November 29, 1977.
31—43 FR 3715; January 27, 1978.
32—43 FR 4028; January 31, 1978.
33—43 FR 4621, February 3, 1978.
34—43 FR 6233; February 14, 1978.
35—43 FR 9612; March 9, 1978.
36—43 FR 12591; March 27, 1978.
37—43 FR 15429; April 13, 1978.
38—43 FR 16345; April 18, 1978.
40—43 FR 20504; May 12, 1978.
41—43 FR 28932; July 3, 1978.
42—43 FR 32808; July 28, 1978.
43—43 FR 34479; August 4, 1978.
44—43 FR 44812; September 28, 1978.
45—44 FR 21289; April 10, 1979.
46—44 FR 23064; April 17, 1979.
48—44 FR 29480; May 21, 1979.
50—44 FR 37126; June 25, 1979.
51—44 FR 37132; June 25, 1979.
52—44 FR 42911; July 20, 1979.
54—44 FR 43220; August 21, 1979.
55—44 FR 54007; September 17, 1979.
60—44 FR 59084; October 12, 1979.
85—44 FR 69208; November 30, 1979.
86—44 FR 70677; December 7, 1979.
87—44 FR 75078; December 18, 1979.
88—45 FR 18010; March 20, 1980.
90—45 FR 21833; April 2, 1980.
91—45 FR 24090; April 8, 1980.
92—45 FR 27713; April 23, 1980.
93—45 FR 28722; April 30, 1980.

#—Indicates FR where species was delisted; relisting of the species is indicated by subsequent number(s).
E—Indicates Emergency rule publication (see FR document for effective dates); subsequent number(s) indicate FR final rule, if applicable.

**§ 17.12 Endangered and threatened plants.**

(a) The list in this section contains all species of plants which are determined by the Director to be Endangered or Threatened. It also contains species of plants treated as Endangered or Threatened because they are similar in appearance to an Endangered or Threatened species (see § 17.50 *et seq.*)

(b) The columns entitled "Scientific Name" and "Common Name" define a species of plant within the meaning of the Act. Although common names are usually included, they cannot be relied upon for identification of any specimen, since they may vary greatly with local usage. The Director will use the most recently accepted scientific name. In cases in which confusion might arise, a synonym will be provided in parentheses. The Services shall rely to the extent practical on the *International Code of Botanical Nomenclature.*

(c) In the "Status" column the following symbols are used: "E" for Endangered, "T" for Threatened, and "E (or T) (S/A)" for similarity of appearance species.

(d) For information purposes only, the "Historic Range" indicates the general known distribution of the species or subspecies as reported in the scientific literature. The present distribution may be greatly reduced from this historic range. This column does not imply any limitation on the application of the prohibitions in the Act or implementing rules. Such prohibitions apply to all individuals of the species, wherever found. When the list is updated annually any change in the range will be added.

(e) For informational purposes only, a footnote to the Federal Register publication which originally listed the species is provided under the column "When Listed." Footnote numbers to § 17.12 and § 17.11 are in same numerical sequence since plants and animals may be listed in the Federal Register document. That document includes a statement indicating the basis for listing.

(f) The "Special Rules" and "Critical Habitat" columns provide a cross-reference to other sections in this Part 17 or Parts 222 or 227. The term "N/A" (not applicable) appearing in either of these two columns indicates that there are no special rules and/or Critical Habitat for that particular species. However, all other appropriate rules in this Part 17 still apply to that species. In addition, there may be other rules in this Title that relate to such plants, e.g., port-of-entry requirements. It is not intended that the references in the "Special Rules" column list all the regulations of the two Services which might apply to the plants in question or to the regulations of other Federal agencies or State or local governments.

(g) The listing of a particular taxonomic group includes all its lower taxonomic units [see § 17.11(g) for examples].

(h) The "List of Endangered and Threatened Plants" is provided below:

| Species | | Historic range | Status | When listed | Critical habitat | Special rules |
|---|---|---|---|---|---|---|
| Scientific name | Common name | | | | | |
| Plants: | | | | | | |
| Alismataceae—Water-plantain family: | | | | | | |
| *Sagittaria fasciculata* | Bunched arrowhead | U.S.A. (NC, SC) | E | 53 | NA | NA |
| Asteraceae—Aster family: | | | | | | |
| *Echinacea tennesseensis* | Tennessee purple coneflower | U.S.A. (TN) | E | 49 | NA | NA |
| *Lipochaeta venosa* | None | U.S.A. (HI) | E | 73 | NA | NA |
| Berberidaceae—Barberry family: | | | | | | |
| *Berberis sonnei* | Truckee barberry | U.S.A. (CA) | E | 76 | NA | NA |
| Betulaceae—Birch family: | | | | | | |
| *Betula uber* | Virginia round-leaf birch | U.S.A. (VA) | E | 39 | NA | NA |
| Brassicaceae—Mustard family: | | | | | | |
| *Arabis mcdonaldiana* | McDonald's rock-cress | U.S.A. (CA) | E | 44 | NA | NA |
| *Erysimum capitatum* var. *angustatum* | Contra Costa wallflower | U.S.A. (CA) | E | 39 | 17.96(a) | NA |
| Cactaceae—Cactus family: | | | | | | |
| *Ancistrocactus tobuschii* (=*Echinocactus t., Mammillaria t.*) | Tobusch fishhook cactus | U.S.A. (TX) | E | 80 | NA | NA |
| *Coryphantha minima* (=*C. nellieae, Escobaria n., Mammillaria n.*). | Nellie cory cactus | U.S.A. (TX) | E | 81 | NA | NA |
| *Coryphantha ramillosa* | Bunched cory cactus | U.S.A. (TX), Mexico (Coahuila). | T | 77 | NA | NA |
| *Coryphantha sneedii* var. *leei* (=*Escobaria l., Mammillaria l.*). | Lee pincushion cactus | U.S.A. (NM) | T | 61 | NA | NA |
| *Coryphantha sneedii* var. *sneedii* (=Escobaria s., Mammillaria s.). | Sneed pincushion cactus | U.S.A. (TX, NM) | E | 82 | NA | NA |
| *Echinocactus horizonthalonius* var. *nicholii* | Nichol's Turk's head cactus | U.S.A. (AZ) | E | 71 | NA | NA |
| *Echinocereus engelmannii* var. *purpureus* | Purple-spined hedgehog cactus | U.S.A. (UT) | E | 58 | NA | NA |
| *Echinocereus kuenzleri* (=*E. hempelii* of authors, not Fobe) | Kuenzler hedgehog cactus | U.S.A. (NM) | E | 70 | NA | NA |
| *Echinocereus lloydii* (=*E. roetteri* var. *l.*) | Lloyd's hedgehog cactus | U.S.A. (TX) | E | 67 | NA | NA |
| *Echinocereus reichenbachii* var. *albertii* (=*E. melanocentrus*). | Black lace cactus | U.S.A. (TX) | E | 68 | NA | NA |
| *Echinocereus triglochidiatus* var. *arizonicus* (=*E. arizonicus* | Arizona hedgehog cactus | U.S.A. (AZ) | | 62 | NA | NA |
| *Echinocereus triglochidiatus* var. *inermis* (=*E. coccineus*, var. *l., E. phoeniceus* var. *l.*). | Spineless hedgehog cactus | U.S.A. (CO, UT). | E | 83 | NA | NA |
| *Echinocereus viridiflorus* var. *davisii* (=*E. davisii*) | Davis' green pitaya | U.S.A. (TX) | E | 81 | NA | NA |
| *Neolloydia mariposensis* (=*Echinocactus m., Echinomastus m.*). | Lloyd's Mariposa cactus | U.S.A. (TX) | T | 77 | NA | NA |
| *Pediocactus bradyi* (=*Toumeya b.*) | Brady pincushion cactus | U.S.A. (AZ) | E | 63 | NA | NA |
| *Pediocactus knowltonii* | Knowlton cactus | U.S.A. (NM) | E | 72 | NA | NA |
| *Pediocactus peeblesianus* var. *peeblesianus* (=*Echinocactus p., Navajoa p., Toumeya p., Utahia p.*). | Peebles Navajo cactus | U.S.A. (AZ) | E | 69 | NA | NA |
| *Pediocactus sileri* (=*Echinocactus s., Utahia s.*) | Silver pincushion cactus | U.S.A. (AZ, UT). | E | 64 | NA | NA |
| *Sclerocactus glaucus* (=*Echinocactus g., E. subglaucus, E. whipplei* var. *g., Pediocactus g., S. franklinii*). | Uinta Basin hookless cactus | U.S.A. (CO, UT) | T | 59 | NA | NA |
| *Sclerocactus mesae-verdae* (=*Coloradoa m., Echinocactus m., Pediocactus m.*). | Mesa Verde cactus | U.S.A. (CO, MN). | T | 75 | NA | NA |
| *Sclerocactus wrightiae* (=*Pediocactus w.*) | Wright fishhook cactus | U.S.A. (UT) | E | 58 | NA | NA |
| *Crassulaceae*—Stonecrop family: | | | | | | |
| *Dudleya traskiae* | Santa Barbara Island liveforever | U.S.A. (CA) | E | 39 | NA | NA |
| *Cupressaceae*—Cypress family: | | | | | | |
| *Fitzroya cupressoides* | Chilean false larch (=alerce) | Chile, Argentina | T | 79 | NA | NA |
| *Ericaceae*—Heath family: | | | | | | |
| *Arctostaphylos hookeri* ssp. *ravenii* | Raven's manzanita | U.S.A. (CA) | E | 65 | NA | NA |
| *Rhododendron chapmanii* | Chapman rhododendron | U.S.A. (FL) | E | 47 | NA | NA |

| Species | | Historic range | Status | When listed | Critical habitat | Special rules |
|---|---|---|---|---|---|---|
| Scientific name | Common name | | | | | |
| *Fabaceae*—Pea family: | | | | | | |
| *Astragalus perianus* | Rydberg milk-vetch | U.S.A. (UT) | T | 39 | NA | NA |
| *Baptisia arachnifera* | Hairy rattleweed | U.S.A. (GA) | E | 39 | NA | NA |
| *Lotus scoparius* ssp. *traskiae* | San Clemente broom | U.S.A. (CA) | E | 26 | NA | NA |
| *Vicia menziesii* | Hawaiian wild broad-bean | U.S.A. (HI) | E | 39 | NA | NA |
| *Hydrophyllaceae*—Waterleaf family: | | | | | | |
| *Phacelia argillacea* | None | U.S.A. (UT) | E | 44 | NA | NA |
| *Lamiaceae*—Mint family: | | | | | | |
| *Haplostachys haplostachya* var. *angustifolia* | None | U.S.A. (HI) | E | 73 | NA | NA |
| *Pogogyne abramsii* | San Diego mesa mint | U.S.A. (CA) | E | 44 | NA | NA |
| *Stenogyne angustifolia* var. *angustifolia* | None | U.S.A. (HI) | E | 73 | NA | NA |
| *Liliaceae*—Lily family: | | | | | | |
| *Harperocallis flava* | Harper's beauty | U.S.A. (FL) | E | 57 | NA | NA |
| *Trillium persistens* | Persistent trillium | U.S.A. (GA, SC) | E | 39 | NA | NA |
| *Malvaceae*—Mallow family: | | | | | | |
| *Kokia cookei* | Cooke's kokio | U.S.A. (HI) | E | 74 | NA | NA |
| *Malacothamnus clementinus* | San Clemente Island bush-mallow | U.S.A. (CA) | E | 24 | NA | NA |
| *Nyctaginaceae*—Four-o'clock family: | | | | | | |
| *Mirabilis macfarlanei* | MacFarlane's four-o'clock | U.S.A. (ID, OR) | E | 66 | NA | NA |
| Onagraceae—Evening-primrose family: | | | | | | |
| *Oenothera avita* ssp. *eurekensis* | Eureka evening-primrose | U.S.A. (CA) | E | 39 | NA | NA |
| *Oenothera deltoides* ssp. *howellii* | Antioch Dunes evening-primrose | U.S.A. (CA) | E | 39 | 17.96(a) | NA |
| Papaveraceae—Poppy family: | | | | | | |
| *Arctomecon humilis* | Dwarf bear-poppy | U.S.A. (UT) | E | 78 | NA | NA |
| Pinaceae—Pine family: | | | | | | |
| *Abies guatemalensis* | Guatemalan fir (=pinabete) | Mexico, Guatemala, Honduras, El Salvador. | T | 84 | NA | NA |
| Poaceae—Grass family: | | | | | | |
| *Orcuttia mucronata* | Solano (=Crampton's Orcutt) grass. | U.S.A. (CA) | E | 44 | NA | NA |
| *Swallenia alexandrae* | Eureka Dune grass | U.S.A. (CA) | E | 39 | NA | NA |
| *Zizania texana* | Texas wild-rice | U.S.A. (TX) | E | 39 | NA | NA |
| Ranunculaceae—Buttercup family: | | | | | | |
| *Aconitum noveboracense* | Northern wild monkshood | U.S.A. (IA, NY, OH, WI). | T | 39 | NA | NA |
| *Delphinium kinkiense* | San Clemente Island larkspur | U.S.A. (CA) | E | 26 | NA | NA |
| Sarraceniaceae—Pitcherplant family: | | | | | | |
| *Sarracenia oreophila* | Green pitcher plant | U.S.A. (AL, GA) | E | 56, 89 | NA | NA |
| Scrophulariaceae—Snapdragon family: | | | | | | |
| *Castilleja grisea* | San Clemente Island Indian paintbrush. | U.S.A. (CA) | E | 26 | NA | NA |
| *Cordylanthus maritimus* ssp. *maritimus* | Salt marsh bird's beak | U.S.A. (CA), Mexico (Baja California). | E | 44 | NA | NA |
| *Pedicularis furbishiae* | Furbish lousewort | U.S.A. (ME), Canada (New Brunswick). | E | 39 | NA | NA |

26—42 FR 40685; August 11, 1977.
39—43 FR 17916; April 26, 1978.
44—43 FR 44812; September 28, 1978.
47—44 FR 24250; April 24, 1979.
49—44 FR 32605; June 6, 1979.
53—44 FR 43701; July 25, 1979.
56—44 FR 54923; September 21, 1979.
57—44 FR 58863; October 2, 1979.
58—44 FR 58868; October 11, 1979.
59—44 FR 58870; October 11, 1979.
61—44 FR 61556; October 25, 1979.
62—44 FR 61558; October 25, 1979.
63—44 FR 61786; October 26, 1979
64—44 FR 61788; October 26, 1979
65—44 FR 61911; October 26, 1979
66—44 FR 61913; October 26, 1979.
67—44 FR 61916, October 26, 1979
68—44 FR 61920; October 26, 1979
69—44 FR 61924; October 26, 1979
70—44 FR 61927; October 26, 1979
71—44 FR 61929; October 26, 1979
72—44 FR 62246; October 26, 1979
73—44 FR 62469; October 30, 1979
74—44 FR 62471; October 30, 1979
75—44 FR 62474, October 30, 1979.
76—44 FR 64247, November 6, 1979.
77—44 FR 64250; November 6, 1979.
78—44 FR 64252; November 6, 1979.
79—44 FR 64733; November 7, 1979.
80—44 FR 64738; November 7, 1979.
81—44 FR 64740; November 7, 1979.
82—44 FR 64743; November 7, 1979.
83—44 FR 64746; November 7, 1979.
84—44 FR 65005; November 8, 1979.
89—45 FR 18929; March 24, 1980.

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May 20, 1980

Part III

# Environmental Protection Agency

## Hazardous Waste Management System; General Guidance for Entering Into Cooperative Arrangements

## ENVIRONMENTAL PROTECTION AGENCY

[FRL 1495-6]

## Hazardous Waste Management System: Cooperative Arrangements With States That Are Developing Programs for RCRA Authorization

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of General Guidance for Entering Into Cooperative Arrangements.

**SUMMARY:** On January 29, 1980, the Agency published in the Federal Register an "Advance Notice of Final Regulation" for the authorization of state hazardous waste programs under RCRA. The Agency there stated that it contemplates entering into cooperative arrangements with States that seek interim authorization for their hazardous waste programs but fail to qualify. This notice indicates generally the Agency's guidance on policy and procedures to be followed in developing and entering into such arrangements. Specific topics addressed include the purpose of cooperative arrangements, their scope, the generic situations where cooperative arrangements may be entered into, and general procedures to be followed in developing and entering into cooperative arrangements. The final regulation for the authorization of State hazardous waste programs was published yesterday in the Federal Register (40 CFR Part 123).

**FOR FUTHER INFORMATION CONTACT:**

*Region I:* Dennis Huebner, Chief, Radiation, Noise, and Solid Waste Branch, John F. Kennedy Building, Boston, Massachusetts 02203, (617) 223-5708.

*Region II:* Dr. Ernest Regna, Chief, Solid Waste Branch, 26 Federal Plaza, New York, New York 10007, (212) 264-0503/4/5.

*Region III:* Robert L. Allen, Chief, Hazardous Materials Branch, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, (215) 597-0980.

*Region IV:* James Scarbrough, Chief, Residuals Management Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30308, (404) 881-3016.

*Region V:* Karl J. Klepitsch, Jr., Chief, Waste Management Branch, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 866-6148.

*Region VI:* Stan Jorgensen, Acting Chief, Solid Waste Branch, 1201 Elm Street, First International Building, Dallas, Texas 75270.

*Region VII:* Robert L. Morby, Chief, Hazardous Materials Branch, 324 E. 11th Street, Kansas City, Missouri 64106, (816) 374-3307.

*Region VIII:* Lawrence P. Gazda, Chief, Waste Management Branch, 1860 Lincoln Street, Denver, Colorado 80203, (303) 837-2221.

*Region IX:* Arnold Den, Chief, Hazardous Materials Branch, 215 Freemont Street, San Francisco, California 94105, (415) 556-4606.

*Region X:* Kenneth D. Feigner, Chief, Waste Management Branch, 1200 6th Avenue, Seattle, Washington 98101, (206) 442-1260.

*Headquarters:* Sam Morekas, U.S. Environmental Protection Agency, Office of Solid Waste (WH-563), Washington, D.C. 20460, (202) 755-9145.

Dated: May 5, 1980.

Eckardt C. Beck,

*Assistant Administrator for Water and Waste Management.*

## GENERAL GUIDANCE FOR COOPERATIVE ARRANGEMENTS WITH STATES THAT ARE DEVELOPING PROGRAMS FOR RCRA AUTHORIZATION

### I. Background

On January 29, 1980, the Agency published in the Federal Register an "Advance Notice of Final Regulation" for the authorization of State Hazardous Waste Programs under Section 3006 of the Resource Conservation and Recovery Act of 1976 (RCRA). The purpose of the notice was (1) to provide advance guidance to States to give them full opportunity to qualify for interim authorization by the effective date of the first phase of the Federal program; and (2) to assist States in developing an authorization plan that describes how a State will develop a program capable of receiving final authorization.

The notice also indicated that the Agency is contemplating entering into cooperative arrangements with States which fail to qualify for interim authorization. Following is the Agency's general guidance on policy and procedures to be followed in developing such cooperative arrangements.

### II. Purpose

EPA will implement the Federal hazardous waste program in those States which cannot qualify for interim authorizaiton by the effective date of the Federal program. In those States, EPA will encourage the cooperation and participation of the State in implementing the Federal program until that State's program receives authorization. A State would receive financial support for its activities through the RCRA Section 3011 grant program. A cooperative arrangement is designed to avoid duplicative Federal and State activities, to maximize the efficient use of State and EPA resources, to minimize the disruption of existing State programs, and to reduce confusion to the regulated community. A cooperative arrangement should also enhance the orderly development of an authorized State program because of the State's participation in and increasing familiarity with the Federal program.

Where a State does not receive interim authorization and a cooperative arrangement is established instead, EPA will maintain basic responsibility for administering the Federal program and will be fully accountable for a State's activities in support of the Federal program under the cooperative arrangement.

### III. Scope of Cooperative Arrangements

A cooperative arrangement will identify the respective responsibilities of both EPA and the State agency in implementing the Federal hazardous waste program. EPA will retain regulatory responsibility for the Federal program whenever cooperative arrangements are entered into. A State's responsibility under a cooperative arrangement may be administrative and it may involve sharing of information and making recommendations to EPA. The specific administrative tasks to be performed will undoubtedly vary from State to State.

### IV. Situations Where Cooperative Arrangements May Be Entered Into

Cooperative arrangements will only be used during the interim authorization period and when a State is working toward authorization of its hazardous waste program. A cooperative arrangement may be entered into in the situation where a State possesses interim authorization but lacks the authority to operate a manifest tracking system. EPA envisions the following general types of situations as appropriate for cooperative arrangements:

#### *A. State Works Toward Authorization*

A cooperative arrangement could be used in two particular circumstances in States that do not qualify for interim authorization: (1) Where an existing State program could be coordinated with the Federal program, and (2) where a State would help administer portions of the Federal program. It is possible for both of these situations to be encompassed in a cooperative arrangement for a particular State. Following is a more detailed discussion of these two aspects of a cooperative

arrangement for States not qualifying for authorization.

1. *Existing State Program Coordinates with Federal Program.* In a State that, under State law, has an existing hazardous waste management program which does not qualify for interim authorization, the State will most likely continue to operate its program after the Federal program goes into effect. To maximize the efficient use of State and EPA resources and to minimize the duplicative impacts of two programs, EPA and the State may wish to coordinate the implementation of their programs. Thus, a cooperative arrangement could provide that the State would furnish information to Federal authorities, with EPA retaining ultimate authority to utilize the data in carrying out the Federal program.

An example of this type of arrangement is a situation where a State gathers information pursuant to its inspection and enforcement authority under State law. A cooperative arrangement between EPA and the State could provide that this information be shared. The information would assist EPA in determining whether any Federal standards were being violated. A cooperative arrangement would also need to address whether State information gathering procedures meet Federal requirements, particularly those pertaining to chain-of-custody, so that EPA would know whether it could use the information gathered by the State in a Federal enforcement action. The arrangement would have to address whether the State obtains information under a claim of confidentiality, and if so, whether a State could arrange to share this information with EPA.

In some cases State statutes provide for enforcement remedies that are similar to those of the Federal program. In such instances EPA may choose to accept a particular State enforcement action as acceptable for the Federal program, eliminating the need for two enforcement procedures. However, EPA retains the authority to take any enforcement action it deems necessary.

There is also a need for cooperation between EPA and the State agency when a State presently possesses permit-issuing authority and intends to continue operating its own program after the Federal program goes into effect. In these situations, EPA may seek by means of a cooperative arrangement to utilize joint permit issuance procedures (i.e., joint public notice, public hearings, response to comments, etc.). EPA will, of course, make the final determination concerning issuance of all Federal permits.

2. *State Administers Portions of the Federal Program.* A second general situation appropriate for cooperative arrangements is where a State hazardous waste program does not qualify for interim authorization but the State possesses adequate resources to administer portions of the Federal program. A cooperative arrangement could then designate the State as EPA's agent to perform the tasks of administering a specific element (or elements) of the Federal program, although EPA would retain the responsibility for substantive decision-making.

Under this type of arrangement the State could: (1) Review records and reports required by the Federal program (providing all applicable Federal confidentiality provisions are observed) and (2) review and make recommendations concerning applications for Federal hazardous waste management facility permits.

However, certain program elements do not lend themselves to this type of cooperative arrangement. For example, EPA cannot under the present language of Section 3007(a) designate employees of unauthorized States to conduct inspections of persons involved in hazardous waste management. Thus, employees of an unauthorized State could conduct inspections only pursuant to independent State authority. On the other hand, a cooperative arrangement could provide for analysis by State employees of data collected by Federal authorities pursuant to Section 3007, or could provide that State employees accompany a Federal official on inspections.

### *B. State Has Interim Authorization But Lacks Manifest Authority*

It is possible for a State to be granted interim authorization even though it lacks statutory authority to operate a manifest system and to otherwise regulate generators and transporters. In this situation EPA and the State could agree that the State would administer the Federal requirements (as EPA's agent) for generators and transporters (including the use of the Federal manifest system) and could enter into a cooperative arrangement to this effect. Once again, the final authority for that part of the program would remain with EPA.

## V. General Procedures

States should seek a cooperative arrangement with EPA as soon as the determination is made that the State cannot qualify for interim authorization by the effective date of the Federal program. These arrangements will be most useful during the implementation of the Federal hazardous waste program if they are formulated as soon as practicable.

To apply for a cooperative arrangement the State must submit the draft cooperative arrangement along with a development plan. Specific tasks under the arrangement will be included in the State's annual work program. The respective responsibilities of States and EPA in this arrangement should also be reflected in the annual State/EPA Agreement. As is customary, EPA will work closely with the State as the State develops these documents.

The development plan must show generally how the cooperative arrangement will enhance development of a program that will qualify for authorization. Where a State proposes to administer portions of the Federal program, the cooperative arrangement must clearly show that the State possesses adequate resources (including available personnel and necessary expertise) and legal authority to perform and tasks.

The cooperative arrangement must set forth specific roles, tasks, products and schedules for both the State Agency and EPA. EPA and the State agency will review the cooperative arrangement periodically for adequacy of implementation and for adjustment as necessary.

### *A. Relationship to RCRA Section 3011 Grant*

The RCRA Section 3011 State grant will be based upon the cooperative arrangement established by EPA and the State. The grant funds awarded to the State will be commensurate with the tasks to be performed by the State under the cooperative arrangement. In determining grant levels EPA will also consider the priority of the State tasks under the cooperative arrangement as compared to all other tasks associated with carrying out the Federal program in that State. Subject to Appropriations Act limitations, grant funds not awarded in support of its cooperative arrangement may be reprogrammed by EPA into other accounts to meet the costs of administering the Federal program in a State. Given the current funding levels and Agency priorities no State grant award will be made in fiscal year 1981 except where a State is administering part of the Federal program under a cooperative arrangement or where a State has received interim authorization.

### *B. Public Participation*

In accordance with the public participation requirements for State

work programs for Section 3011 grants (40 CFR 35.726) a State shall consult with the public in the development of the cooperative arrangement. Drafts of the cooperative arrangement shall be made available to the public at State information depositories at one or more convenient locations. The public shall be notified of the availability of draft cooperative arrangements and a public meeting shall be held if the State determines there is sufficient interest. Copies of the final cooperative arrangement shall also be maintained in the information depositories.

*C. EPA Reviews*

In order to insure consistent national policy with respect to cooperative arrangements and to provide for necessary reprogramming of grant funds the cooperative arrangements will be reviewed by EPA Headquarters before they are put into effect. Guidance for the timing and content of such submissions will be forthcoming.

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Part IV

# Community Services Administration

Community Food and Nutrition Program; Final Rules

## COMMUNITY SERVICES ADMINISTRATION

### 45 CFR Part 1061

### Community Food and Nutrition Program

**AGENCY:** Community Services Administration.

**ACTION:** Final rule.

**SUMMARY:** The Community Services Administration (CSA) is filing a final rule revising its policy statement for the Community Food and Nutrition Program (CFNP) funded under Section 222(a)(1) of the Economic Opportunity Act of 1964, as amended. This final rule is required because CSA has determined there is a need to revise certain aspects of the previous year's funding policies and procedures and to inform applicants of those changes.

**DATE:** This rule is effective June 19, 1980.

**FOR FURTHER INFORMATION CONTACT:** Harold L. Gore, Community Services Administration, 1200—19th Street, N.W., Washington, D.C. 20506; Telephone: (202) 632–6694; Teletypewriter: (202) 254–6218.

**SUPPLEMENTARY INFORMATION:** Comments received prior to April 20, 1980 were considered in drafting the final rule. Three hundred (300) written comments (letters) were received from Members of Congress, Community Action Agencies, CFNP grantees, clients of CFNP grantees, anti-hunger organizations, State Economic Opportunity Offices, Indian organizations and others. Strong support was expressed for some of the changes introduced in the proposed rule; strong opposition was expressed toward others; and further clarification was requested for some of the proposed changes.

Among the issues receiving strongest support was the introduction of two-year programming. At the same time, a number of commentators called for language further clarifying the two-year program concept. Essentially, the institution of the two-year programming means that there will be *one* application and competitive review process for the CFNP *every two years* instead of every year. The purpose of introducing this change is to reduce the work load that annual funding imposes upon the grantee and CSA. Approval of a two-year work program means that the first year of a grantee's work program will be funded in FY 80 and the second will be funded in FY 81 without the resubmission of an application, provided that (1) sufficient funds are appropriated by Congress in FY 81, (2) the grantee's performance is satisfactory, and (3) there are no changes in Agency priorities. Grants for a 12-month period may still be made in FY 80 where appropriate, but they will be made on a one-time only basis. For further details regarding these changes the reader is referred to § 1061.50–13(b) of this subpart.

Among the proposed changes receiving the greatest opposition was the proposal that funding ranges be established for various classes of applicants based on the number of poor in the geographical areas served by them. In response to the negative comments regarding this proposal, it is being dropped. A number of commentators correctly pointed out that the 1970 census data on the number of poor is out of date and would be an unfair basis for establishing funding ranges. Secondly, the adoption of funding ranges would have set back a large number of good projects that are effectively meeting genuine needs. In adopting the majority view of the commentators on this issue, CSA wishes to make clear that it reserves the right for Regional Directors to make budget reductions where such are deemed programmatically appropriate in order to make more funds available for other qualified applicants. In keeping with this policy no grantee may appeal the amount of funds awarded [See § 1061.50–13(f) of this subpart].

The number of commentators for and against the new category of Food Supply were about equally divided, with slightly more being against than for. However, a substantial number of those against were opposed, in part, because of the additional paperwork it would impose on grantees in preparing their applications, especially the requirement that they submit separate budgets (325's and 325a's) for each program account. Other commentators suggested that some of the activities listed under Food Supply be incorporated under other program categories and vice versa, while yet others, who favored keeping Food Supply, suggested that it be given a higher priority.

We have responded to the comments and suggestions on this issue as follows: First, we have redefined Access and are keeping Food Supply as a new category. The rationale for this decision is that (1) the activities incorporated under Food Supply are important and logically together, (2) the CFNP needs to focus more sharply on them in the future than it has in the past and (3) there is a need to make a distinction between activities in the CFNP that focus upon the public sector and those that focus on the private sector. We have therefore redefined Access to signify those activities that focus upon *public* feeding programs (whether federal, state or local) and upon public policy issues that affect the nutritional status of the poor. Second, we have given Food Supply a higher priority status, making it number three and we have shifted some of the activities among categories to place them where they more properly belong. Third, we have simplified the grant application process, i.e., we are requiring applicants to submit only *one* budget regardless of the number of program categories for which funds are requested. Applicants must, however, indicate on their 419's the amount of funds that will be spent on each category, or program account. This change should alleviate the concern of some that the addition of Food Supply would make what is already a complicated application procedure even more complicated. For further information see § 1061.50–7(a) and (c) and § 1061.50–13(c) of this subpart.

While a number of commentators agreed with our decision to keep Access as the number one priorty, there were an equal number who said that Self-Help should be given a higher priority and some who said that Food Supply and Crisis Relief should be given higher priority. Others argued that there should be no priorities that communities should be free to pick and choose which program category best suited their needs. It is CSA's view that, on balance, there is a need to stipulate national priorities based on unmet need throughout the nation as a whole, and we continue to believe that, for the present, Access should be number one and Self-Help number two. We agree with the suggestions that Food Supply be elevated and we have made it priority number three. While Crisis Relief remains number four, it has been placed above Nutrition Education which becomes number five. See § 1061.50–7 and § 1061.50–13(c) of this subpart. However, in continuing to stipulate national priorities, CSA wishes to make clear that applicants are free to select, *without penalty,* the categories and activities that are most needed and therefore of greatest priority in the communities they serve.

There was mixed reaction by the respondents to the proposal to permit CAP Associations to apply for General Community funds to operate state-wide anti-hunger coalitions. CSA believes it is desirable to allow this flexibility to CAA's and that provision is being retained [See § 1061.50–9(a)(3) of this

subpart]. Commentators felt that "one-third" requirement for CAA representation on Special Support project's governing boards was too restrictive. We have changed that provision to require CAA representation on those governing boards but have dropped the stipulation that it must be one-third [See § 1061.50-9(b)(3) of this subpart]. There were also a number who felt that anti-hunger coalitions should be defined and we have now included that term in our section on definitions [See § 1061.50-2(i) of this subpart].

There was also mixed reactions to the proposal permitting Regional R&D grants. We have decided to drop this provision but this does not preclude the funding under the other categories (e.g. General Community, Special Support, Indians and Migrants) of truly innovative projects that might serve as models for replication elsewhere in the country.

Several suggested that Regional T&TA applicants be funded on a later cycle than other regional applicants. The purpose would be to give the T&TA applicants a chance to review the work programs of those selected for funding in the regular competition and thus better prepare their (T&TA) applications to meet the T&TA needs of these grantees. We agree with this suggestion and are instituting this change [See § 1061.50-9(c)(6) and § 1061.50-13(a) of this subpart].

Some respondents suggested that the section on "one-time" funding was awkward in light of two-year programming. We agree and have dropped that section. Others objected to the requirement that they send informational copies of their program progress reports (440's) to CSA Headquarters and we have also dropped that requirement. Some suggested that the rating criteria be changed to give more points for institutional changes for Special Support and Indian grantees. We agree with these suggestions and have increased those criteria by five points. And finally, there were a number who cited the need for regional allocations to be published in the rule and we have done that [See § 1061.50-10(c) of this subpart].

CSA wishes to thank all who took the time to review the proposed rule and present their comments. While we obviously could not accommodate the views of everyone, we do wish to assure you that your comments were taken seriously before final decisions were reached.

William W. Allison,

*Acting Director.*

45 CFR Part 1061, Subpart 1061.50 is revised to read as follows:

## PART 1061—CHARACTER AND SCOPE OF SPECIFIC PROGRAMS

### Subpart 1061.50—Community Food and Nutrition Programs (CSA Instruction 6132-2a)

Sec.

1061.50-1 Applicability.
1061.50-2 Definitions.
1061.50-3 Purpose of the subpart.
1061.50-4 Introduction.
1061.50-5 Policy.
1061.50-6 Purposes of the program.
1061.50-7 Program categories.
1061.50-8 Eligible participants.
1061.50-9 Eligible applicants.
1061.50-10 Funding.
1061.50-11 Application procedures.
1061.50-12 Reporting requirements.
1061.50-13 Current fiscal year application and review information.
Appendix A.
Appendix B.
Appendix C.
Appendix D.
Appendix E.
Appendix F.
Appendix G.
Appendix H.

Authority: Sec. 602, 78 Stat. 530; 42 U.S.C. 2942.

### § 1061.50-1 Applicability.

This subpart is applicable to all grants and contracts and cooperative agreements funded under section 222(a)(1) of the Economic Opportunity Act of 1964, as amended, when the assistance is administered by the Community Services Administration.

### § 1061.50-2 Definitions.

(a) *Program.* The provision of federal funds and administrative direction to accomplish a prescribed set of objectives through the conduct of specific activities. Example: CSA's Community Food and Nutrition Program.

(b) *Project.* The implementation level of a program where resources are used to produce an end product that directly contributes to the objectives of the program. Example: The School Breakfast Expansion Campaign of the Milwaukee CAP.

(c) *Limited Purpose Agency.* An organization or agency funded under sections 221 or 222 of the Act to conduct a specific project or projects, rather than the broad spectrum of projects conducted by a CAA. Limited purpose agencies are not subject to the requirements for local government designation and comprehensive community representation applicable to CAA's.

(d) *"Un-capped Area".* An "un-capped" area is any geographical area not officially served by a community action agency. An area officially served by a CAA is that area designated by the local government and recognized as such by CSA.

(e) *Catalytic Activity.* According to the dictionary, a catalyst is "a person or thing acting as a stimulus in bringing about or hastening a result". In this rule, "catalytic activity" means an activity which, through a modest investment of CFNP staff time and money, sets in motion a process or series of events which results, for low-income persons, in benefits that are far-reaching and whose value significantly exceeds the cost of the original investment [See Appendix A, for further clarification].

(f) *Direct Service Delivery.* One-on-one activity (for example, outreach activity) whose purpose is to provide goods or services directly to low-income individuals or families. The provision of services can be catalytic or non-catalytic activity. It is catalytic if it triggers a process that is carried forward by the individual, either on his own or with the assistance of groups or agencies other than the CFNP project. (See Appendix A, for additional clarification.)

(g) *Advocacy.* According to the dictionary, an *advocate* is "one who pleads the cause of another" or "defends or maintains a cause or proposal." In this rule, advocacy means a type of catalytic activity which is directed at institutions or at the general public on behalf of low-income individuals in order to insure that, in the area of food and nutrition, the views of such individuals are heard, their rights are observed, the benefits to which they are entitled are provided, and their needs are met (to the extent possible) by the institutions which have the ability or responsibility to meet those needs. Successful advocacy can bring about either *institutional change* (a change in a law, regulation, policy, procedure, behavior or attitude affecting the low-income population) or a *mobilization of additional resources* (whether they be dollars or in-kind services) from public or private sources to support food and nutrition programs for the low-income population. (See Appendix A, for further clarification.)

(h) *Monitoring.* Monitoring is a variety of advocacy. To "monitor" is to "observe critically". To monitor a program operated by another federal or state agency means to *observe critically* that program; to gather relevant information about its operations in order

to make sure that it is adhering to relevant statutes and regulations in its delivery of services to low-income families and individuals; and where there are problems, to bring them to the attention of the administering agency and to assist that agency in finding a solution. (See Appendix A, for further clarification.)

(i) *Anti-hunger Coalition.* An anti-hunger coalition is an alliance of various individuals, groups and organizations whose purpose is to serve as an advocate for the poor in addressing (1) a broad range of problems and issues in attempting to alleviate hunger and malnutrition among the poor or (2) a narrow range of such problems and issues (e.g., the operation of the WIC program) over a wide area (e.g., throughout a whole state). A coalition may include such groups as: Community Action Agencies, Community Food and Nutrition grantees, the poor (or other organizations representing them), churches, foundations, private organizations serving the poor, etc.

**§ 1061.50-3 Purpose of subpart.**

This subpart sets forth CSA's policy for the Community Food and Nutrition Program (CFNP) authorized under section 222(a)(1) of the Economic Opportunity Act of 1964, as amended. It discusses the purposes and categories of activities, participant and applicant eligibility criteria, application procedures and reporting requirements. The Appendices provide additional information relating to the meaning of certain terms, general policy, rating and ranking criteria, and addresses and names of key contact persons for CSA Regional Offices and migrant conduits.

**§ 1061.50-4 Introduction.**

(a) Section 201(a)(1) of the Economic Opportunity Act of 1964 as amended states that the basic purpose of all Title II programs including the Community Food and Nutrition Program, is "* * * to *stimulate* a better focusing of all available local, State, private and Federal resources upon the goal of enabling low-income families and low-income individuals * * * *to become fully self-sufficient*" (emphasis added).

(b) This statement sums up CSA's historic mission which has been to serve as a *stimulator* or *catalyst* of activities conducted by other public and private institutions rather than as a provider of services in competition with these institutions. CSA's limited funds make it necessary, in any event, for CFNP projects to limit their involvement in non-catalytic direct service delivery and to function primarily as advocates and catalytic agents.

(c) A second important point made in the statement quoted above is that the catalytic activity of Title II programs, including the CFNP, should be directed to helping the poor escape the cycle of poverty. The relevance of the CFNP to this objective is underscored by a report entitled "Dietary Goals for the United States" (2nd Edition) issued in February 1978, by the U.S. Senate's Select Committee on Nutrition and Human Needs. According to the report, an inadequate diet is a principal cause of six of the leading killer diseases—the six being diabetes, strokes and hypertension, heart disease, some cancers, arteriosclerosis and cirrhosis of the liver. An inadequate diet is also one of the factors which leads to unemployability and chronic dependence on public assistance programs. Hence the importance of a concentrated attack on the problem of malnutrition among the poor.

**§ 1061.50-5 Policy.**

(a) Section 222(a)(1) of the Economic Opportunity Act authorizes: "A program to be known as Community Food and Nutrition designed to provide, on an emergency basis, directly or by delegation of authority pursuant to the provisions of Title VI of this Act, financial assistance for the provision of such supplies and services, nutritional food-stuffs, and related services as may be necessary to counteract conditions of starvation or malnutrition among the poor. Such assistance may be provided by way of supplement to such other assistance as may be used to extend and broaden such programs to serve economically disadvantaged individuals and families where such services are not now provided."

(b) In its effort to "supplement and extend and broaden" other Federal food programs, the CFNP must not lose sight of the essentially *catalytic* nature of CSA's mission referred to in § 1061.50-4 of this subpart. Funds should be used primarily as seed money or in ways that have a multiplier effect, not for duplicative or long-term feeding programs. The emphasis on catalytic activity does not preclude the use of CFNP funds, in emergency situations, for the direct delivery of foodstuffs and related services (e.g., food vouchers or food boxes) so individual families within CSA poverty guidelines who are insufficiently served or not served at all by other programs (see 1061.50-7(d)(4) below). Benefits received under the CFNP shall not be considered as income for purposes of determining eligibility for other federal programs.

(c) Each CFNP project will be expected to include *advocacy* as an *essential* and *integral* element of both its design and implementation. While an applicant may select the program category (Access, Self-Help, Food Supply, Crisis Relief, and Nutrition and Consumer Education) which best meets the needs of the poor in the community served, the element of advocacy should always be a part of whatever category is selected. Advocacy efforts should focus upon articulating the views and needs of the poor to the public at large but, more particularly, to those institutions and organizations which have the ability or responsibility to serve the poor. Advocacy efforts should not only include speaking *on behalf of the poor,* but helping the poor to articulate their own needs and to participate in activities which are designed to assure that the benefits to which the poor are entitled are provided. Advocacy should be aimed at initiating new programs to benefit the poor as well as improving and expanding existing ones.

(d) All CFNP projects will be expected to conform to as many of the purposes of Title II programs as possible (listed below in § 1061.50-6 of this subpart). Subpart § 1067.4 of this chapter requires that each project contribute to the achievement of one or more purposes. CSA is requiring that CFNP grantees meet at least three general purposes and one specific purpose of Title II programs. Applicants are advised that the rating criteria (see Appendices B through F) include three of the six purposes.

**§ 1061.50-6 Purpose of the program.**

(a) The following are the purposes of Title II programs, including the CFNP, found in Sections 201(a) and 222(a) of the Economic Opportunity Act of 1964 as amended and reflected in CSA's general standards of effectiveness:

(1) *Planning and Coordination.* Strengthened community capabilities for planning and coordination so as to insure that available assistance related to the elimination of poverty can be more responsive to local needs and conditions;

(2) *Improvement of Service Delivery.* Better organization of services related to the needs of the poor;

(3) *Maximum Feasible Participation.* Maximum feasible participation of the poor in the development and implementation of all projects designed to serve the poor;

(4) *Mobilization of Resources.* Broadened resource base of programs directed to the elimination of poverty so as to include all elements of the community able to influence the quality and quantity of services to the poor;

(5) *Innovative Approaches.* Greater use of new types of services and innovative approaches in attacking causes of poverty, so as to develop increasingly effective methods of employing resources;

(6) *Maximum employment Opportunities.* Employment of the poor, including opportunity for further occupational training and career development, in the programs and projects administered to serve the poor.

(b) The following are legislatively-mandated purposes of the Community Food and Nutrition Program (Specific Standards of Effectiveness):

(1) *Improvement in the nutritional status of the target population.*

(2) *Reduction in hunger among the target population.*

**§ 1061.50-7 Program Categories.**

The categories eligible for funding under the Community Food and Nutrition Program are described below and are listed in priority order.

(a) *Access.* Access activities are focused on the public sector and are aimed at improving the opportunities for low-income people to gain access to, and participate in, food and nutrition programs sponsored by the federal, state and local governments and at making sure that these programs operate effectively, efficiently and fairly. They also seek to involve the poor in shaping public policies which have an effect upon the nutritional status of the poor. Activities eligible for funding under the "access" category include, but are not limited to:

(1) The monitoring of programs conducted by other agencies and in particular monitoring the implementation by USDA and state and local governments of the Food Stamp Act of 1977, in order to insure compliance with relevant federal and state statutes and regulations;

(2) Seeking changes in federal and state statutes and regulations to insure a more equitable distribution of food and nutrition benefits to the poor;

(3) Stimulating through consultation with parents, school administrators and other officials, the establishment or expansion of various federally funded food programs such as; the School Breakfast and School Lunch Programs, the WIC Program, the Summer Food Service Program for Children, the Nutrition Program for the Elderly, etc.

(4) Participating with a state in the development of state plans, certification manuals, etc., for food and nutrition programs;

(5) Building coalitions to make possible community input into the improvement and implementation of programs which improve the nutritional status of low-income persons;

(6) Initiating, or stimulating the formation of, community education programs aimed at apprising low-income persons of their entitlements under federal and non-federal food programs;

(7) Stimulating efforts to provide the poor with assistance in prescreening and application procedures and with adequate representation in administrative hearings, etc.;

(8) Initiating or stimulating the formation of feeding programs (e.g., Meals on Wheels) which are urgently needed and are not being provided in the community, on the condition that significant mobilization of other resources and early spin-off of the project to a more appropriate agency is included in the application;

(9) Designing and carrying out strategies for obtaining matching funds for new and existing projects supported from CFNP funds, and for spinning off such projects to other agencies (e.g. projects funded under HEW and USDA such as Title XX or food stamp outreach);

(10) Catalyzing an expanded and more effective outreach program on the part of other agencies; (See discussion on outreach in Appendix A).

(b) *Self-Help.* Self-Help activities are those which are aimed at improving the ability of low-income people to produce, preserve, purchase or market their own foodstuffs. These foodstuffs may and often do supplement those provided by federal feeding programs or by private sector institutions.

Note.—Applicants for Self-Help projects which by design should ultimately become self-sustaining, e.g., food co-ops, buying clubs, and canneries, should include in their applications specific plans for the eventual phase-out of CFNP funding.

Activities eligible for funding under this category include but are not limited to:

(1) Conservation, distribution and utilization of foodstuffs, such as:

(i) Organizing family and community gardens;

(ii) Organizing food co-ops and buying clubs (See discussion in Appendix A on the National Consumer Cooperative Bank);

(iii) Establishing greenhouses, canneries, etc.;

(iv) Organizing food gleaning campaigns (Note: A number of states have passed legislation providing a tax benefit for small unincorporated farmers who donate excess produce to organizations serving the low-income population, while similar legislation is being proposed in Congress).

(v) Organizing efforts in which the food produced by small local farmers is purchased and utilized in other federal feeding programs, e.g. School Breakfast, School Lunch, Day Care, WIC, Summer Feeding, etc.;

(vi) Initiating "farmer to market" projects in which the food produced by small farmers is made available to the poor at lower prices;

(vii) Undertaking efforts to allow small farmers and food co-ops to accept, and non-profit organizations serving the poor to issue, food stamps;

(2) Activities which support self-help projects such as:

(i) Mobilizing the resources of state agriculture departments, land grant colleges, co-op extension services, USDA (e.g., the Agricultural Stabilization and Conservation Service), VISTA, CETA, etc., for obtaining seeds, plants, land, water and information;

(ii) Cooperating with land grant and other colleges to provide more assistance to small-scale (even part-time) growers, etc.;

(iii) Promoting the utilization of unused federal, state, and local land for food production by the poor.

(c) *Food Supply.* The category of Food Supply denotes activities aimed at the private sector whose purpose is to involve the poor more directly in the food distribution process, to encourage the food industry and other elements of the private sector to become more involved in and supportive of efforts to help solve the nutritional problems of the poor, and to make more nutritious food available at lower prices. Activities eligible for funding under this category include, but are not limited to:

(1) Developing and seeking to get adopted innovative proposals to increase the amount of food available to the poor;

(2) Seeking changes in laws and regulations that impede the involvement of the poor in food production, processing, distribution, etc.;

(3) Organizing consumer action relating to public and private sector food policies and food sales, e.g., mobilizing public and private support for the elimination of food sales taxes;

(4) Establishing food banks which serve as clearinghouses for food donated by private industry for redistribution to the poor and encouraging food producers, processors, wholesalers and retailers to contribute food to such banks;

(5) Encouraging food retailers to join with city governments and community-based groups to bring supermarkets back to the inner-city through mutual development ventures, special tax and/or other municipal incentives;

(6) Enlisting food retailers in conducting training programs to sensitize food store employees to the needs and problems of food stamp shoppers so as to reduce the intimidation and incovenience often caused such persons;

(7) Encouraging food wholesalers and retailers to hire the poor;

(8) Encouraging industry to help limit unnecessary cost to consumers by adopting more responsible packaging and advertising practices, such as:

(i) Making available a variety of inexpensive, quality foods in order to promote optimum nutrition among the poor;

(ii) Making available food in smaller packages at more reasonable prices for the elderly, single and single parent households;

(9) Getting retailers to adopt and support innovative approaches to marketing, such as mobile markets, transporation to existing outlets for those who need it, stocking locally-produced foods, etc.;

(10) Enlisting the support of retailers for the establishment of consumer monitoring and advisory panels which reflect the needs and opinions of all sectors of the community.

(d) *Crisis Relief.* To improve community crisis relief mechanisms. Activities eligible for funding under this category include but are not limited to:

(1) Organizing food pantries and emergency food box projects;

(2) Negotiating for improvement in public welfare systems for distributing, in natural disasters and widespread emergency circumstances, Emergency Food Stamps, WIC packages or vouchers, USDA commodities, local food bank resources, etc. Among federal agencies the U.S. Department of Agriculture, in conjunction with the Federal Disaster Assistance Administration, is responsible for the delivery of foodstuffs to needy households in disasters and other wide-spread emergencies.

(3) Assisting communities to improve their crisis relief programs so that those most in need will receive swift relief;

(4) Providing foodstuffs directly and/or issuing food vouchers, but only if at least one of the following conditions is satisfied:

(i) There is a temporary individual or family emergency and timely help is not forthcoming from other agencies or,

(ii) The provision of relief is a catalytic effort which includes a plan to establish a community-based entity which will provide such services in the future, or a plan to transfer the activities, within a specified period of time, to an agency which already has an assigned responsibility for providing foodstuffs, vouchers, etc. to the poor. A commitment from such an agency to take over the project should be included in the application, if possible.

(e) *Nutrition and Consumer Education.* To improve, through catalytic activity in the area of nutrition and consumer education, the ability of low-income individuals and families to understand the connection between diet and health, to obtain at the lowest prices nutritionally superior foods and to prepare and preserve these foods in ways that minimize the loss of nutrients. Activities eligible for funding under this category include but are not limited to:

(1) Developing and demonstrating new and more effective techniques for communicating nutritional information to the poor;

(2) Stimulating the establishment by other agencies or institutions of educational programs to acquaint the low-income public with the potential benefits of altering food preparation and eating habits in the light of the "Dietary Guidelines for Americans" promulgated recently by USDA and DHEW. (Copies of a pamphlet containing these guidelines can be obtained from the Home Economic Extension Agent in your county's Agricultural Extension Office);

(3) Stimulating the establishment of educational programs to improve the ability of low-income individuals and families to understand written guidance on food selection and to make comparisons between foods based on nutrition labeling and price;

(4) Engaging in advocacy efforts to induce federal agencies such as USDA and HEW to design new (and redesign existing) nutrition and consumer education programs so they are more responsive to the needs of low-income consumers;

(5) Devising and carrying out strategies to insure that state nutrition education plans address the needs of children, teachers, and food service workers in schools and low-income communities and that advisory councils set up to oversee state nutritional education programs include representatives of the poor;

(6) Engaging in advocacy efforts to induce such private organizations as the American Dietetic Association, American Heart Association and American Diabetes Association etc., to direct more of their nutrition education to the poor, and to coordinate such activities with CSA's CFNP network;

(7) Engaging in research to determine the status and quality of nutrition efforts aimed at the poor, identify gaps in those efforts, and recommend ways in which CSA, CAA's and CFNP grantees should be involved in nutrition education.

**§ 1061.50-8 Eligible Participants.**

(a) All activities supported from CFNP funds must be targeted on low-income individuals and families as defined in CSA Income Poverty Guidelines (See § 1061.2 of this chapter). It is important to stress this since in the case of some programs, such as the Food Stamp Program and the National School Lunch Program, the persons eligible for benefits form a larger group than those who fall within CSA poverty guidelines. In such cases, the rule of thumb should be that a *majority* of the individuals or families served are within CSA guidelines.

(b) Individuals are eligible to participate upon a self-declaration of need without the delay of a "means test" or income investigation. Self-declaration of need makes possible immediate assistance for those suffering from hunger and in danger of malnutrition.

**§ 1061.50-9 Eligible Applicant.**

(a) *General Community Projects.* (1) Section 222(a) of the Economic Opportunity Act states that the Director shall provide financial assistance ". . . in a manner that will encourage, wherever feasible, *the inclusion of assisted projects in community action programs . . .*" (emphasis added). In addition, Section 222(a)(1) of the Act requires that the Director carry out the CFNP ". . . in a manner that will insure the availability of . . . supplies and services, nutritional foodstuffs and related services *through a community action agency where feasible,* or other agencies and organizations if no such (community action) agency exists or is able to administer the program) . . ." (emphasis and parentheses added).

(2) Therefore Community Action Agencies (CAA's) will be regarded as *prime sponsors* of projects utilizing general community funds. Any other organization desiring to operate a project in a geographical area served by a CAA must do so as a delegate agency of the CAA. If such organizations are unable to work out a delegate agency agreement with the CAA, then they may apply *directly* to the appropriate Regional Office of CSA. However, such applications will be considered *only if* the CAA does not submit a proposal, or submits a proposal which is not funded. (The deadline for submission of applications by prospective delegate agencies outlined in paragraph 2 of this chapter do not apply to this program.)

(3) Other public and private, non-profit organizations, including SEOO's

and CAP Associations, which meet CSA's general eligibility criteria may apply directly to the appropriate CSA Regional office for general community funds to operate projects in geographical areas not served by CAA's ("un-capped areas").

Note.—CAA's are not precluded from operating projects outside their officially designated boundaries where they are otherwise legally permitted to do so.

Where no statewide anti-hunger coalition exists, a CAP Association may apply for General Community Funds to initiate and establish such a coalition. The CAP Association must, however, assure substantive participation by the poor and anti-hunger groups/organizations in the planning, implementation and evaluation of the project. This may be done by (i) including representatives from these groups on the applicant's governing board, (ii) establishing an advisory committee which includes representatives of the poor and anti-hunger organizations, or (iii) establishing a delegate agency to administer the project whose governing board includes representatives of Community Action Agencies, the poor, and anti-hunger organizations (See § 1062.200–4 of this chapter).

(4) State Economic Opportunity Offices (SEOO's) and CAP Associations may not apply as conduits for other applicants when the purpose or effect of such an arrangement is to allow those applicants to avoid the competitive process. As an exception to CSA's general policy, SEOO's and CAP Associations may apply as a conduit for other applicants within a state where the following conditions are met: (i) The applicant has CSA's written advance approval, (ii) the low income residents of the area to be served were involved in the planning of the project, and (iii) two or more of the following activities are carried out on a statewide basis: (A) Advocacy, (B) improved planning and coordination, and (C) mobilization of a broader range of resources. In such a case the complete work programs and budgets of the delegate applicants must be submitted to CSA along with the conduit application. These applications will then be reviewed, rated and ranked on a competitive basis like any other application, and they must receive a minimum score of 65 points in order to be considered eligible for funding. Likewise the work program and budget of the conduit will be rated and must receive a minimum score of 65 points.

(5) CAA's and anti-hunger groups are strongly encouraged to work together were possible. This can take the form of a CAA's delegating part or all of its work program to an anti-hunger group, or vice versa; close and systematic coordination on the part of both groups in the planning, implementation and evaluation of CFNP projects; and *close collaboration in the development of state anti-hunger strategies.* The formation of such alliances contributes to at least *one* of the general standards of effectiveness (planning and coordination) and in most cases will contribute to more.

Note.—CAA's must indicate in their applications the efforts which have been undertaken to involve various community groups and organizations—including anti-hunger organizations—in the planning and implementation of their proposed activities. In the rating and ranking of applicants points will be given to applicants who furnish evidence that such coordination has taken or will take place.)

(b) *Special Support Projects.* (1) Public and private non-profit organizations which meet CSA's eligibility criteria—other than CAA's, SEOO's, and CAP Associations—may apply for special support funds.

(2) Special support projects must be designed to have a *broad impact* on the problems of hunger and malnutrition among the poor, i.e., an *impact* that extends beyond the boundaries of particular communities. The objective of special support projects is to assist in the development, coordination and expansion of food and nutrition programs for the poor and/or engage in advocacy efforts to improve those programs on a statewide or multi-state basis.

(3) Special support projects must relate to one or more of the five program categories outlined in § 1061.50–7 of the subpart. Special support activities may include but are not limited to:

(i) Developing or strengthening statewide or multi-state anti-hunger coalitions and task forces;

(ii) Monitoring and interpreting changes in relevant federal and state laws, regulations, and procedures;

(iii) Developing or improving statewide food and nutrition information centers or clearinghouses;

(iv) Initiating and/or stimulating the provision by others (e.g., grantees of the National Legal Services Corporation) of legal services aimed at improving the delivery of food and nutrition services to the poor.

(v) Providing assistance to low-income individuals or their representatives to attend meetings and conferences on food and nutrition issues, etc.

CSA, as a matter of policy, encourages the establishment of statewide anti-hunger coalitions which address a broad range of hunger problems and issues. Therefore, in making funding decisions on applications for special support funds, CSA will give preference to such coalitions over other types of special support projects. Special support applicants are reminded that they must meet CSA's requirements regarding participation of the poor (See § 1060.1 of this chapter). In addition they must substantively involve Community Action agencies in the planning, implementation and evaluation of the project. This can be accomplished by having CAA representatives on their governing boards or establishing advisory committees which include CAA representatives.

(4) Applicants must show evidence of successful experience and competence in carrying out the kinds of activities described above. *In addition, applicants must indicate on their applications how CAA's have been involved in the planning of the projects and how they intend to coordinate their proposed activities with: CAA's in or adjacent to the areas they propose to serve; other CFNP grantees and the SEOO in the state(s) where the project will operate.*

(c) *Regional Training and Technical Assistance (T&TA) Projects.* (1) Public and private non-profit organizations and agencies which meet CSA's general eligibility criteria may apply for Regional T&TA funds. Regional T&TA providers may operate on either a regionwide or subregional basis.

Note.—Applicants for T&TA funds may not serve as a conduit for, nor delegate portions of their work program to profit-making firms.

(2) Applicants for Regional T&TA projects must present in their applications a detailed statement of the following:

(i) The kinds of T&TA they propose to deliver;

(ii) How they intend to go about it;

(iii) A timetable for the delivery of such;

(iv) The results they expect to achieve; and

(v) How they plan to evaluate results.

(3) T&TA applicants must indicate how they will assist CFNP grantees to achieve or carry out the major policy initiatives of the CFNP, such as:

(i) Shifting the emphasis from service delivery to catalytic activity;

(ii) Undertaking advocacy as a major component of each CFNP project;

(iii) Effective techniques of mobilizing public and private resources; and

(iv) Coordinating activities with other institutions and organizations involved in anti-hunger efforts.

(4) In the area of program planning and management, T&TA applicants must indicate how they will assist CFNP grantees in more precisely determining the nutritional problems and needs of low-income individuals, how to set priorities, establish realistic goals, design project strategies, and evaluate results.

(5) T&TA applicants must demonstrate in their proposals an understanding of the five program categories described in § 1061.50–7 of this subpart and an ability to assist CFNP grantees in carrying out the activities listed there. Applicants should have an expert knowledge of the various federal feeding programs (such as Food Stamps, School Breakfast, School Lunch, WIC, Day Care Food, Nutrition Program for the Elderly, etc.) and the ability to transfer such knowledge to CFNP grantees. Applicants should have prior successful experience in such activities as:

(i) How to organize coalitions and effectively conduct campaigns or other activities to initiate or expand the various federal feeding programs listed above;

(ii) How to stimulate the establishment of more effective outreach efforts by the agencies which administer these programs;

(iii) How to "monitor" such programs to assure their compliance with relevant statutes and regulations;

(iv) How to organize family and community gardens, food co-ops and buying clubs, etc. and assist them to become self-sustaining;

(v) How to train low-income residents to seek and obtain assistance from agencies which have a responsibility to serve them (such as agricultural extension services) or to speak on their own behalf in seeking benefits from agencies (e.g. Food Stamp "fair hearings");

(vi) How to help CFNP grantees engage in advocacy efforts to induce federal and state agencies to design new and redesign existing nutrition education programs so they are more responsive to the needs of low-income consumers; and

(vii) How to organize crisis relief mechanisms supported and sustained by a variety of resources in the community at large to meet the emergency needs of low-income individuals and families.

Note.—This list is *illustrative* and not exhaustive of the fields of expertise which may be required of the T&TA provider.

(6) T&TA applicants must not only show evidence of successful experience and competence in carrying out the kinds of activities described above, they must also indicate how they will coordinate their activities with the CSA Regional office, the SEOO's, special support projects and national T&TA providers.

(7) T&TA applicants must review the proposals of the CFNP grantees for whom the T&TA is being proposed and design their work programs so as to most effectively meet the needs of these grantees.

(d) *Headquarters Training and Technical Assistance (T&TA) Projects and Research and Demonstration (R&D) Projects.* (1) Public and private non-profit organizations or agencies which meet CSA's general eligibility criteria may apply for headquarters T&TA and R&D funds.

(2) Unlike regional T&TA projects, headquarters T&TA projects will focus on grantee needs that are common to a number of regions or require a national strategy. In addition headquarters T&TA projects may be required to address the needs of other projects administered directly from headquarters, e.g., migrant conduits.

(3) The objective of R&D projects is to develop new knowledge or demonstrate new hypotheses relevant to the solution of the problems of hunger and malnutrition among the poor. Activities proposed in applications for R&D funds should relate to activities described under the five program categories defined earlier in this subpart but should emphasize new and untried approaches to solving problems of hunger and malnutrition and potential solutions so as to have maximum impact on these problems nationwide.

(e) *Migrant Projects.* Farmworker-governed organizations which meet CSA's eligibility requirements may apply for funding under this category. Migrant conduits and other applicants proposing activities of a national or multi-regional scope will apply directly to CSA headquarters and will be exempt from the competitive process. Applicants proposing to operate local projects, and which meet CSA's eligiblity criteria (preferably farmworker-governed organizations), may apply as sub-contractors to the appropriate migrant conduit. Applicants applying as sub-contractors of the migrant conduits will follow the procedures outlined in § 1061.50–11 and § 1061.50–13 of this subpart. Their applications will be reviewed, rated and ranked by the migrant conduits on the basis of the criteria listed in Appendix D. The funding process will be competitive, with applicants with the highest scores being given funding preference.

Note.—Applicants for local migrant projects will be required to achieve the minimum score of 65 points in order to be considered eligible for funding. However, CSA may waive this requirement where necessary in order to serve the most needy migrant populations.

(f) *Indian Projects.* Indian groups whose governance is controlled by the populations to be served are eligible to apply for Indian project funds. This includes Indian nations, tribes, bands, pueblos, or other organized groups or communities, including Alaskan Native villages as defined in the Alaskan Claims Settlement Act who are either indigenous to the United States or who otherwise have a special relationship to the United States, or a state, through treaty agreement, executive order, law, court order or administrative action of the Department of Interior, except as otherwise provided by Federal law. Urban Indian groups which meet the eligibility requirement stipulated in the first sentence of this subsection may apply for funds under this category. Applicants for Indian projects should submit their applications to the appropriate CSA regional office and should follow the application procedures outlined in § 1061.50–11 and § 1061.50–13 of this subpart. Their applications will be reviewed, rated and ranked according to the criteria in Appendix C and the funding process will be competitive, with funding preference being given to applicants with the highest scores. (Note: The CSA review panels for Indian projects will include Indians and Indian applicants will be required to achieve the minimum score of 65 points in order to be considered eligible for funding. However, CSA may waive this requirement where necessary in order to serve the most needy Indian populations.)

**§ 1061.50–10 Funding.**

(a) *Non-Federal Share.* The non-Federal share is waived for CFNP projects (see § 1068.20 of this chapter). However, grantees are expected to mobilize local and state resources throughout the life of a project.

(b) *Federal Share.* Federal share as matching funds granted under Section 222(a)(1) may be used to match USDA funds to support food stamp outreach projects, as well as nutrition projects for the elderly funded under Title XX of the Social Security Act as amended.

**§ 1061.50–11 Application Procedures.**

(a)(1) *Required forms and documents.*

(i) SF 424: Federal Assistance (See 1067.10 of this chapter). This form serves two purposes: (A) it is used as a "notification of intent" to notify the A–

95 Clearinghouses, sixty days in advance, of the applicant's intent to apply for a grant; (B) It is the transmittal document used to convey the application to the clearinghouses and CSA. Note: The Catalog of Federal Domestic number is 49.005.

(ii) OEO Form 395: Eligibility Documents (See subpart 1067.40 of this chapter.

Note.—All applicants are required to have on the file with CSA the following documents in order to establish eligibility to receive CSA funds. Current grantees should check to make certain these documents are up-to-date, making changes and resubmitting where necessary. New applicants should submit them either prior to or along with the submission of their formal applications.

(A) Articles of Incorporation (See subpart 1067.80 of this chapter);

(B) By-laws or Rules of Organization (See subpart 1067.80 of this chapter);

(C) Personnel Policies and Procedures (See 1069.20 series of this chapter);

(D) Biographic Data on Key Staff (See § 1069.10 of this chapter);

(E) Statement of Accounting System (See § 1068.42 of this chapter);

(F) Current Bond (See § 1050 subpart C of this chapter)

(G) Participation of the Poor (See § 1060.1 of this chapter); include:

(*1*) List of Boards and Committees of Title II Programs (See § 1062 subpart J of this chapter);

(*2*) List of Policy Advisory Committee Members (LPA's Only—See § 1060.1 of this chapter);

(H) Applicant Certifications (CSA Form 301—New applicants only);

(I) Certification of Applicant's Attorney (OEO Form 393—New applicant's only—See § 1067.40 of this chapter).

(iii) Project Narrative (See § 1061.50–13(h), (i)).

(iv) OEO Form 419: Summary of Work Program and Budget (See § 1067.10 of this chapter).

(v) CAP Form 325 & 325a: Program Account Budget and Support Sheet (See OEO Instruction 6710–1).

(vi) CAP Form 84: Participant Characteristics Plan (See OEO Instruction 6710–1).

Note.—Applicants are to list only those participants to be served by the proposed project and are reminded specifically that they are to list the number of elderly poor to be served.

(vii) OEO Form 394: Checkpoint Procedure for Coordination (*Optional*). Applicants are encouraged to use this form to indicate coordination linkages and agreements with local agencies. However, if the question of coordination is adequately addressed in the project narrative, the applicant need not include this form (See § 1067.10 of this chapter).

(viii) CSA Form 440: Program Progress Review Report (See § 1050 subpart I of this chapter).

Note.—Although this form is not an application document, and not normally required with an application, CSA is requiring an up-dated Form 440 from applicants currently operating CFNP projects.

(2) *Additional forms required when delegating projects.*

(i) CAP Form 85: Administering Agency Funding Estimate (See OEO Instruction 6710–1).

(ii) CAP Form 87: Delegate Agency Basic Information (See OEE Instruction 6710–1).

(iii) CAP Form II: Assurance of Compliance with Civil Rights (See OEO Instruction 6710–1).

(iv) OEO Form 280: Agreement for Delegation of Activities (Self-explanatory). (See OEO Instruction 7570–1 Appendix C).

(b) *Clearinghouse Review* (A–95). Applicants are reminded that they must comply with the requirements of OMB circular A–95 (See § 1067.10 of this chapter), including the following:

(1) Applicants must, at least 60 days prior to the actual submission of their applications to CSA, notify the appropriate clearinghouses of their intent to apply. This is accomplished through the SF–424 which is synonymous with "notification of intent." In order to expedite clearinghouse review, applicants are encouraged to attach to the SF–424 a summary, not to exceed three pages, of the proposed project which includes a brief description of: (i) The planning process and those involved in it; (ii) The problem to be addressed and the number of poor and age groups the project will serve; (iii) The goals and *major* activities to be carried out; (iv) How the project will be coordinated with other organizations involved in anti-hunger efforts; and (v) Resources the project expects to mobilize.

Note.—Applicants are requested to submit an informational copy of their notifications of intent to the appropriate CSA Regional or headquarters office. CSA will send application packets containing the necessary application forms to all applicants who submit copies of their notifications of intent to CSA.

(2) Where the clearinghouse, in response to the notification of intent to apply, indicates that it wishes to review and comment on the application, applicants should forward applications to the clearinghouse as soon as possible. Applicants are required to submit the comments of the clearinghouse along with their applications to CSA.

(3) Applicants proposing statewide projects need only submit their notification of intent to the state clearinghouse for review. Such applicants should indicate in writing to the state clearinghouse that their proposed project is statewide and will not be submitted to area clearinghouses. Applicants serving as conduits (other than migrant conduits) must submit the applications of their delegates or sub-grantees to the appropriate area or state clearinghouses if those applications will be part of such conduits' application to CSA. Indian applicants who are part of a federally recognized tribal government or local subunit of such tribal governments are not required to submit their notifications of intent to area or state clearinghouses but are encouraged to coordinate with the appropriate clearinghouses. Migrant conduits must submit notifications of intent to their state and areawide clearinghouses. Local migrant organizations submitting applications to conduits as subcontractors or delegate agencies must submit their notifications of intent to appropriate state and areawide clearinghouses. Applicants may obtain clearinghouse addresses from the appropriate CSA Regional Office or, in the case of applicants for projects of national scope, CSA headquarters.

(4) Applicants proposing projects of a nationwide or miltistate scope need only submit their proposal to the state clearinghouse in the state where they are located if the activities proposed will not result in a significant impact. If a significant impact is anticipated in a given state, then a notification of intent, plus the application, if desired by the clearinghouse, must be submitted to the approporiate state clearinghouse. Applicants proposing activities of a national scope and which have targeted specific states for on-going or intensive efforts should assume that such activities will have a significant impact and therefore must notify the appropriate state clearinghouse of their intent to apply.

(5) Applicants applying for funds to provide training and technical assistance for staff development and management improvement and evaluation are exempted from A–95 clearinghouse procedures. (See 1067.10–1 of this chapter).

(c) *Where to Apply.* According to category of project send applications to:

(1) General Community: Appropriate CSA Regional Office.

(2) Special Support: Appropriate CSA Regional Office.

(3) Regional T&TA: Appropriate CSA Regional Office.

(4) Headquarters T&TA: CSA Headquarters.

(5) Headquarters R&D: CSA Headquarters.

(6) Migrants Conduits: CSA Headquarters.

(7) Migrant Subcontractors: Appropriate Migrant Conduit (See Appendix H).

(8) Indians: Appropriate CSA Regional Office.

**§ 1061.50-12 Reporting Requirements.**

Grantees will follow the financial and project reporting requirements outlined in § 1050, Subparts H and I of this chapter, with the following exception: CSA is waiving the requirement as provided in § 1050 Subpart I of this chapter that CAA's submit progress reports of CFNP projects along with the 440 submitted for Program Account 01. For this program 440s will be submitted semi-annually based on the effective date of the CFNP grant, to the appropriate CSA regional or headquarters office (see Appendix G). Note: CSA is required by statute to report on the number of elderly poor being served by CSA funded projects. Grantees are, therefore, directed to indicate in their Program Progress Reports (440) the number of elderly poor being served by the project.

**§ 1061.50-13 Current Fiscal Year Application and Review Information.**

(a) *Timetable for accepting applications.* The deadline for the submission of applications by various categories of applicants are listed below. Applications postmarked later than the dates indicated for a particular category will not be accepted.

(1) Applications for General Community, Special Support, and Indian projects will be accepted from the date of the publication of this rule through July 7 1980. Migrant subcontractors or delegate agencies should contact the appropriate Migrant Conduit to ascertain the deadline for submitting their applications.

(2) Applications from Headquarters and Regional T&TA applicants will be accepted through September 30, 1980.

(b) *Two-year Programming.*

(1) Beginning in FY 80, CSA is instituting two-year programming for the Community Food and Nutrition Program, that is, CSA will approve two-year work programs for applicants rather than one-year programs except as noted below in paragraph (3). Thus, there will be *one competition* for the selection of applicants *every two years.*

(2) The reasons for instituting two-year programming are: (i) To reduce the amount of time and work spent by both the applicant and CSA in the grant application and review process, (ii) to allow both the grantee and CSA to focus more attention upon the substantive work to be accomplished during the grant period, and (iii) to assure at least a two-year period of continuity for projects that cannot be accomplished within a twelve-month period.

(3) The institution of two-year programming does not preclude an applicant from applying for a one-year grant if a particular set of proposed activities can be accomplished during a twelve-month period and further funding from CSA will not be required.

(4) The procedures for applying for funds to operate two-year projects are the same as those for one-year grants with the following exceptions: (i) The applicant need submit only *one* Form 419 for the two-year project, with the goals, objectives and activities for the entire two-year project clearly delineated both in the Form 419, and in the project narrative; (ii) In column 14 on the Form 419, entitled "Time Table Program Year Quarter", "quarter" should be interpreted as a 6-months period, so that the columns headed "1st" and "2nd" will cover the first twelve months of the project while the columns headed "3rd" and "4th" will cover the second twelve months; (iii) The applicant need attach only one budget form (Forms 325 and 325a) covering the first year of the project, and must enter in Section II of Form 325 the dollar amount needed for the second year of the project; (iv) Column 17 of the 419 must indicate the amount of funds required for each program category (program account); and (v) By June 30, 1981, the applicant must submit to the appropriate Regional office a new Form 325 and 325a for the second year of the project and, if there are any changes in the work program needed in the light of what happened in the first year of the project, an amended Form 419 should also be submitted.

(5) It is important to note that in approving applications for two-year programs CSA is neither making nor approving a two-year grant award since CSA cannot legaly commit funds which have not been appropriated. The funding process for two-year programs will be as follows: CSA will fund the first twelve months from current fiscal year funds. The second twelve month funding will be awarded in the subsequent fiscal year, if and only if, the following conditions are met: (i) Congress appropriates sufficient funds to permit the second year of funding, (ii) the grantee's performance during the first twelve months has been satisfactory, and (iii) there is no change in Agency priorities. If the above conditions are met, then the grantee will be awarded the second year of funds *without* having to submit another application.

(6) In order to determine whether a grantee's performance has been satisfactory CSA will conduct an assessment through an on-site visit or a telephone conference in conjunction with a review of the grantee's year-end program progress report (Form 440).

(7) In the event that appropriations for the CFNP are reduced in FY 81, CSA will make a determination as to how to effect reductions in grantees' budgets for the second year and notify the grantees in writing of its decision. In the event that appropriations for the CFNP are increased, CSA will determine how the increased allocation will be spent and will publish its plan for spending this increase in allocation in the Federal Register.

(c) *Consortium Applications.* In order to foster cooperation among grantees and to permit the maximum use of limited funds, CSA will permit applicants for FY 80, where it is geographically appropriate within a sub-state area, to submit a single application through a local Community Action Agency, or through any eligible non-profit organization consistent with the provisions of § 1061.50-9(a) (1) and (2) of this subpart. The applicant would then serve as the coordinator of CFNP activities within that geographical area. The permitting of consortiums among CFNP applicants merely formalizes a practice that already exists in some regions where such arrangements are known as "clusters".

(d) *Program Priorities.* The program priorities listed in § 1061.50-7 of this subpart are listed in priority order: (1) Access, (2) Self-Help, (3) Food Supply, (4) Crisis Relief and (5) Nutrition/Consumer Education (See Appendix A for further discussion of priorities).

(e) *Review Process.* The review process for applications, except Headquarters applicants, will be competitive, i.e., each application will be reviewed, rated, and ranked according to the criteria published in Appendixes B through F, with funding preference being given those applicants with the highest scores. Each applicant must score a minimum of 65 points in order to be funded. An applicant who scores more than the minimum points required *may* be funded, if funds are available, but funding is not guaranteed. The review process for all applications will be undertaken by the office to

which applications are submitted as indicated in § 1061.50–11 of this subpart. Regional Offices and Migrant conduits' ratings, rankings and favorable or unfavorable funding decisions will be reviewed by CSA Headquarters before decisions become final. Applications from conduit organizations other than migrant conduits, must include copies of the applications from the sub-contractors or delegate agencies to which the conduit is redistributing CFNP funds.

(f) *Notification of Appeals.*

(1) Each Regional Office will establish an appeals panel of not less than three members. Regional Offices will complete their funding decisions and mail notifications of results to all applicants within 30 working days of the deadline for submitting applications. The letter of notification will indicate whether the applicant was selected for funding and will give the applicant's score and rank standing and will include reviewers' rating sheets and comments. If an applicant is not funded and believes that the score assigned was unfair or that an incorrect decision regarding eligibility was made, the applicant may file a written appeal to the CSA Regional Director and may also request a hearing before the Regional Appeals Panel. All appeals and requests for a hearing must be presented in writing to the Appropriate Regional Director within ten working days of notification by the regional offices of the applicant's failure to qualify for funding. An applicant may only appeal a decision not to fund. He may not appeal the amount of funds awarded.

(2) The appeal should state succinctly why the applicant believes the decision of CSA to be incorrect or unfair. Where a meeting with the Appeals Panel is requested, the panel will promptly schedule such a meeting, hear the applicant's complaint, and provide any additional pertinent information as to why the applicant was not funded. The Appeals Panel will consider the arguments and evidence presented by the applicant and present its findings and recommendations to the Regional Director. Within 15 working days of the deadline for submitting appeals, the Regional Director will notify in writing all applicants of his/her decision. The decisions of the Regional Directors will be final.

(3) Migrant subcontractors or delegate agencies will follow the same procedure outlined above except that their appeals will be made to the appropriate Migrant Conduit's Executive Director, whose decision will be final. There will be no appeals process for CSA Headquarters applicants since they are not funded on a competitive basis.

(g) *CSA Form 419 and Project Narrative.* (1) All applicants for CFNP funds are required to submit a CSA Form 419 (Summary of Work Program and Budget). Since funds for most applicants will be awarded on a competitive basis, it is absolutely essential that applicants provide, through the Form 419 and project narrative, as complete and specific a picture as possible of *what they* propose to do and *how* they intend doing it. In preparing the narrative, applicants should refer to the discussions in the rating criteria in the following section.

Note.—The requirement to conform both to the General Standards of Effectiveness and the Specific Standards of Effectiveness described in § 1061.50–6 of this subpart *must be met in order for an applicant to be considered eligible for funding.* Therefore, applicants must not only list in item 11 of CSA Form 419 the standards which are being met in each program category, *they must describe in the project narrative exactly how the standards will be addressed.* In other words, in addressing the General Standards of Effectiveness, the applicant must show how the project will (i) strengthen the community's planning and coordination capabilities, and/or (ii) improve service delivery systems, and/or (iii) make use of innovative approaches, and/or (iv) involve maximum feasible participation by the poor in the planning and implementation of the project, and/or (v) mobilize a broad range of resources, and/or (vi) hire the poor in carrying out the project's activities.

(2) In addressing the Specific Standards of Effectiveness applicants must list on the Form 419 the particular standard which is being met and describe in the project narrative the extent to which the project will result in (i) improvement in the nutritional status of the target population or (ii) reduction in hunger among the target population. Projects that do not meet a minimum of *three* of the general standards effectiveness and one of the specific standards *will not be considered eligible for funding. Applicants must identify in the project narrative their discussion of the standards of effectiveness with the heading: Standards of Effectiveness Addressed. Failure to comply with this requirement will result in the application's being rejected as ineligible.*

(h) *Rating Criteria.* In preparing the Form 419 and project narrative, applicants should keep in mind the seven criteria (discussed below) which will be used by CSA reviewing teams in rating and ranking applications.

(1) *Participation of the Poor.* Fundamental to all CSA-funded programs, including the CFNP Program, is the requirement that low-income residents be substantively involved in the planning, conduct, and evaluation of projects at the community level. The minimum requirements for the participation of the poor are spelled out in § 1060.1 of this chapter and all applicants are advised to review it carefully.

Note.—Limited Purpose Agencies are reminded that they must have either a board of directors which is comprised of at least one-third representatives of the poor or a policy advisory committee, a majority of which are democratically selected representatives of the poor served by the project (See § 1062.200–4 of this chapter).

Although participation of the poor is an *eligibility requirement,* it is included in the rating criteria in order to highlight the emphasis that is being placed on participation of the poor in the CFNP and to enable CSA to make a judgement about the *quality* of an applicant's efforts to secure such participation. Thus, applicants will be rated on (i) the extent to which have involved the low-income residents of the areas to be served in the planning of the project, including the selection of goals and priorities; (ii) the ways in which the poor will be involved in the implementation of the project; and (iii) the ways in which the poor will be involved in the evaluation of the project.

(2) *Needs analysis.* The second criterion—the analysis of needs—refers to the initial step in the planning process which lies behind the project described in the Form 419 and project narrative. § 1067.40 of this chapter requires Title II grantees to develop and maintain planning documents which contain, among other things, an analysis of the particular needs the project is addressing. The needs analysis must describe the *nature* and *extent* of the problems of hunger and malnutrition among the poor in the community the project will serve. The analysis should indicate what *efforts are currently being undertaken* to meet those needs, what *gaps or short falls* there are in these efforts and the *extent to which* the needs or problems *remain unmet* or unsolved. The applicant should clearly identify, among the range of needs listed, the precise need(s) the proposed project will address. Appropriate statistics to document the need(s) should be supplied; for example, the number of persons participating in the food stamp program as compared with the number of eligible persons not participating, or the number of children in need of but not receiving school breakfasts, or the number of families which could benefit from a gardening project, or the number of persons in

need of emergency food assistance. The needs analysis must indicate which of the problems described will be addressed and why these particular problems (priorities) were selected. If the applicant is addressing other problems and needs of low-income persons, the needs analysis should indicate the order of priority which the problem of hunger and malnutrition has among those needs and should include a description of the types and level of resources already committed to solving that problem. Community Action Agencies should indicate the amount of local initiative funds, as well as other resources, which are currently being applied to anti-hunger activities.

(3) *Adequacy of work program and budget.* The third criterion—the adequacy of the work program and budget—refers to the project goals, activities, and budget described in the Form 419 and project narrative. The project goals (item 11 of Form 419) should be stated in *specific* and *measurable* terms and they should be *appropriately related to the needs* described in the needs analysis. They should reflect the *changes* or *results* which the project activities are expected to bring about. The activities should be listed in summary form on the Form 419 (item 13) and described in detail in the project narrative. The description should indicate not only *what* will be done but *how* it will be done, i.e., the *strategy* that will be pursued in achieving goals. The activities should be *appropriately related to the goals.* If an applicant is proposing to carry out activities in more than one program category, the categories would be listed on the Form 419 in priority order, and the *goals, activities and funds required for each category should be clearly delineated.* The applicant need only submit one budget (325 and 325a) for the entire proposal whether one or more program categories is included.

(4) *Anticipated Impact.* The statement of project goals should include a description of what the applicant intends to accomplish, i.e., what results or changes the applicant intends to bring about in relation to the problem to be solved. Thus the statement of goals is a statement of anticipated impact. The anticipated impact of the project should be stated in specific and measurable terms and should include the number of persons to be served, the extent to which their nutritional needs will be met and the extent to which unmet needs will remain after the project is completed. The applicant should also include a statement indicating the per/person cost of serving those for whom the project is intended and the dollar value of services or benefits derived.

(5) *Coordination.* Each applicant must indicate to what extent other organizations conducting anti-hunger activities were involved in the planning of the project, and the ways in which the project will be coordinated in the implementation phase with the activities of these organizations. CAA's must indicate how they intend to coordinate their activities with anti-hunger groups and anti-hunger groups must indicate how they intend to coordinate their activities with CAA's.

(6) *Catalytic Effect of Project on Institutions.* Catalytic activity which is aimed at institutions should attempt to bring about two results: *Institutional change* and *mobilization of resources.* The means of achieving these is *advocacy.* The applicant, therefore, should describe in detail how the project staff will, through advocacy for low-income persons seek to change interpretations of laws, regulations, policies, procedures, and attitudes in order to insure that low-income persons receive the benefits to which they are entitled. Advocacy of this sort may and should include enlisting the poor to speak on their own behalf in order to insure that their views are heard, their rights are observed, the benefits to which they are entitled are provided, and their needs are met. The applicant should also state how the project staff will, through advocacy for low-income persons, leverage dollars or in-kind contributions from other elements in the community in support of the project and what the overall end effect of the project itself will be in terms of leveraging dollars or services for low-income individuals.

(7) *Ability of Applicant to Perform.* § 1050, Subpart I, of this chapter requires Title II grantees to submit a semi-annual and annual project progress review report (CSA Form 440). Since the ability of the applicants to carry out successfully their proposed work program is one of the important criteria, applicants who are currently operating (or have operated in the past) a CFNP project *must attach to the application a copy of the CFNP portion of the most recent Form 440, updating it where necessary.* CSA grantees who have never operated a CFNP project must attach to the application that portion of their most recent Form 440 which relates to a project they have operated that is similar to CFNP projects. Applicants not previously funded by CSA should attach to the application a third-party or self-evaluation of a project they have been operating that is similar to CFNP projects, along with a brief statement summarizing their overall administrative ability and general performance record. All applicants currently operating CFNP projects are encouraged to conduct a third-party evaluation of their current CFNP project (or in the absence of such, a self-evaluation) and attach copies of these evaluations to their applications.

(i) *Training and Technical Assistance.* The applicant's need for training and technical assistance in carrying out the project should be carefully described in item 15 of the Form 419. It is presumed that most, if not all, projects will need some form of technical assistance. The training and technical assistance plans proposed by the regional T&TA providers will be based in part upon the statement of goals, activities, and T&TA needs expressed by applicants on their Form 419s. It is important, therefore, that applicants be precise and specific in defining and articulating their T&TA needs.

(j) *Program Accounts.* The following program account numbers for the various program categories should be entered in item 16 of Form 419:

12-Access.
13-Self-Help.
14-Food Supply.
15-Nutrition education.
16-Crisis relief.
17-Special Support.
29-Research.
39-Demonstration.
42-T&TA.
48-Evaluation.

## APPENDIX A

### I. Program Priorities

(1) In continuing Access as the number one priority, CSA recognizes both accomplishments and continued need. The primary emphasis of the CFNP over the past two years, under the head of Access activities, has been to increase the participation of the poor in the various public feeding programs at the federal, state and local level. Partly as a result of that emphasis, a substantial momentum has developed among anti-hunger advocates and the various administering agencies which has, in fact, resulted in sizable increases in the number of poor participating in those programs and in significant improvements in program administration. Funding levels for the federally-funded programs have been increased and the statutes and regulations governing them have been considerably improved.

(2) Much has been done, yet much remains to be done. Forty percent (40%) of the nation's poor and near-poor who are eligible still do not participate in the Food Stamp Program; seventy-five percent (75%) do not participate in the School Breadfast Program; and eighty-five percent (85%) are still not reached by the WIC Program. These statistics are unacceptably high, and the unmet need is great with respect to some of the other

federally-funded programs, e.g. the Summer Food Program. Therefore, unrelenting efforts must continue to assure that all of the poor who are eligible and who wish to participate in these programs are given an opportunity to do so. CFNP grantees need to advocate for the establishment of new and the expansion of existing child nutrition programs where the need exitsts (e.g., School Breakfast and WIC), and they need to advocate for greater participation by the elderly poor in programs that are designed to meet the nutritional needs of the elderly, such as congregate feeding programs sponsored by the Administration of Aging. In addition, grantees must continue to monitor these programs at the state and local level to assure that the new statutes and regulations are adhered to, that effective outreach efforts are undertaken, and that the programs are administered effectively, efficiently and fairly.

(3) Applicants are urged to increase and strengthen activities that promote the self-sufficiency of the poor. Self-Help activities contribute directly to self-sufficiency and it is for this reason we are again assigning this category of activity the highest priority after Access. There are other activities, however, that contribute indirectly to self-sufficiency. Therefore, CSA wishes not only to encourage applicants to design proposals that include Self-Help activities where such activities are appropriate and feasible, but to stress the importance for CFNP grantees to utilize every means in whatever activities they undertake, *in all program categories,* to achieve the goal of self-sufficiency for the poor, whether they contribute directly or indirectly to that goal.

(4) In the category of Access for example, buying food from poor farmers for the School Breadfast and School Lunch programs contributes directly to self-sufficiency. So does an arrangement which permits food stamp recipients to buy food directly from poor farmers with their food stamps, or having a non-profit organization run by and for the poor distribute food stamps. Also, in Access, expanding the School Breakfast and WIC programs contributes indirectly to self-sufficiency since, to the extent that one enables a child to get off to a healthy start in life and to acquire a solid education, he has helped to provide that child with the equipment necessary to become a self-sufficient adult. In working to expand and increase participation in the School Breakfast and WIC programs, grantees are also, happily, focusing on two of the federal programs where there is the greatest unmet need.

(5) Under the new category, Food Supply, whose aim is to stimulate the private sector, there are a variety of activities which contribute directly and indirectly to self-sufficiency. Hiring the poor to work in wholesale and retail outlets and in the manufacturing and distribution aspects of the industry obviously contributes directly. Initiatives by the food industry to make more nutritious food available to the poor at more reasonable prices contribute indirectly, as do advertising and educational programs sponsored by private industry to make the poor more nutritionally aware.

(6) With respect to Crisis Relief, the provision of emergency food assistance often is necessary "to tide over" a family or individual while they are between jobs. To the extent that such assistance helps to keep a person going until the new job or paycheck comes in, it is contributing directly to the achievement of the self-sufficiency of the individual. Further, there are opportunities for the poor to become directly involved in the provision of emergency food assistance either as paid workers or as volunteers until other work is available.

(7) In considering options for the provision of emergency food assistance, communities are urged to give consideration to the establishment of food pantries and emergency food box projects which draw upon a variety of community resources (including the food industry) for their continued support. Because of the extremely adverse impact upon the poor of continued high inflation and high energy costs, CSA recognizes the increased need for emergency food assistance, has given this category of activities a higher priority, and urges local communities to create mechanisms for the provision of such assistance.

(8) Under Nutrition Education, activities which improve "the ability of low-income individuals and families to understand the connection between diet and health, to obtain at the lowest prices nutritionally superior foods and to prepare and preserve these foods in ways that minimize the loss of nutrients" obviously contribute to self-sufficiency. CNFP grantees are urged to monitor existing nutrition/consumer education programs to make sure: (1) That they are targeted to meet the specific needs of the poor, (2) That the poor are involved in the planning of new efforts, and (3) That to the extent possible the poor are hired to conduct outreach and assist in conducting nutrition and consumer education activities.

(9) All CNFP grantees should seek to hire the poor wherever possible in the conduct of project activities, and they should advocate the hiring of the poor in all publicly-funded food programs and by the private sector in the manufacture, distribution and sale of foodstuffs. A suitable job is, after all, the primary and ultimate means of achieving self-sufficiency in our society.

(10) While CSA is again establishing national priorities, it is important to note that applicants may, without penalty, select activities and program categories that best meet the needs of the poor in the communities which they serve. However, all projects, in addition to containing activities that promote the *self-sufficiency of the poor,* will be expected to continue the priority of emphases established by last year's rule, i.e., they must be *catalytic,* contain a *strong advocacy thrust,* and mobilize significant *other resources.* Failure to include these elements may result in an applicant's inability to score high enough to be funded.

## II. Further Clarification of the Key Terms: Catalytic Activity, Advocacy, Direct Service Delivery and Monitoring (See § 1061.50–2)

The CFNP policy makes explicit two assumptions: (1) That not all catalytic activity is advocacy and (2) That some forms of direct service delivery can be catalytic. These assumptions can be diagrammed as follows:

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| | Activity Aimed at Individuals | Activity Aimed at Institutions |
|---|---|---|
| CATALYTIC | DIRECT SERVICE<br><br>One-on-one activity (for example, some types of out-reach activity) whose purpose is to deliver goods or services to low-income individuals and families in such a manner as to trigger a process that is carried forward by the recipient, either on his own or with the assistance of groups and agencies other than the CFNP project. | ADVOCACY<br><br>Activity whose purpose is to insure that the views of low-income individuals and families are heard, their rights observed, the benefits to which they are entitled are actually provided and their needs met to the extent possible, whether this is achieved by a change in a law, regulation, policy, procedure or attitude or by leveraging additional public or private resources. |
| NON-CATALYTIC | DIRECT SERVICE<br><br>One-on-one activity (for example, some types of outreach activity) whose sole effect is the delivery by a CFNP worker of goods or services to low-income individuals and families. | Activity which results in CFNP staff being co-opted into performing, without reimbursement, services which are properly the responsibility of another group or agency. |

BILLING CODE 6315-01-C

*Direct Service as a Catalytic Activity*

Although providing one-on-one service makes little sense in the context of advocacy and coalition-building at the state level and even less at the level of the national anti-hunger groups and T&TA providers, such service is important at the level at which community action agencies operate. A local CFNP project which completely severs the service link between its staff and low-income individuals, not only risks a loss of credibility in the community but is depriving itself of one of its richest resources, first-hand knowledge of the nutritional problems of those the CFNP is ultimately intended to benefit. In addition, the one-on-one relationship created through out-reach activity at the local level has two other consequences which are vital for the success of the CFNP: (1) By enhancing the opportunity to involve recipients of services in the planning and implementation of programs set up to serve them, it contributes to the achievement of the overall goal of Title II programs—self-sufficiency—and (2) It makes possible the kind of grass-roots support needed for really effective advocacy at the state and national levels.

However, as indicated earlier [in § 1061.50–4 (a) and (b) of this subpart], the same passage of the EOA which establishes the goal of self-sufficiency, points to *catalytic* activity as the principal means of achieving this goal. This should not be construed as ruling out one-on-one service. If the delivery of a direct service by a CFNP worker to a low-income individual produces a benefit which has a continuing and expanding effect on that individual and others, even after the reduction or termination of direct CFNP support, then the delivery of that service qualifies as a catalytic activity. Non-catalytic service delivery, on the other hand, should be kept to a minimum, be provided on a temporary or emergency basis only and be supported wherever possible from local initiative funds. The intent of the EOA is reinforced by a practical consideration: the very limited funding of the CFNP. The fact that the CFNP budget is less than 3/10ths of 1% of the total federal food outlay suggests not only that most of the direct service provided should be of the catalytic variety, but that there should be a very strong emphasis on that type of catalytic activity known as advocacy.

*Advocacy as a Catalytic Activity*

It can be inferred from the statment of the five purposes of Title II programs (see § 1061.50–6) that the two most important objectives of the CFNP are the mobilization of resources and institutional change. The techniques used to bring about these two results are what is meant in this rule by the term "advocacy". Because advocacy, unlike catalytic activity of the direct service variety, is aimed at institutions and the general public, it obviously has the potential for producing far greater dividends for the low-income population than direct service.

The intent of the rule is that an advocacy component be built into *each project* but not necessarily into each project activity. For example, a self-help project may include as one of its activities the provision of seeds and technical assistance to low-income gardeners. The catalytic potential of this one-on-one service could be greatly increased if the project were to include a specific plan to induce other public or private institutions to make land available and assume at least part of the burden of providing seeds and technical assistance.

It may be difficult and sometimes impossible to score successes in local advocacy activity. But the rule calls on all local project operators to make a *bona fide* effort in this direction. It is especially important, in this era of dwindling public funds, to engage in vigorous *private sector* advocacy. Grantees inexperienced in advocacy techniques should seek help from the CFNP's regional and national T&TA providers.

The following examples may help to further clarify what is meant by catalytic direct service, advocacy, etc., and how these different activities can be combined in one project:

1. *Under Access.*

a. *Direct Service.* Any one-on-one direct service activity in the Access category can be considered, for the purposes of this rule, to be catalytic. For example, an activity which is catalytic and therefore quite acceptable is searching out low-income persons eligible for food stamps, alerting them to their entitlements and referring them to the local certification office for additional counseling and enrollment in the Food Stamp program. Another example is representing an applicant for food stamps at a local or State-level hearing.

Some activities, however, are more catalytic than others, that is, they produce an even greater return for the dollars invested. For example, a CFNP project, instead of directly representing individuals at Food Stamp hearings, may help low-income individuals learn the techniques needed to enable them to speak to themselves at Food Stamp hearings and to organize and train others to do the same. The most catalytic of all is the advocacy approach.

b. *Advocacy.* Examples of advocacy in the access category are: (1) working out arrangements with a grantee of the national Legal Services Corporation to provide one-on-one legal counseling and representation for food stamp recipients experiencing difficulties with welfare offices; (2) monitoring of local welfare offices to insure that they comply with USDA regulations so that clients obtain the benefits to which they are entitled; (3) organizing a corps of county volunteers to provide elderly food stamp recipients with support services, such as transportation to food stamp outlets and grocery stores; (4) disseminating information locally on the national School Breakfast Program and seeking to persuade local officials and school board members to institute breakfast programs in schools serving low-income communities.

2. *Under Self-Help.*

a. *Direct Service.* Any one-on-one direct service in the Self-Help category is catalytic. For example, the provision of seeds and T&TA to low-income gardeners not only stimulates them to pursue an activity which promotes self-sufficiency (the goal of all Title II programs), but the gardeners, by investing their own labor at no cost to the project, are able to produce and preserve food whose value far exceeds the cost of the seeds and T&TA. Nonetheless, a gardening project becomes catalytic in the full sense if, in addition to providing seeds and T&TA, it includes a strong advocacy component.

b. *Advocacy.* Examples of advocacy in the Self-Help category are: (1) negotiating with USDA's Extension Service or other public or private agencies to provide seeds and on-going T&TA for low-income gardeners; (2) persuading a local government to change its regulation governing the use of vacant land so as to make it available for family and community gardens; (3) negotiating with local governments to remove barriers, resulting from local ordinances or regulations, to the establishment of farmers' markets and food co-ops.

3. *Under Food Supply.*

a. *Direct Service.* Since most of the activities listed under Food Supply are aimed at the private sector, very few of them involves the provision of direct services to the poor. One exception is where a food bank operated by a grantee provides foodstuffs to organizations operating feeding programs for the poor. However, a food bank project can be truly catalytic by taking a small amount of grant funds and mobilizing considerably greater resources and services from the public and private sectors of the community it serves. Some food banks have managed to provide ten to fifteen dollars worth of food to the poor for every CFNP dollar invested.

b. *Advocacy.* Almost all of the activities under Food Supply are by definition advocacy activities, e.g., organizing consumer action to get food sales tax laws repealed; encouraging food retailers to join with city governments and community based groups to bring supermarkets back to inner cities; and enlisting the support of retailers for the establishment of consumer monitoring and advisory panels. Developing a broad base of community support for the establishment of a food bank and continued mobilization of resources and solicitation of foodstuffs from the food industry to support the bank are also examples of advocacy. While many of the activities under Food Supply result eventually in improved services to the poor, such as making available a variety of inexpensive, quality foods (in order to promote optimum nutrition among the poor), the activity required to bring that about, namely, encouraging industry to adopt more responsible packaging and advertising practices, is indeed an advocacy activity.

4. *Under Crisis Relief.*

a. *Direct Service.* Most direct service activity in the Crisis Relief category is non-catalytic, for example, issuing emergency food vouchers, paid for by CFNP funds, to a family in need.

b. *Advocacy.* Examples of advocacy in the Crisis Relief category are: (1) spinning off a currently CAA operated food pantry or food box project to a community coalition that raises funds to carry out the projects independently of CAA subsidy; (2) negotiating with USDA, the Federal Disaster Assistance administration, church and civic groups and local government entities to establish a mechanism in the community that

will insure prompt distribution of foodstuffs to low-income individuals in emergency situations; (3) monitoring the operation of a local food stamp program to insure that the new USDA regulation is followed which cuts food stamp issuance time for a destitute individual or family to the same day the application is filed (the so-called "same-day-service").

5. *Under Nutrition/Consumer Education.*

a. *Direct Service.* As in the case of "Access" and "Self-help" activities, it is hard to think of a direct service activity in the "Nutrition Education" category which does not have some catalytic effect. For example, there is surely some multiplier effect in the activity of teaching a group of low-income individuals how to compare foods and shop wisely, in terms of nutritional content or price or both. But given the fact that other agencies have been furnished Federal monies to carry out nutrition education activities, a more cost-effective expenditure of limited CFNP funds would be on advocacy activities relating to nutrition education.

b. *Advocacy.* Examples of advocacy in the Nutrition Education category are: (1) Working with USDA's Extension Service or with other appropriate state agencies to insure that federally-financed nutrition education programs are, to the extent provided for under the law, designed for and directed at the low-income population; (2) Organizing groups in the low-income community to monitor in local retail food outlets price increases that exceed Administration inflation guidelines.

## III. Monitoring

The statutory authority for CSA's and CSA grantees' monitoring of other federally-administered programs is found in Title IX of the Economic Opportunity Act which states: "The Director shall, directly through grants or contracts, measure and evaluate the impact of all programs authorized by this Act and of poverty-related programs authorized by other Acts, in order to determine their effectiveness in achieving stated goals, their impact on related programs, and their structure and mechanisms for delivery of services * * *".

Since the USDA is the principal operator of federal food programs, the bulk of CFNP monitoring activities will be aimed at programs operated by USDA at the state and local level. Carol Tucker Foreman, Assistant Secretary for Food and Consumer Services, USDA, in commenting upon the FY 79 proposed CFNP regulations, recognized and supported this critically important role of CSA's CFNP grantees. Having stated her commitment to improve the operation of USDA's food programs she said:

"We need support and, I am not afraid to admit, pressure * * * we need the help and expertise of CFNP grantees. We can write the rules and publish guidelines, but we cannot peer into every community in this land to see how our programs reach people. We need to see how the programs function and receive guidance as to how they can be improved. *CFNP must see this function as its major responsibility.* There must be informed and aggressive actions state-wide and in communities across the country to *monitor* program implementation, to help governmental agencies do their jobs and, where necessary, insure that the law is enforced. Certainly we intend to improve our capacity to aid in this process, but most of this work must be undertaken locally where only CFNP, and the volunteer work of other civic organizations, can truly be effective." (emphases added)

Thus the monitoring role of CFNP grantees has not only been recognized by USDA, it has been strongly encouraged, and the letter of Ms. Foreman underscores once again its importance.

It should be emphasized that the type of monitoring described above is *not* the same as the monitoring and oversight functions that USDA and other federal agencies, by law, must *themselves* carry out to insure that programs they administer comply with relevant statutes and regulations, are managed soundly, and achieve the purposes for which they were instituted. Therefore, in carrying out this function, CFNP grantees should carefully avoid conveying the impression that they are supplanting or usurping the monitoring functions proper to these other agencies.

## IV. Outreach

Grantees involved in access activities are urged to obtain a copy of USDA's Final Rule, dated November 6, 1979, implementing the outreach provisions of the Food Stamp Act of 1977 (Ref. 7 CFR Part 272). In its final rule, USDA distinguishes between two types of outreach as follows:

"'Informal outreach' is the conveying of information about the Program through such means as publications, telephone hotlines, films, media and face-to-face contacts. 'Non-informational outreach' is the providing of transportation to certification or issuance offices, or similar physical program support."

The USDA rule officially recognizes the contribution CSA has been making to the Food Stamp outreach effort in the past and assumes that there will be joint USDA-CSA outreach activity in the future, with USDA coordinating the overall program. Under the USDA rule, for example, while USDA will not reimburse State agencies for non-informational outreach where a CAA is doing such outreach, USDA may pay for such outreach where a CAA is not providing it. In addition, a State agency may be reimbursed for doing informational outreach in the same area a CAA may be doing it. This is simply a recognition of the fact that the combined USDA/CSA resources for outreach are generally insufficient to meet the total need.

Granted that CSA has a continuing role in the area of Food Stamp outreach, this does not mean that the CFNP should bear a major part of the outreach burden. For one thing, all CAA's whether or not they are recipients of CFNP funds, have a Food Stamp outreach responsibility. Secondly, CFNP funds are limited and should be applied primarily to advocacy activities directed at insitutions rather than on direct services to individuals.

A partial solution to CSA's outreach dilemma is provided by USDA's assumption of a major part of the outreach responsibility *and in particular by the policy, newly reaffirmed in USDA's final rule on outreach, that State agencies may delegate Food Stamp outreach responsibilities, on a reimbursable basis, to CAA's and CFNP grantees.* There is an opportunity here for some very significant catalytic activity on the part of CFNP grantees and CAA's, namely, the leveraging, *by means of a contract with a State agency,* of USDA funds for outreach performed by CSA's grantees.

## V. National Consumer Cooperative Bank

The National Consumer Cooperative Bank authorized by Congress in 1978 is required by law to make its "best efforts" to provide 35% of its loan money to low-income organizations including food co-ops. The Bank will publish its final regulations by the end of May, 1980. In the meantime, they have a brochure, available upon request, which explains application procedures and eligibility criteria. Applications are currently being accepted and will be processed on a *first come first served* basis. CFNP grantees and prospective applicants for food co-op projects are therefore urged to submit their applications to the Bank promptly. All CAA's are supposed to be on the Bank's mailing list. CAA's which are not yet on the list and other interested CFNP grantees or prospective applicants for CFNP funds for food co-op projects should contact the Bank at the following address for further information: National Consumer Cooperative Bank, Attn: Ms. Pru Pemberton, 2001 S Street, N.W., Washington, D.C. 20009; Telephone: 424-2481.

In addition applicants may wish to contact the Cooperative Bank Monitoring Project whose principal purpose is to ensure full participation by eligible low-income organizations. The address of the Project is: Conference on Alternatives, State and Local Policies, Attn: Mr. Norman Davis, Co-op Bank Monitoring Project, 2000 Florida Avenue, N.W., Washington, D.C. 20009; Telephone 202-387-6030.

[FR Doc. 80-15456 Filed 5-19-80; 8:45 am]
BILLING CODE 6315-01-M

## VI. FY 80 ALLOCATIONS[1]

| REGION | GEN. COMM. | SPEC. SUP. | T&TA | INDIANS |
|---|---|---|---|---|
| I | 931,000 | 142,000 | 46,000 | 196,000 |
| II | 1,595,000 | 243,000 | 79,000 | 60,000 |
| III | 1,810,000 | 276,000 | 90,000 | -0- |
| IV | 2,523,000 | 385,000 | 125,000 | 225,000 |
| V | 2,141,000 | 327,000 | 107,000 | 194,000 |
| VI | 1,849,000 | 282,000 | 92,000 | 525,000 |
| VII | 900,000 | 137,000 | 45,000 | 140,000 |
| VIII | 878,000 | 134,000 | 44,000 | 380,000 |
| IX | 1,390,000 | 212,000 | 69,000 | 700,000 |
| X | 1,063,000 | 162,000 | 53,000 | 480,000 |
| TOTALS: | $15,080,000 | $2,300,000 | $750,000 | $2,900,000 |

### MIGRANT CONDUITS

| | |
|---|---|
| Rural New York | $ 290,171 |
| Del Marva Ministries | 203,708 |
| Migrant & Seasonal Farmworkers Association | 417,400 |
| Florida[2] | 416,225 |
| Minnesota Migrant Council | 656,250 |
| Colonias Del Valle | 606,157 |
| Campesinos Unidos | 661,339 |
| Idaho Migrant Council | 498,750 |
| | 3,750,000 |

[1]CSA reserves the right to make adjustments in these allocations in the event that a region or conduit is unable to expend its full allocations due to a lack of qualified applicants.

[2]Grantee (conduit) to be determined.

| APPENDIX B<br>RATING CRITERIA - GENERAL COMMUNITY PROJECTS | POINTS |
|---|---|
| 1. Participation of the Poor(10 pts)<br>-Substantive participation by the poor is ensured in the planning, conduct, and evaluation of the project. | |
| 2. Analysis of Needs/Priorities(0-15 pts)<br>-Nature and extent of problem is adequately described and documented(0-8 pts)<br>-Priorities selected represent the most serious needs(0-7 pts)<br><br>3. Adequacy of Work Program and Budget(0-20 pts)<br>-Goals are appropriately related to need and are specific and measurable (0-5 pts)<br>-Activities are adequately described and appropriately related to goals (0-10 pts)<br>-Budget is appropriately related to activities and adequately documented (0-5 pts) | |
| 4. Anticipated Impact(0-10 pts)<br>In relation to the problem to be solved and the resources committed to the project, the<br>-Impact is minimal(0-3 pts)<br>-Impact is moderate(4-6 pts)<br>-Impact is substantial(7-10 pts) | |
| 5. Coordination(0-10 pts)<br>-Applicant has involved other institutions and organizations, where appropriate, in the planning of the project(0-5 pts)<br>-Other institutions/organziations will be involved in the implementation of the project(0-5 pts) | |
| 6. Catalytic Effect of Project on Institutions (ADVOCACY)(0-20 pts)<br>A. Institutional Change(0-10 pts)<br>Grantee, through advocacy for low-income persons, seeks to change interpretations of laws, regulations, policies, procedures, and attitudes in order to insure that low-income persons receive that to which they are entitled.<br><br>B. Mobilization of Community Resources(0-10 pts)<br>Grantee, through advocacy for low-income persons leverages dollars or in-kind contributions from other elements in the community.<br>- 0-25% of total budget(0-3 pts)<br>- 25-50% of total budget(4-6 pts)<br>50% and up(7-10 pts) | |
| 7. Ability of Applicant to Perform(0-15 pts)<br>-Assessment of past CFNP or other relevant projects (including written self- or third-party evaluations, progress reports, or CSA on-site assessments) (0-10 pts)<br>-Assessment of appplicant's overall administrative ability and general track record.(0-5 pts) | |
| TOTAL POINTS POSSIBLE: 100 | |

| APPENDIX C<br>RATING CRITERIA - INDIAN PROJECTS | POINTS |
|---|---|
| 1. Participation of the Poor(10 pts)<br>-Substantive participation by the poor is ensured in the planning, conduct, and evaluation of the project. | |
| 2. Analysis of Needs/Priorities(0-15 pts)<br>-Nature and extent of problem is adequately described and documented(0-8 pts)<br>-Priorities selected represent the most serious needs(0-7 pts) | |
| 3. Adequacy of Work Program and Budget(0-20 pts)<br>-Goals are appropriately related to need and are specific and measurable (0-5 pts)<br>-Activities are adequately described and appropriately related to goals (0-10 pts)<br>-Budget is appropriately related to activities and adequately documented (0-5 pts) | |
| 4. Anticipated Impact(0-10 pts)<br>In relation to the problem to be solved and the resources committed to the project, the<br>-Impact is minimal(0-3 pts)<br>-Impact is moderate(4-6 pts)<br>-Impact is substantial(7-10 pts) | |
| 5. Coordination(0-10 pts)<br>-Applicant has involved other institutions and organizations, where appropriate, in the planning of the project(0-5 pts)<br>-Other institutions/organizations will be involved in the implementation of the project(0-5 pts) | |
| 6. Catalytic Effect of Project on Institutions (ADVOCACY)(0-20 pts)<br>A. Institutional Change(0-15 pts)<br>Grantee, through advocacy for low-income persons seeks to change interpretations of laws, regulations, policies, procedures, and attitudes in order to insure that low-income persons receive that to which they are entitled. | |
| B. Mobilization of Community Resources(0-5 pts)<br>Grantee, through advocacy for low-income persons leverages dollars or in-kind contributions from other elements in the community.<br>-.0-25% of total budget(0-5 pts)<br>- 25% and up(6-10 pts) | |
| 7. Ability of Applicant to Perform(0-15 pts)<br>-Assessment of past CFNP or other relevant projects (including written self or third party evaluations, progress reports, or CSA on-site assessments.) (0-10 pts)<br>-Assessment of appplicant's overall administrative ability and general track record(0-5 pts) | |
| TOTAL POINTS POSSIBLE: 100 | |

| APPENDIX D<br>RATING CRITERIA - MIGRANT PROJECTS | POINTS |
|---|---|
| 1. Participation of the Poor(10 pts)<br>-Substantive participation by the poor is ensured in the planning, conduct, and evaluation of the project. | |
| 2. Analysis of Needs/Priorities(0-10 pts)<br>-Nature and extent of problem is adequately described and documented(0-5 pts)<br>-Priorities selected represent the most serious needs(0-5 pts) | |
| 3. Adequacy of Work Program and Budget(0-20 pts)<br>-Goals are appropriately related to need and are specific and measurable (0-5 pts)<br>-Activities are adequately described and appropriately related to goals (0-10 pts)<br>-Budget is appropriately related to activities and adequately documented (0-5 pts) | |
| 4. Anticipated Impact(0-10 pts)<br>In relation to the problem to be solved and the resources committed to the project, the<br>-Impact is minimal(0-3 pts)<br>-Impact is moderate(4-6 pts)<br>-Impact is substantial(7-10 pts) | |
| 5. Coordination(0-10 pts)<br>-Applicant has involved other institutions and organizations, where appropriate, in the planning of the project(0-5 pts)<br>-Other institutions/organizations will be involved in the implementation of the project(0-5 pts) | |
| 6. Catalytic Effect of Project on Institutions (ADVOCACY)(0-25 pts)<br>A. Institutional Change(0-15 pts)<br>Grantee, through advocacy for low-income persons seeks to change interpretations of laws, regulations, policies, procedures, and attitudes in order to insure that low-income persons receive that to which they are entitled.<br><br>B. Mobilization of Community Resources(0-10 pts)<br>Grantee, through advocacy for low-income persons leverages dollars or in-kind contributions from other elements in the community.<br>- 0-25% of total budget(0-5 pts)<br>- 25% and up(6-10 pts) | |
| 7. Ability of Applicant to Perform(0-15 pts)<br>-Assessment of past CFNP or other relevant projects (including written self or third party evaluations, progress reports, or CSA on-site assessments.) (0-10 pts)<br>-Assessment of appplicant's overall administrative ability and general track record.(0-5 pts) | |
| TOTAL POINTS POSSIBLE: 100 | |

| APPENDIX E<br><br>RATING CRITERIA - SPECIAL SUPPORT PROJECTS | POINTS |
|---|---|
| 1. Participation of the Poor(10 pts)<br>-Substantive participation by the poor is ensured in the planning, conduct, and evaluation of the project. | |
| 2. Analysis of Needs/Priorities(0-10 pts)<br>-Nature and extent of problem is adequately described and documented(0-5 pts)<br>-Priorities selected represent the most serious needs(0-5 pts) | |
| 3. Adequacy of Work Program and Budget(0-20 pts)<br>-Goals are appropriately related to need and are specific and measurable (0-5 pts)<br>-Activities are adequately described and appropriately related to goals (0-10 pts)<br>-Budget is appropriately related to activities and adequately documented (0-5 pts) | |
| 4. Anticipated Impact(0-10 pts)<br>In relation to the problem to be solved and the resources committed to the project, the<br>-Impact is minimal(0-3 pts)<br>-Impact is moderate(4-6 pts)<br>-Impact is substantial(7-10 pts) | |
| 5. Coordination(0-10 pts)<br>-Applicant has involved other institutions and organizations, where appropriate, in the planning of the project(0-5 pts)<br>-Other institutions/organizations will be involved in the implementation of the project(0-5 pts) | |
| 6. Catalytic Effect of Project on Institutions (ADVOCACY)(0-25 pts)<br>A. Institutional Change(0-15 pts)<br>Grantee, through advocacy for low-income persons seeks to change interpretations of laws, regulations, policies, procedures, and attitudes in order to insure that low-income persons receive that to which they are entitled. | |
| B. Mobilization of Community Resources(0-10 pts)<br>Grantee, through advocacy for low-income persons leverages dollars or in-kind contributions from other elements in the community.<br>- 0-25% of total budget(0-5 pts)<br>- 25% and up(6-10 pts) | |
| 7. Ability of Applicant to Perform(0-15 pts)<br>-Assessment of past CFNP or other relevant projects (including written self or third party evaluations, progress reports, or CSA on-site assessments.) (0-10 pts)<br>-Assessment of appplicant's overall administrative ability and general track record.(0-5 pts) | |
| TOTAL POINTS POSSIBLE: 100 | |

| APPENDIX F<br>RATING CRITERIA - REGIONAL T & TA PROJECTS | POINTS |
|---|---|
| 1. Applicant has Skills/Abilities to Perform Adequately(0-30 pts)<br>-Applicant's past experience (0-10 pts)<br>-Quality of staff:<br>-Knowledge of Food and Nutrition Field (including other federal food programs)(0-10 pts)<br>-Knowledge/skills in four program categories(0-10 pts) | |
| 2. Proposal is Responsive to CSA Policy Priorities(0-25 pts)<br>Applicant demonstrates an understanding of an adequate plan to assist CFNP grantees in moving from a service delivery to a catalytic role by engaging in advocacy to effect:<br>-Institutional change(0-15 pts)<br>-Mobilization of resources(0-10 pts) | |
| 3. Proposal is Responsive to CFNP Grantee Needs for T&TA in Five Program Categories(0-25 pts)<br>-Plan is adequate to meet grantee needs(0-15 pts)<br>-Plan is appropriately related to the activities in the five categories (0-10 pts) | |
| 4. Proposal is Responsive to CFNP Grantee Needs for T&TA in Program Management (0-10 pts)<br>Applicant proposes an appropriate and adequate plan to assist grantees to improve their ability to:<br>-Assess needs<br>-Set goals and priorities<br>-Evaluate results | |
| 5. Proposal Includes a Plan to Coordinate T&TA Activities with Other Appropriate Entities (0-5 pts) | |
| 6. Proposal Includes a Plan to Evaluate Results of Applicant's Efforts(0-5 pts) | |
| TOTAL POINTS POSSIBLE: 100- | |

APPENDIX G

REGIONAL OFFICES

| | |
|---|---|
| REGION I (Serving: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont)<br><br>Community Services Administration<br>John F. Kennedy Federal Building<br>Room 432<br>Boston, Massachusetts 02203<br><br>CFNP Coordinator: Ms. Jean F. McFague<br>Phone: (617)223-4022 | REGION II (Serving: New Jersey, New York, Puerto Rico, Virgin Islands)<br><br>Community Services Administration<br>26 Federal Plaza, 32nd Floor<br>New York, New York 10007<br><br>CFNP Coordinator: Ms. Saundra Hamilton<br>Phone (212)264-1946 |
| REGION III (Serving: Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia)<br><br>Community Services Administration<br>Old U.S. Court House<br>Post Office Box 160<br>Philadelphia, Pennsylvania 19105<br><br>CFNP Coordinator: Ms. Norma Clarkson<br>Phone: (215)597-1145 | REGION IV (Serving: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee<br><br>Community Services Administration<br>101 Marietta Street, N.W.<br>Room 2604<br>Atlanta, Georgia 30323<br><br>CFNP Coordinator: Mr. Sylvester Lindsey, Jr.<br>Phone: (404)221-2799 |
| REGION V (Serving: Illinois, Michigan, Minnesota, Ohio, Wisconsin)<br><br>Community Services Administration<br>300 South Wacker Drive, 25th Floor<br>Chicago, Illinois 60606<br><br>CFNP Coordinator: Ms. Elizabeth Newsome<br>Phone: (312)353-1814 | REGION VI (Serving: Arkansas, Louisiana, New Mexico, Oklahoma, Texas)<br><br>Community Services Administration<br>1200 Main Street<br>Dallas, Texas 75202<br><br>CFNP Coordinator: Mr. Shannon Doss<br>Phone: (214)767-6249 |

APPENDIX G (continued)

REGIONAL OFFICES

| | |
|---|---|
| REGION VII (Serving: Iowa, Kansas, Missouri, Nebraska)<br><br>Community Services Administration<br>911 Walnut Street<br>Kansas City, Missouri 64106<br><br>CFNP Coordinator: Mr. Isaiah Celestine<br><br>Phone: (816)374-2171 | REGION VIII (Serving: Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming)<br><br>Community Services Administration<br>333 West Colfax Avenue<br>Tremont Center Building<br>Denver, Colorado 80204<br><br>CFNP Coordinator: Mr. Willard O'Berry<br>Phone: (303)837-3211 |
| REGION IX (Serving: Arizona, California, Hawaii, Nevada, Trust Territories)<br><br>Community Services Administration<br>450 Golden Gate Avenue<br>Post Office Box 36008<br>San Francisco, California 94102<br><br>CFNP Coordinator: Mr. Darnell E. White<br>Phone: (415)556-7617 | REGION X (Serving: Alaska, Idaho, Oregon, Washington)<br><br>Community Services Administration<br>1321 Second Avenue<br>Seattle, Washington 98101<br><br>CFNP Coordinator: Ms. Alberta Adams<br>Phone: (206)442-7194 |

APPENDIX H

MIGRANT CONDUITS

| | |
|---|---|
| Minnesota Migrant Council (Serving: Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin, Iowa, Kansas, Missouri, Nebraska, North Dakota, South Dakota)<br><br>Post Office Box 1231<br>St. Cloud, Minnesota 56301<br><br>CFNP Coordinator: Mr. Rick Echola<br>Phone: (612)253-7010 | Florida Farmworker's Council (Serving: Florida)<br><br>1975 East Sunrise Boulevard<br>Suite 850<br>Fort Lauderdale, Florida 33304<br><br>CFNP Coordinator: Ms. Anita McGruder<br>Phone: (305)763-5252 |
| Migrant and Seasonal Farmworkers Association (Serving: Alabama, Mississippi, Georgia, Louisiana, Tennessee, South Carolina, North Carolina, Kentucky)<br><br>Post Office Box 33315<br>3929 Western Boulevard<br>Raleigh, North Carolina 27606<br><br>CFNP Coordinator: Ms. Marian Tucker<br>Phone: (919)851-7611 | Rural New York (Serving: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, New Jersey, New York)<br><br>339 East Avenue<br>Suite 305<br>Rochester, New York 14604<br><br>CFNP Coordinator: Mr. Jefferey Lewis<br>Phone: (716)546-7180 |
| Campesinos Unidos (Serving: Arizona, California, Nevada)<br><br>Post Office Box 203<br>Brawley, California 92227<br><br>CFNP Coordinator: Ms. Toni Cornejo<br>Phone: (714)344-4500 | Colonias del Valle (Serving: Oklahoma, Arkansas, Texas, New Mexico)<br><br>Post Office Box 907<br>San Juan, Texas 78759<br><br>CFNP Coordinator: Mr. Hector de Leon<br>Phone: (512)781-9795 |
| Idaho Migrant Council (Serving: Colorado, Washington, Wyoming, Montana, Utah, Idaho, Oregon)<br><br>7155 Capitol Boulevard<br>Suite 406<br>Boise, Idaho 83706<br><br>PFNP Coordinator: Mr. Sam Byrd | Delmarva Rural Ministries (Serving: Delaware, Maryland, Pennsylvania, Virginia, West Virginia)<br><br>Blue Hen Mall<br>Dover, Delaware 19901<br><br>CFNP Coordinator: Ms. Susan Canning<br>Phone: (302)678-2000 |

BILLING CODE 6315-01-C

Federal Register

Tuesday
May 20, 1980

Part V

# Environmental Protection Agency

## Water Programs; Oil Pollution Prevention; Non-Transportation Related Onshore and Offshore Facilities

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 112

[FRL 1458-2]

## Water Programs; Oil Pollution Prevention; Non-Transportation Related Onshore and Offshore Facilities

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed Revision to Existing Rule.

**SUMMARY:** This proposed rule would modify an existing rule, 40 CFR Part 112, which establishes requirements for Spill Prevention Control and Countermeasure Plans (SPCC Plans) to prevent spills of oil by non-transportation related onshore and offshore facilities into the navigable waters of the United States. The proposed revision reflects changes in the jurisdiction of section 311 of the Federal Water Pollution Control Act brought about by the 1977 amendments to that Act and also involves changes in the applicability criteria, requirements for new facilities, availability of SPCC Plans for review by EPA personnel, review of SPCC Plans by owners or operators, and SPCC Plan requirements. The revision also represents an attempt by the Agency to improve its regulations by shortening and simplifying them in compliance with the President's March 1978 Executive Order number 12044.

**DATE:** Comments on this proposal must be received on or before July 21, 1980.

**ADDRESS:** Interested persons may participate in this rulemaking by submitting comments to Mr. Stephen F. Heare, Spill Prevention and Control Branch (WH-548), Division of Oil and Special Materials Control, Office of Water Program Operations, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460. Copies of all comments received will be made available in the Public Information Reference Unit at the EPA Library, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460.

**FOR FURTHER INFORMATION CONTACT:** Mr. Stephen F. Heare, (202) 245-3057.

**SUPPLEMENTARY INFORMATION:** Section 311(j)(1)(c) of the Clean Water Act (Pub. L. 92-500, as amended by Pub. L. 95-217 and Pub. L. 95-576) authorizes the President to issue regulations establishing procedures, methods and equipment and other requirements for equipment to prevent discharges of oil and hazardous substances from vessels and from onshore facilities and offshore facilities and to contain such discharges. The authority for non-transportation related facilities was delegated to the Administrator of the Environmental Protection Agency by Executive Order 11735. This proposed revision should be read in conjunction with 40 CFR Part 110: Discharge of Oil, dated November 11, 1976; 40 CFR Part 112: Oil Pollution Prevention, dated December 11, 1973 and amended August 29, 1974, and March 26, 1976; 40 CFR Part 114: Civil Penalties for Violation of Oil Pollution Prevention Regulations, dated August 29, 1974 and "Memorandum of Understanding Between the Secretary of Transportation and the Administrator of the Environmental Protection Agency," dated November 24, 1971.

The existing Oil Pollution Prevention Regulation was originally promulgated on Decmeber 11, 1973, under the authority of section 311(j)(1)(c) of the Act and established spill prevention procedures, methods and equipment requirements for non-transportation related facilities which had substantial oil storage capacity and which, because of location, could reasonably be expected to be the source of an oil spill to navigable waters.

In addition to the Part 112 Oil Pollution Prevention Regulation, EPA has published other related rules concerning the discharge of oil (40 CFR Part 110) and the U.S. Coast Guard has published rules concerning the reporting of oil spills (33 CFR Part 153). The Agency has also entered into an agreement with the U.S. Coast Guard regarding the two agencies' shared responsibilities under section 311 of the Clean Water Act. In addition, there have been two previous amendments, or revisions, to Part 112 itself. In order to provide a background for discussion of today's proposal, these other Agency actions which affect Part 112 will be briefly discussed.

On September 11, 1970, the Federal Water Quality Administration (EPA's predecessor) published regulations (18 CFR Part 610) which set forth a determination of "those quantities of oil the discharge of which * * * will be harmful to the public health or welfare of the United States * * *" pursuant to section 11(b)(3) of the Federal Water Pollution Control Act. This rule, in essence, defined what quantity of discharged oil constituted a spill and set out provisions requiring the reporting of oil spills to the government. The 1972 amendments to the Water Pollution Control Act carried forward section 11(b)(3) without substantial change, insofar as it pertained to oil discharges under section 311. Consequently, on November 25, 1971, EPA republished the rule as 40 CFR Part 110. An amendment to part 110 published on November 11, 1976, changed all legislative references in the rule to conform to the 1972 amendments and also reflected changes in U.S. Coast Guard regulations concerning the reporting of oil spills.

The Agency is now preparing to make additional changes to the part 110 regulation. These other changes are made necessary by Congress's 1977 and 1978 amendments to the Clean Water Act which extend EPA's section 311 authority beyond the contiguous zone to the Outer Continental Shelf and exempt certain types of discharges from section 311(b)(5) notification requirements.

On November 24, 1971, a "Memorandum of Understanding Between the Secretary of Transportation and the Administrator of the Environmental Protection Agency" established policies and guidelines relating to the definition of transportation and non-transportation related onshore and offshore facilities for purposes of adminstering their respective spill prevention programs, and set out the responsibilities of EPA and the U.S. Coast Guard with respect to the prevention of oil discharges from vessels and onshore and offshore facilities. The definition section of this memorandum was originally included as an appendix to 40 CFR Part 112 and is also included as an appendix to today's proposal.

On August 29, 1974, the Part 112 regulation was itself amended to provide for civil penalties (under section 311(j)(2) of the Act) for violation of its requirements. On the same date another rule, 40 CFR Part 114: Civil Penalties for Violation of Oil Pollution Prevention Regulation was promulgated, which set out procedures for imposing the new civil penalties provided for in the amended Part 112. Part 114 included provisions for issuing a Notice of Violation, requesting a hearing on the violation, the appointment of a presiding officer, conduct of the hearing, and for appeal of an adverse determination to the Administrator of EPA. In short, Part 114 set out the administrative mechanism for the enforcement of part 112.

On March 26, 1976, Part 112 was again amended. The principal change involved clarifying the criteria for determining whether or not a facility was subject to the regulation. Other revisions clarified that SPCC plans must be in written form and specified the procedures for development of SPCC Plans for mobile or portable facilities.

Since the 1976 revisions, EPA's experience with the regulation has

indicated a need for certain other changes, primarily in the areas of clarification and simplification. Changes in part 112 have also been necessitated by the previously mentioned extension of EPA's authority under section 311 beyond the contiguous zone, to the Outer Continental Shelf.

In addition to making Part 112 responsive to changes in the legislation, today's proposal represents an effort on the part of EPA to make its regulations more understandable to facility owners or operators who must comply with them. It is also hoped that expressing Part 112's requirements in more general terms will encourage owners or operators to use innovative and low cost spill prevention measures in complying with the regulation.

After consideration of the comments received in response to this proposal, a notice of final rulemaking will be issued. Should sufficient interest be indicated in comments received, the Agency will consider holding a public hearing on the proposed revision prior to final rulemaking to permit further expression of views. Should such a hearing be held, EPA will notify all persons who have submitted comments as to its time, date and location. Any statements made at such a hearing would be included in the public record on the proposed rulemaking.

A discussion of the proposed changes section by section follows:

**112.1 General applicability.**

Paragraphs (a) and (b) have been revised by the addition of the following language: "or in connection with activities under the Outer Continental Shelf Lands Act or the Deep Water Port Act of 1974 for which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976)."

The 1977 Clean Water Act (CWA) extended the Administrator's authority under section 311 beyond the contiguous zone, out onto the Outer Continental Shelf (OCS). Specifically, section 311(a)(11) of the Act which defines the term "offshore facilities," was amended to include "and any facility of any kind which is subject to the jurisdiction of the United States and is located in, on, or under any other waters." In addition, section 311(b)(1) which establishes a national policy prohibiting discharges of oil and hazardous materials to navigable waters or to the contiguous zone, was amended to include "or in connection with activities under the Outer Continental Shelf Lands Act or the Deep Water Port Act of 1974, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976)".

The amendments to the Act mean that OCS oil drilling, production and workover facilities in waters beyond the contiguous zone would now be subject to the section 311 requirements.

Section 112.8 of the proposed revision outlines in detail how the part 112 regulation will appy to OCS facilities.

The statement in paragraph (c) of § 112.1 that Federal agencies are not subject to penalty provisions has been removed. While it is presently the policy of the Justice Department not to bring a collection action by one agency against another, nothing in Federal law prohibits one agency from suing another and the change simply reflects this fact.

Paragraph (d) of § 112.1 describes those facilities, equipment or operations which are exempt from this regulation. The two criteria which must be met for exemption (no reasonable expectation of an oil spill and oil storage capacity below the specified limits) have not changed. A minor addition of, "or subsequent memoranda," to subparagraph (d)(1)(ii) which exempts transportation related facilities, reflects the probability that the memorandum of agreement between the Environmental Protection Agency (EPA) and the Department of Transportation (DOT) (included as an appendix to this regulation) will be changed to reflect Congress' extension of section 311 authority to the Outer Continental Shelf.

Not withstanding the two criteria for exemption, a new provision has been added which could, under certain circumstances, subject any non-transportation related facility to the requirements of this regulation. The new provision (paragraph (e)) specifies that the regulation will apply to any facility which either has spilled more than 1,000 gallons in a single event, or has had two reportable oil spills (as defined by 40 CFR Part 110) within a twelve month period. This provision would become applicable when a single spill in excess of 1,000 gallons occurred or at the time of a second reportable spill of any size in any 12 month period. The new provision has been added because EPA has observed that facilities with storage capacity below the minimums for exemption may nevertheless experience oil spills. The agency believes that limited oil storage capacity or lack of reasonable expectation that a spill could occur should not exempt a facility from compliance with Part 112 when it has proved it can have oil spills.

**112.2 Definitions.**

The term "discharge" appearing in the existing regulation has been replaced with the words "spill," spill event" and "spillage." These have been defined in terms of the quantities which must be reported pursuant to Section 311 (b)(4) and (5) of the CWA and 40 CFR Part 110, as was the term "spill event" in the existing regulation.

The definition of "offshore facility" has been expanded to include "any facility of any kind which is subject to the jurisdiction of the United States and is located in, on or under any other waters, other than a vessel or public vessel." This definition was changed to conform to the new definition of "offshore facilities" set forth in the 1978 amendments to the CWA.

In paragraph (i), the term "navigable waters" has been changed to match the definition set forth in 40 CFR 122.3(†) of the recently revised National Pollutant Discharge Elimination System (NPDES) Regulations (44 FR 32854, June 7, 1979). A detailed discussion of the definition is contained in the preamble of part 122 and will not be repeated here. Generally, however, the changes in the definition were made to clarify its intent and scope, but its basic meaning remains the same.

Definitions for the terms "contiguous zone" and "territorial sea" have been added to § 112.2 as paragraphs (l) and (m) and they follow the definitions set out in the CWA. The term "Act" has been added for brevity and includes the amendments contained in Pub. L. 95–576.

Because of misunderstanding on the part of some facility operators as to what is, or is not considered "underground buried storage" under Part 112, the term has been defined in paragraph (o). The definition is self explantory. Similarly in paragraphs (p) and (q) the terms "oil production facility (onshore)" and "oil drilling, production, or workover facilities (offshore)" are defined to clarify the applicability of Part 112 to these types of facilities. Previously, they were defined in § 112.7 and have simply been moved to § 112.2.

The definition for the term "Outer Continental Shelf" in paragraph (r) follows the definition for OSC in the Outer Continental Shelf Lands Act.

**112.3 Requirement to prepare and implement a Spill Prevention Control and Countermeasure Plan.**

Section 112.3 establishes the requirement for preparation and implementation of Spill Prevention Control and Countermeaure Plans

(SPCC Plans). Most of the modifications to this section have been provided for clarification and do not represent substantive changes to the regulation. In paragraph (b) language has been added to extend the regulation's applicability to facilities located on the Outer Continental Shelf. This revision has already been discussed. Paragraph (b) has also been revised with respect to requirements for new facilities. The proposed revision would require new facilities to have SPCC Plans prepared and implemented before beginning operation. The Agency feels that a new facility should be able to plan and execute the requirements for spill prevention prior to starting operations. EPA also believes that this requirement is needed, since new facilities may be likely to experience spills due to the operation of new equipment by personnel who may be unfamiliar with the facility and its procedures.

Paragraph (d)'s revisions are important and constitute a change in the requirements for Plan certification by professional engineers. The existing regulation requires certifying engineers to attest to the fact that they have examined the facility, are familar with part 112, and that the Plan demonstrates good engineering judgment. The proposed revision requires further attestation that the certifying engineer has examined the facility, is familiar with the requirements of Part 112 and that the Plan is in accordance with § 112.7 Another new requirement is that the engineer's certification be dated. The more specific certification requirements have resulted from the EPA's observation of a number of certified Plans which meet neither the letter nor the spirit of Part 112. In many cases these inadequate plans have failed to prevent serious oil spills from the facilities for which they were prepared. EPA continues to believe that certifying engineers should be permitted the greatest amount of flexibility possible in complying with the requirements of Part 112, but also feels the need for better assurances that certifying engineers are familiar with the regulation and that the Plans meet the general requirements of § 112.7. The Agency has also observed a number of undated SPCC Plans at facilities and believes that the requirement for dating the initial certification will make the provisions of § 112.5 (amendment, review, and evaluation of Plan) easier to check.

It should be noted that none of the changes to paragraph (d) constitute a different EPA policy in the application and enforcement of Part 112. By making these revisions the Agency hopes to eliminate any possible uncertainty on the part of certifying engineers and facility owners or operators as to their responsibility under § 112.3.

Paragraph (e), which has to do with the availability of SPCC Plans for inspection by EPA, has been revised in two areas. Presently, Part 112 does not require that a copy of the Plan be available for inspection at facilities operated less than eight hours per day. A number of owners or operators have eluded the requirement to keep an SPCC Plan on site by claiming only 7½ hours of operation (because lunch periods don't count as part of the work day). The Agency believes strongly that to be of any use in preventing discharges, the SPCC plan must be an integral part of a facility's operations. At a minimum this requires that the Plan be kept at the facility. Where Plans are kept many miles from the facility for which they were written it is not likely that operating personnel will be familiar with them. Since the implementation of Part 112, EPA has inspected many facilities for which SPCC Plans were developed, but kept elsewhere. In a number of these facilities, operating employees had no knowledge of the existence of an SPCC Plan, much less any substantive knowledge of what the Plans involved or what their responsibilities under it were. The revised § 112.3 requires that all facilities subject to Part 112, have a copy of the SPCC Plan on site and available for review by EPA during normal working hours.

A related problem is that SPCC Plans for large facilities are often lengthy and complex, too complex quite often for an adequate review to be performed during the course of a facility visit. In such cases it is desirable for the EPA representative to obtain a copy of the Plan which can be reviewed off site. While most facilities have cooperated with requests for copies of a Plan, others have either refused or have been unable to provide one. EPA believes that to properly execute its responsibility, it must have the capablility to perform an in-depth plan review when deemed necessary by an Agency inspector. Therefore, § 112.3(e) of the proposed revision also requires a facility, within five days of receiving a request, to mail a copy of its SPCC Plan to the Regional Administrator.

**112.4 Amendment of Spill Prevention Control and Countermeasure Plans by Regional Administrator.**

Changes to this section are minor and have been made for clarification. One minor change to subparagraph (a)(2) would require that a facility's registered agent, if any, be identified whenever a submission pursuant to paragraph (a) is made following an oil spill. The change would facilitate notifying registered agents of the Administrator's intention to require SPCC Plan amendments pursuant to paragraph (e). Additionally, in paragraph (f) it should be noted that the existing time limit of 60 days for the Administrator of EPA to render a decision on appeals to a Regional Administrator's decision requiring Plan amendment, has been changed to "as soon as practicable." There have only been a few appeals which have required the Administrator's decision and almost all have been complex cases which took considerable time to resolve. The Agency feels that a fixed time limit on the resolution of such appeals is not in the best interest of EPA, or the affected facility. The time limit has therefore been dropped from the proposed revision.

**112.5 Amendment of Spill Prevention Control and Countermeasure Plans by owners or operators.**

Owners or operators of facilities subject to Part 112 are required by § 112.5(b) to review and evaluate SPCC Plans every three years and amend the Plan to include more effective prevention technology if it will sigificantly reduce the chances of a discharge. The existing requirement that the more effective technology be "field proven" has been removed in the revision since it is an impossible quality to define.

Revisions to § 112.5 would require that, in addition to performing the review and evaluation required by § 112.5(b), the owner affix a signed and dated statement to the Plan indicating that the review had taken place and whether or not Plan amendment was required. The revision will make it easier to check compliance with § 112.5 when Plans are examined by EPA representatives.

**112.6 Civil penalties for violation of Oil Pollution Prevention Regulations.**

There have been no changes to this section.

**112.7 Spill Prevention Control and Countermeasure Plan requirements.**

Section 112.7 has been extensively revised. The major purpose of the revision is two-fold: First, to clarify and simplify the requirements, and, second, to make SPCC Plans more accurately descriptive of the spill prevention equipment, procedures and activities at a facility. In most cases actual spill prevention requirements have not changed substantively. However, the proposal would require that SPCC Plans

more specifically discuss those activities already required by the existing § 112.7.

The introductory paragraphs to § 112.7 make clear that SPCC Plans must conform to the requirements of § 112.7. The Agency feels that this clarification is necessary because of confusion on the part of some owners or operators as to whether the existing section's use of the words "should" and "guidelines" imply that compliance with the provisions of § 112.7 is optional. In the original regulation as well as this proposed revision, § 112.3(a) plainly states that SPCC plans shall be prepared in accordance with § 112.7. However, to eliminate further misunderstanding, the words "requirements" and "shall" have been substituted for the words "guidelines" and "should" in the proposed revision.

As is the case in the existing regulation, the revision continues to provide for deviation from § 112.7's requirements where owners or operators demonstrate that the requirements cannot be put into practice or are unsuitable for practical use at the facility, and where equivalent protection is provided by some other spill prevention feature.

The revised introductory paragraph also requires that SPCC Plans be in narrative form and that any maps, plot plans or drawings needed to adequately describe the plan's features be included. This is an important change and it results from EPA's observation that many facilities subject to Part 112 have used preprinted checklist-type forms for SPCC Plans. These form-type Plans, unless they contain narrative descriptions, provide little substantive information about the facility's spill prevention features. The Agency feels strongly that a check-the-blank type form with no narrative description, does not represent a well thought out spill prevention Plan and is contrary to both the spirit and intent of the regulation. Under the proposed revision, such Plans would no longer be acceptable.

The following discussion focuses on substantive changes to the various paragraphs of § 112.7. Portions of the regulation which are unchanged or which have undergone rewording for brevity or for clarification will not be discussed in detail.

(c) *General requirements.*

(1) Containment, drainage control and diversionary structures. Paragraph (c)(1)(i) has been revised to clarify that a facility's waste treatment system may be used to provide secondary containment in lieu of, for example, dikes, berms, etc., provided that it always has enough holding capacity available to hold the capacity of the largest tank in the drainage area, plus any expected precipitation. This represents no change in the Agency's policy or application of the existing regulation, but is added as clarification.

(d) *Demonstration of impracticability.*

Paragraph (d) again clarifies the mandatory nature of the general requirements. In addition, the paragraph addresses situations where § 112.7 requirements are demonstrated, by an owner or operator, to be impracticable, but for only part of a facility. The revision specifies that in such situations, those parts of a facility for which compliance with 112.7 requirements is practicable must comply. The Agency believes that a contingency Plan, substituted for a prevention feature (see § 112.7(d)(1)(i)), does not offer protection equivalent to the prevention requirement and that substitution should be permitted only in those areas of a facility where the § 112.7 requirements can actually be demonstrated to be impracticable.

(e) *Specific requirements.*

(1) *Facility drainage (onshore).*

Paragraph (1) has been shortened and the requirements have been stated in more general terms. However, the substantive requirements of this paragraph are unchanged, that is, that facility drainage must be controlled in such a way that oil will not reach navigable waters. To this end, the paragraph contains two general requirements. The first is that drainage from secondary containment areas be subject to some positive means of control so that accumulated oil will not flow or be carried by rainfall outside the diked area. The second requirement is that process areas of the facility also be drained such that spilled or accumulated oil will not reach navigable waters.

The proposed revision would add two new requirements. Facilities would be required to maintain a record of inspections performed prior to the release of accumulated runoff or rainfall from secondary containment areas. This record would be part of the facility's SPCC plan. The requirement has been added so that the Agency may more easily ascertain that the required inspections are being performed at the facility. A second new provision would require that a description of the facility's drainage control systems be included in the SPCC Plan.

It should be noted that while the existing Part 112 addresses drainage control from onshore oil production facilities in a separate section (§ 112.7(e)(5)(ii)), the revision addresses drainage from all facilities (except offshore, outside the territorial seas) in paragraph (1).

(2) *Oil storage (onshore).*

Paragraph (2) has been reorganized and its requirements now apply to all onshore oil storage facilities. The substantive requirements of paragraph (2) are unchanged, but the requirements have been clarified and made more general. As in the existing regulation, the paragraph addresses buried and non-buried storage separately.

The requirements of subparagraph (2)(ii) for non-buried tanks have been shortened and simplified but remain essentially the same. While the requirements for secondary containment are unchanged, the proposed revision would require that details of construction and capacity of the secondary containment system be described in the SPCC Plan.

The significant change in subparagraph (2)(iii), which deals with buried tanks, reflects the Agency's growing concern over the problem of leakage from buried storage tanks. Since the original publication of Part 112, EPA has observed a number of incidents where undetected leaks from buried tanks have contaminated surface waters as well as aquifers. The nature of buried storage makes leakage difficult to detect and, once discovered, both ground and surface waters may already be contaminated. The proposed revision, like the existing regulation, continues to require that corrosion protection be provided on all newly installed storage tanks. The revision specifies that such protection consist of cathodic protection (for steel tanks), use of non-metallic tanks, or some other method which provides equal protection against corrosion induced leakage. The revision further provides that all tanks installed after its effective date be backfilled in accordance with the manufacturer's instructions. Improper backfilling has caused several non-metallic tank failures and can adversely affect steel tank installations as well.

The revised regulation's testing and record keeping requirements are more specific and more stringent than those of the existing § 112.7. While under the existing regulation owners or operators are required to conduct regular tests of underground tankage, the revision specifies the time intervals for that testing. Tanks with corrosion protection will require testing at five year intervals. Those without it will require testing at intervals of two years. In either case all records and results of tests will be required parts of the facility's SPCC Plan.

(3) *Facility transfer (onshore).*

This paragraph has been shortened and made more general. The requirements remain essentially the

same. The paragraph now applies to all onshore facilities whereas the existing Part 112 covers production facilities separately.

(4) *Facility tank car and tank truck loading/unloading rack.*

This paragraph has been simplified and retains only the existing regulation's requirement that loading/unloading areas have sufficient secondary containment to hold the capacity of the largest compartment of a tank truck or rail tank car handled at the facility. The proposed revision also requires that the secondary containment system for the loading/unloading rack be described in the SPCC Plan.

(5) *Oil drilling, production, and workover facilities (onshore).*

This paragraph has undergone considerable shortening. As previously mentioned, all requirements pertaining to oil storage tanks, including those at production facilities have been consolidated under § 112.7(e)(2). This has eliminated the need for the existing regulation's discussion under § 112.7(e)(5)(ii) and (iii). Similarly, consolidation of requirements for facility transfer (onshore) have eliminated the need for a separate discussion of these areas of production facilities (existing regulation §112.7(e)(5)(iv)). It should also be noted that the requirements for onshore drilling and workover facilities (§ 112.7(e)(6)) in existing regulation have been incorporated into paragraph (5).

The new paragraph makes clear that onshore oil drilling, production, and workover facilities are subject to the other requirements of § 112.7(e) (except paragraph (6)). However, storage tanks at these facilities may be excluded from secondary containment requirements where soils in the area will not support secondary containment systems, providing that an alternative form of spill protection is provided. The Agency has provided this exclusion for oil drilling, production, and workover facilities because it is aware that the locational choices available to most other types of facilities are often not available to these types which must, by necessity, locate tankage near oil wells where soil may not be suitable for construction of secondary containment. This is particularly true in coastal areas of Louisiana where many tank batteries must be located in marshes. Examples of alternative protection that may be provided in lieu of secondary containment where soils are unsuitable are lines between tanks which permit a full tank to overflow into an adjacent tank or high level sensors which shut down the production system to prevent an overflow. The proposed revision requires documentation of any such soil unsuitability as well as measures used in lieu of secondary containment, in the SPCC Plan.

The program of flow line and wellhead maintenance to prevent spills, required by the proposed revision, is essentially unchanged from the existing regulation.

The principal remaining requirements of paragraph (5) concern drilling and workover operations. Requirements that secondary containment or drainage control be provided to prevent spills of oil based or oil contaminated drilling fluid or waste, and that an adequate blowout preventer be installed during drilling or workover operations, are essentially identical to those of the existing regulation.

(6) *Oil drilling and workover facilities (offshore, except those located on the Outer Continental Shelf).*

Paragraph (6) applies only to offshore facilities but excludes those located on the Outer Continental Shelf. As previously discussed, facilities on the OCS are covered separately in section 112.8.

Most requirements of paragraph (6) are substantively the same as those in the existing regulation, although some rewording has been done. One new proposed requirement is that SPCC Plans must contain descriptions of an offshore facility's drainage control systems, sump sizing, casing and blowout preventer installations. While the existing regulation requires testing and inspections of oil pollution prevention equipment and systems, the proposed revision sets out specific requirements for the regular inspection of oil storage tanks. The Agency feels that since offshore facilities are subject to less stringent secondary containment requirements for oil storage tanks (because of the obvious space restrictions on platforms), the tanks must be subjected to vigorous inspections to prevent failures. The revision requires regular inspections of all tankage for corrosion, foundation deterioration and other hazards to tank integrity.

The existing requirement concerning instructions for contractors (§ 112.7(e)(7)(vi)) has been modified to clarify that changes in such instructions made by an owner or operator need not involve formal amendment of the SPCC Plan pursuant to § 112.5(a).

(7) *Inspections and records.*

The requirements of paragraph (7) are essentially unchanged.

(8) *Security.*

The existing paragraph has been shortened somewhat, but the requirements remain generally the same. It should be noted that the proposed revision no longer exempts onshore oil production facilities. This change has been made necessary by the Agency's observation of a number of spills caused by vandalism and animals at unmanned production facilities. EPA realizes that a lack of electricity may make security lighting impracticable at some such facilities. It should also be noted that the proposed revision does not require that individual wellheads be fenced. The revision does require that facility security measures be described as part of the SPCC Plan.

(9) *Training.*

Most of the requirements in this paragraph are unchanged. However, paragraph (9) now specifies that owners or operators must instruct personnel using the facility in the operation of the SPCC Plan and in spill reporting in accordance with 33 CFR 153.203. The proposed revision also requires that the above training be conducted at least once a year and that the intervals be specified in the SPCC Plan. Finally, the revision specifies that contractors or other temporary personnel using the facility, shall be informed by the owner or operator about the facility's spill prevention features.

**112.8 Oil or gas drilling, production, or workover facilities (offshore, located on the Outer Continental Shelf).**

As previously mentioned, the 1977 amendments to the Clean Water Act extend EPA and Coast Guard authority under section 311, beyond the contiguous zone, onto the Outer Continental Shelf (OCS). Facilities on the OCS are presently regulated under U.S. Geological Survey (USGS) OCS operating orders, notices, and regulations. EPA wishes to avoid subjecting owners or operators of offshore facilities to redundant Federal regulation and believes that compliance with applicable USGS requirements provides a level of spill prevention which is substantially the same as that provided under Part 112. It is, therefore, the Agency's determination that where OCS facilities are in compliance with USGS operating orders, notices and regulations, they will not normally be required to prepare SPCC Plans. However, there are two situations where OCS facilites will be required by the revision to prepare SPCC Plans under Part 112. Facilities failing to comply with USGS requirements or experiencing an oil spill in excess of 8,400 gallons within a 30 day period will be required to produce an SPCC Plan conforming to Part 112, within 120 days of the time they no longer comply with USGS requirements or, in the case of a

spill, the time more than 8,400 gallons have been spilled. The revision requires that this plan be submitted to the EPA Regional Administrator for review and possible amendment.

The Agency feels strongly that once a facility has experienced serious spills, it is reasonable to expect compliance with Part 112. The amount of 8,400 gallons has been selected because it corresponds with the spill size which triggers a Coast Guard or USGS investigation under the amended Outer Continental Shelf Lands Act.

The revision provides that upon completion of a review of the SPCC Plan and any other reports on the spill incident which may have been prepared by the Coast Guard or the USGS, the Regional Administrator can require SPCC Plan amendments as outlined in § 112.4(e). The revision further provides that owners or operators may appeal the Regional Administrator's decisions under § 112.4(f).

Finally, the proposal provides that once an offshore facility has become subject to Part 112 because of spills, it must remain in compliance with the regulation for as long as it continues to operate.

Economic impact:

The economic impact of revising Part 112 is expected to be minimial since it is substantially the same as the existing regulation and will not affect the majority of the hundreds of thousands of facilities currently subject to Part 112.

A small number of onshore and offshore facilities will be required to make expenditures for developing an SPCC Plan because they have experienced serious oil spills. Additionally, based on historical spill date, it is estimated the one offshore platform (on the Outer Continental Shelf) per year will have to prepare an SPCC Plan because it has spilled over 8,400 gallons in a 30 day period. The number of onshore facilities presently not subject to Part 112 because of limited oil storage capacity, but becoming subject due to one large spill or two small ones in one year, is estimated to be approximately 500 per year.

Inclusion of specific testing intervals for underground buried storage tanks may result in an increased expenditure for such tests at those facilities where tanks are currently (or would be) tested at intervals longer than those specified in the proposed revisions. The Agency estimates that up to 5,000 additional tests per year may be performed as a result of this requirement.

An estimated 5,000 existing, unfenced storage tanks associated with onshore production facilities may require fencing as a result of the extension of section 112.7 security requirements to onshore production facilities. It is further estimated that 200 new storage tanks per year would be fenced as a result of the proposed revision.

Another 6,000 facilities may be required to spend a small amount to rewrite their "checklist" type plans into a narrative format because of this revision.

The revision of Part 112 is estimated to involve a total one-time industrial expenditure of $4,500,000 and a total yearly expenditure of $2,060,000. These estimates do not include savings to regulated facilities caused by product saved and reduced spill cleanup costs.

A specific breakdown of the incremental cost of compliance associated with the proposed revision follows:

*Yearly Cost*

1. Facilities on the Outer Continental Shelf which become subject to the provisions of paragraph 112.8(b): 1 per year at $50,000=$50,000/year

2. Facilites with oil storage capacity below the amounts specified in paragraph 112.1(d)(2), but which must prepare SPCC Plans because of spillage in compliance with paragraph 112.1(e): 500 facilities per year at $1,500 ea.=$750,000/year

3. Additional underground storage tank leakage tests performed as a result of the more specific testing requirements of 112.7(e)(2)(iii). It is estimated that as many as 5,000 additional tests per year would occur as a result of the proposed revision. It is assumed that 90 percent of these tests would be simple "standpipe" type tests (approximately $200 each) and that 10 percent would be a more expensive type which compensates for volume changes due to termperature changes or other effects (approxmately $600 each). 4,500 tank tests per year at $200=$900,000/year; 500 tank tests per year at $600=$300,000/year

4. Fencing of new or relocated storage tanks which would occur as a result of no longer exempting onshore oil production facilities from the security requirements of paragraph 112.7(e)(8). 200 tank fences per year at $300 each=$60,000/year

*One-Time Cost*

5. Rewriting and recertification of SPCC Plans which presently do not conform to the narrative format requirement of 112.7; 6,000 facilities at $500 each=$3,000,000 one-time expenditure

6. Fencing of existing, unfenced storage tanks which will occur as a result of no longer exempting onshore oil production facilities from the security requirements of paragraph 112.7(e)(8). 5,000 tank fences per year at $300 each = $1,500,000 one-time expenditure.

*Total Costs*

The Agency believes that the total estimated costs which could be attributed to the proposed revision are as follows: Per Year (Items 1, 2, 3 and 4) = $2,060,000; One-Time (Items 5 and 6) = $4,500,000

Based on the criteria set forth in the EPA report entitled "Improving Environmental Regulations: Final Report Implementing E.O. 12044" (44 F.R. p. 30988), it has been determined that this proposed revision does not require a Regulatory Analysis.

*Evaluation Plan*

With respect to the improvement of government regulations, section 2(d)(8) of Executive Order 12044 entitled "Improving Government Regulations" requires that the head of each Federal agency (or designated official with statutory responsibility) have a plan for evaluating each Federal regulation after its issuance. This proposed revision reflects the experience of EPA field personnel who implement the existing regulation and the feedback EPA has received from the owners and operators of regulated facilities. It is believed that this proposed revision fulfills the spirit and intent of Executive Order 12044. The impact of this revised regulation will be further evaluated by EPA within five years of its issuance as a final regulation.

Dated: May 8, 1980.

Douglas M. Costle,

*Administrator.*

## PART 112—OIL POLLUTION PREVENTION

Sec.

112.1 General applicability.
112.2 Definitions.
112.3 Requirement to prepare and implement a Spill Prevention Control and Countermeasure Plan.
112.4 Amendment of Spill Prevention Control and Countermeasure Plans by the Regional Administrator.
112.5 Amendment of Spill Prevention Control and Countermeasure Plans by owners or operators.
112.6 Civil penalties for violation of Oil Pollution Prevention Regulations.
112.7 Spill Prevention Control and Countermeasure Plan requirements.
112.8 Oil or gas drilling, production, or workover facilities (offshore, located on the Outer Continental Shelf).
Appendix—Memorandum of Understanding Between the Secretary of the Department of Transportation and the Administrator of the Environmental Protection Agency.

Authority: Secs. 311(j)(1)(C), 311(j)(2), 501(a), Clean Water Act, as amended, 33 U.S.C. §§ 1321(j)(1)(C), 1321(j)(2), 1361(a); 5 U.S.C. Reorg. Plan of 1970 No. 3, Appendix (1970), 35 FR 15623, 3 CFR 1966–1979 Comp.; E.O. 11735, 38 FR 21243.

**§ 112.1 General applicability.**

(a) This part establishes procedures, methods and equipment and other requirements for equipment to prevent the spillage of oil from non-transportation-related onshore and offshore facilities into or upon the navigable waters of the United States or adjoining shorelines of the waters of the contiguous zone, or in connection with activities under the Outer Continental Shelf Lands Act or the Deep Water Port Act of 1974 or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976).

(b) Except as provided in paragraph (d) of this section, this part applies to owners or operators of non-transportation-related onshore and offshore facilities engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing or consuming oil and oil products, and which, due to their location, could reasonably be expected to spill oil in the quantities, set out in 40 CFR Part 110 of this chapter, into or upon the navigable waters of the United States or adjoining shorelines, or the waters of the contiguous zone, or in connection with activities under the Outer Continental Shelf Lands Act or the Deep Water Port Act of 1974 or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976).

(c) As provided in sec. 313 (33 U.S.C. § 1323) departments, agencies, and instrumentalities of the Federal government are subject to these regulations to the same extent as any person.

(d) This part does not apply to:

(1) Facilities, equipment or operations which are not subject to the jurisdiction of the Environmental Protection Agency, as follows:

(i) Onshore and offshore facilities, which, due to their location could not reasonably be expected to have a spill of oil in the quantity set out in 40 CFR Part 110, into or upon the navigable waters of the United States, or adjoining shorelines, or the waters of the contiguous zone, or in connection with activities under the Outer Continental Shelf Lands Act or the Deep Water Port Act of 1974, or which may affect natural resources belonging to, appertaining to or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976). This determination shall be based solely upon a consideration of the geographical, locational aspects of the facility (such as proximity to navigable waters or adjoining shorelines, or the waters of the contiguous zone, land contour, drainage, etc.) and shall exclude consideration of manmade features such as dikes, equipment or other structures which may serve to restrain, hinder, contain, or otherwise prevent a spill of oil in the quantity set out in 40 CFR Part 110.

(ii) Equipment or operations of vessels or transportation-related onshore and offshore facilities which are subject to authority and control of the Department of Transportation, as defined in the Memorandum of Understanding between the Secretary of Transportation and the Administrator of the Environmental Protection Agency, dated November 24, 1971, 36 FR 24080, or subsequent memoranda.

(2) Those facilities which, although otherwise subject to the jurisdiction of the Environmental Protection Agency, meet both of the following requirements:

(i) The underground buried storage capacity of the facility is 42,000 gallons or less of oil, and

(ii) The storage capacity, which is not buried, of the facility is 1,320 gallons or less of oil, provided no single container has a capacity in excess of 660 gallons.

(e) Notwithstanding paragraph (d)(1)(i) or (d)(2) of this section, this part does apply to any non-transportation related facility, which has spilled more than 1000 U.S. gallons of oil in a single spill event, or spilled oil in two events occurring within any twelve month period. This part becomes applicable to such a facility at the time the single spill of over 1000 gallons occurs, or at the time the second spill of a reportable quantity within twelve months occurs.

(f) This part provides for the preparation and implementation of Spill Prevention Control and Countermeasure Plans prepared in accordance with § 112.7, designed to complement existing laws, regulations, rules, standards, policies and procedures pertaining to safety standards, fire prevention and pollution prevention rules; so as to form a comprehensive balanced Federal/State spill prevention program to minimize the potential for oil spillage. Compliance with this part does not in any way relieve the owner or operator of an onshore or an offshore facility from compliance with other Federal, State or local laws.

**§ 112.2 Definitions.**

For the purpose of this part:

(a) "Oil" means oil of any kind or in any form, including, but not limited to petroleum, fuel oil, sludge, oil refuse and oil mixed with wastes other than dredged spoil.

(b) "Spill," "Spill event" or "Spillage" means a discharge of oil in the quantities set out in 40 CFR Part 110 and reportable under Section 311(b)(5) of the Act into or upon the navigable waters of the United States or adjoining shorelines or the waters of the contiguous zone, or in connection with activities under the Outer Continental Shelf Lands Act or the Deep Water Port Act 1974, or which may affect natural resources belonging to, appertaining to or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976).

(c) "Onshore facility" means any facility of any kind located in, on or under any land within the United States, other than submerged lands, which is not a transportation-related facility.

(d) "Offshore facility" means any facility of any kind located in, on or under, any of the navigable waters of the United States, and any facility of any kind which is subject to the jurisdiction of the United States and is located in, on or under any other waters, other than a vessel or a public vessel, which is not a transportation-related facility.

(e) "Owner or operator" means any person owning or operating an onshore facility or an offshore facility, and in the case of any abandoned offshore facility, the person who owned or operated such facility immediately prior to such abandonment.

(f) "Person" includes an individual, firm, corporation, association, and a partnership.

(g) "Regional Administrator" means the Regional Administrator of the Environmental Protection Agency, or his/her designee, in and for the Environmental Protection Agency Region in which the facility is located.

(h) "Transportation-related" and "Non-transportation-related" as applied to an onshore or offshore facility, are defined in the Memorandum of Understanding between the Secretary of Transportation and the Administrator of the Environmental Protection Agency, dated November 24, 1971, 36 FR 24080 or subsequent memoranda.

(i) "Navigable waters" is defined in section 502(7) of the Clean Water Act to mean "waters of the United States, including territorial seas." This term includes but is not limited to:

(1) All waters which are now used, or were used in the past, or may be susceptible to use in interstate of foreign commerce, including all waters which are subject to the ebb and flow of the tide, intermittent streams, and including adjacent wetlands. "Wetlands" includes those areas such as swamps, marshes, bogs and similar areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

(2) Tributaries of navigable waters of the United States, including adjacent wetlands;

(3) Interstate waters, including wetlands; and

(4) All other waters of the United States such as intrastate lakes, rivers, streams, mudflats, sandflats and wetlands, the use, degradation or destruction of which would affect or could affect interstate commerce, including but not limited to:

(i) Intrastate lakes, rivers, streams, and wetlands which are or could be used by interstate travelers for recreational or other purposes; and

(ii) Intrastate lakes, rivers, streams, and wetlands from which fish are or could be taken and sold in interstate commerce; and

(iii) Intrastate lakes, rivers, streams, and wetlands which are used or could be used for industrial purposes by industries in interstate commerce.

(5) All impoundments of waters of the United States otherwise defined as navigable waters under this paragraph.

(j) "United States" means the States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(k) "Vessel" means every description of watercraft or other artificial contrivance used, or capable of being used as a means of transportation on water, other than a public vessel.

(l) "Contiguous zone" means the entire zone established or to be established by the United States under article 24 of the Convention of the Territorial Sea and the Contiguous Zone.

(m) "Territorial seas" means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of three miles.

(n) "Act" means the Clean Water Act (Pub. L. 92-500, as amended by Pub. L. 95-217 and Pub. L. 95-576) also known as the Federal Water Pollution Control Act.

(o) The term "underground buried storage" means those installations where the storage container is placed below grade and earth or concrete is backfilled so that it is in direct contact with the container walls. It doe not mean those installations where the storage container is placed in a structure such as a basement or vault, even though the container may be below grade, nor does it mean tanks or containers lying in whole or in part. above grade which have earth piled or heaped upon them.

(p) "Oil production facility (onshore)" means all wells, flowlines, separation equipment, and storage facilities, gathering lines, auxiliary non-transporation-related equipment and facilities in a single geographical oil or gas field operated by a single operator.

(q) "Oil drilling, production, or workover facilities (offshore)" means all drilling or workover equipment, wells, flowlines, separation equipment, storage facilities, gathering lines, platforms and auxiliary non-transportation related equipment and facilities in a single geographical oil or gas field operated by a single operator.

(r) "Outer Continental Shelf" means the Outer Continental Shelf as defined in the Outer Continental Shelf Lands Act of 1953 as amended in 1978.

**§ 112.3 Requirement to prepare and implement a Spill Prevention Control and Countermeasure Plan.**

(a) Owners or operators of onshore and offshore facilities in operation on or before the effective date of this part that have spilled or due to their location, could reasonably be expected to spill oil, in the quantities set out in 40 CFR Part 110, into or upon the navigable waters of the United States or adjoining shores, or the waters of the contiguous zone, or in connection with activities under the Outer Continental Shelf Lands Act or Deep Water Port Act 1974, or which may affect natural resources belonging to, appertaining to or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976) shall prepare a Spill Prevention Control and Countermeasure Plan (hereafter "SPCC Plan" or "Plan"), in writing and in accordance with § 112.7. Except as provided for in paragraph (f) of his section, such SPCC Plan shall be prepared within six month after the effective date of this part and shall be fully implemented as soon as possible, but not later than one year after the effective date of this part.

(b) Owners or operators of newly constructed onshore and offshore facilities that become operational after the effective date of this part, and that have spilled or could reasonably be expected to spill oil in the quantities, set out in 40 CFR Part 110, into or upon the navigable waters of the United States or adjoining shorelines or, the waters of the contiguous zone, in connection with activities under the Outer Continental Shelf Lands Act or the Deep Water Port Act of 1974, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976), shall prepare an SPCC Plan in accordance with § 112.7. Except as provided for in paragraph (f) of this section, such SPCC Plan shall be prepared and implemented at the time the facility begins operations.

(c) Owners or operators of onshore and offshore mobile or portable facilities, such as onshore drilling or workover rigs, barge mounted offshore drilling or workover rigs, and portable fueling facilities shall prepare and implement an SPCC Plan as required by paragraphs (a), (b) and (d) of this section. The owners or operators of such facility need not prepare a new SPCC Plan each time the facility is moved to a new site. The SPCC Plan may be a general plan, but shall be prepared in accordance with § 112.7, using good engineering practices. When the mobile or portable facility is moved, it must be located and installed using the spill prevention practices outlined in the SPCC Plan for the facility. No mobile or portable facility subject to this regulation shall operate unless the SPCC Plan has been implemented. The SPCC Plan shall only apply while the facility is in a fixed (non-transporation) operating mode.

(d) No SPCC Plan shall be effective to satisfy the requirements of this part unless it has been reviewed by a Registered Professional Engineer and certified to by such Professional Engineer. By means of this certification the engineer shall attest to the facts that (1) He/she has examined the facility; (2) He/she is familiar with provisions of this part; and (3) that the SPCC Plan has been prepared in accordance with good engineering practices and with § 112.7. The certification must be dated. Such

certification shall in no way relieve the owner or operator of an onshore or offshore facility of his/her duty to prepare and fully implement the Plan in accordance with § 112.7, as required by paragraphs (a), (b) and (c) of this section.

(e) Owners or operators of a facility for which an SPCC Plan is required under paragraphs (a), (b) or (c) of this section shall (1) maintain a complete copy of the Plan at the facility; (2) make the Plan available to the Regional Administrator for on-site review during normal working hours; and (3) mail a complete copy of the Plan to the Regional Administrator within five days of receiving a request for the Plan from the Regional Administrator.

(f) Extensions of time.

(1) The Regional Administrator may authorize an extension of time for the preparation and full implementation of an SPCC Plan beyond the time allowed under paragraphs (a), (b) or (c) of this section where he/she finds that the owner or operator cannot fully comply with the requirements of this part, despite all good faith and reasonable efforts.

(2) Any owner or operator seeking an extension of time pursuant to paragraph (f)(1) of this section may submit a letter of request to the Regional Administrator. Such a letter shall include:

(i) A complete copy of the SPCC Plan, if completed, or the portion that has been completed;

(ii) A full explanation of the cause for any delay and the specific aspects of the SPCC Plan affected by the delay;

(iii) A full discussion of actions being taken or contemplated to minimize or mitigate the delay;

(iv) A proposed time schedule for the implementation of any corrective actions being taken or contemplated, including interim dates for completion of tests or studies, installation and operations of any necessary equipment or other preventive measures; and

(v) Any other information relevant to the request.

(3) The submission of a letter of request for extension of time under paragraph (f)(2) of this section shall in no way relieve the owner or operator from his/her obligation to comply with the requirements of paragraph (a), (b), or (c) of this section. Where an extension of time is authorized by the Regional Administrator for particular equipment or other specific aspects of the SPCC Plan, this decision shall in no way affect the owner's or operator's obligations to comply with the requirements of paragraph (a), (b) or (c) of this section with respect to other equipment or other specific aspects of the SPCC Plan for which an extension of time has not been expressly authorized.

**§ 112.4 Amendment of Spill Prevention Control and Countermeasure Plans by the Regional Administrator.**

(a) Notwithstanding compliance with § 112.3, whenever a facility subject to § 112.3 (a), (b), or (c) has spilled more than 1,000 U.S. gallons of oil in a single event, or spilled oil in two events occurring within any twelve month period, the owner or operator of such facility shall submit to the Regional Administrator, within 60 days from the time such facility becomes subject to this subpart, the following:

(1) Name of the facility;

(2) Name(s) of the owner or operator and registered agent (if any) of the facility;

(3) Location of the facility;

(4) Date and year of initial facility operation;

(5) Maximum storage and handling capacity of oil of the facility and normal daily throughput;

(6) Description of the facility, including maps, flow diagrams, and topographic maps;

(7) A complete copy of the SPCC Plan with any amendments;

(8) The cause(s) of the spill, including a failure analysis of the system(s) or subsystem(s) in which the failure occurred;

(9) The corrective actions and/or countermeasures taken, including a complete description of equipment repairs and/or replacements;

(10) Additional preventative measures taken or contemplated to minimize the possibility of recurrence;

(11) Such other information as the Regional Administrator may reasonably require pertinent to the Plan or spill event.

(b) The requirements of this section shall not apply until the expiration of the time permitted for the preparation and implementation of an SPCC Plan pursuant to § 112.3(a), (b), (c) and (f).

(c) A complete copy of all information provided to the Regional Administrator under paragraph (a) of this section shall be sent at the same time to the State agency in charge of water pollution control activities in and for the State in which the facility is located. Upon receipt of this information the State agency may conduct a review and make recommendations to the Regional Administrator as to further procedures, methods, equipment and other requirements for equipment necessary to prevent and to contain spills of oil from the facility.

(d) After review of the SPCC Plan for a facility subject to paragraph (a) of this section, together with all other information submitted by the owner or operator of such facility, and by the State agency under paragraph (c) of this section, the Regional Administrator may require the owner or operator of the facility to amend the SPCC Plan if he/she finds that the Plan does not meet the requirements of this part, or that the amendment of the Plan is necessary to prevent and to contain spills of oil from the facility.

(e) When the Regional Administrator proposes to require an amendment to the SPCC Plan, he/she shall notify the facility operator by certified mail addressed to, or by personal delivery to, the facility owner or operator that he/she proposes to require an amendment to the Plan, and shall specify the terms of the amendment. If the facility owner or operator is a corporation, a copy of the notice shall also be mailed to the registered agent, if any, of the corporation in the State where such facility is located. Within 30 days from receipt of this notice, the facility owner or operator may submit written information, views, and arguments, on the amendment. After considering all relevant material presented, the Regional Administrator shall notify the facility owner or operator of any amendment required or shall rescind the notice. The amendment required by the Regional Administrator shall become part of the Plan 30 days after notification unless the Regional Administrator, for good cause, shall specify another effective date. The owner or operator of the facility shall implement the amendment of the plan as soon as possible, but not later than six months after the amendment becomes part of the Plan, unless the Regional Administrator specifies another date.

(f) An owner or operator may appeal a decision made by the Regional Administrator requiring an amendment to an SPCC Plan. The appeal shall be made to the Administrator of the United States Environmental Protection Agency and must be made in writing within 30 days of receipt of the notice from the Regional Administrator requiring the amendment. A complete copy of the appeal must be sent to the Regional Administrator at the time the appeal is made. The appeal shall contain a clear and concise statement of the issues and points of fact in the case. It may also contain additional information which the owner or operator wishes to present in suport of his/her argument. The Administrator or his/her designee may request additional information from the

owner or operator, or from any other person. The Administrator or his/her designee shall render a decision as soon as practicable after receiving the appeal and shall notify the owner or operator of his/her decision.

**§ 112.5 Amendment of Spill Prevention Control and Countermeasure Plan by owners or operators.**

(a) Owners or operators of facilities subject to § 112.3(a), (b) or (c) shall amend the SPCC Plan for their facility in accordance with § 112.7 whenever there is a change in facility design, construction, operation or maintenance which affects the facility's potential for the spillage of oil. Such amendments shall be fully implemented as soon as possible, but not later than six months after the change occurs, unless the Regional Administrator grants an extension of time as provided in § 112.3(f).

(b) Nothwithstanding compliance with paragraph (a) of this section, owners or operators of facilities subject to § 112.3(a), (b) or (c) shall complete a review and evaluation of the SPCC Plan at least once every three years from the date the SPCC Plan is fully implemented. As a result of this review and evaluation, the owner or operator shall amend the SPCC Plan within six months of the review to include more effective prevention and control technology if such technology will significantly reduce the likelihood of an oil spill from the facility.

The owner or operator shall affix a signed and dated statements to the SPCC Plan at the completion of the review indicating that review has taken place and whether an amendment to the plan was or was not determined to be necessary.

(c) No amendment to an SPCC Plan shall be effective to satisfy the requirements of this section unless it has been certified by a registered Professional Engineer in accordance with § 112.3(d).

**§ 112.6 Civil penalties for violation of Oil Pollution Prevention Regulations.**

Owners or operators of facilities subject to § 112.3(a), (b), or (c) who violate the requirements of this Part 112 by failing or refusing to comply with any of the provisions of § 112.3, § 112.4, § 112.5, § 112.7, or § 112.8 shall be liable for a civil penalty of not more than $5,000 for each day the violation continues. Civil penalties shall be imposed in accordance with procedures set out in Part 114 of this Subchapter D.

**§ 112.7 Spill Prevention Control and Countermeasure Plan requirements.**

The SPCC Plan shall be prepared in accordance with good engineering practices, and the requirements of § 112.7 and shall have full approval of management at a level with authority to commit the necessary resources. The Plan shall be in narrative form and shall describe all of the preventive systems or major preventive features required by these requirements. Where maps, drawings, or plot plans are necessary to describe the prevention practices at the facility, they shall be included in the Plan. If the Plan calls for additional facilities or procedures, methods, or equipment not yet fully operational, these items shall be discussed in separate paragraphs, and the details of installation and operational start-up shall be explained. The complete SPCC Plan shall follow the sequences outlined below, and include an explanation of the facility's conformance with the applicable requirements. The SPCC Plan may deviate from paragraph (c) and (e) of this section, provided equivalent protection is provided by some other spill prevention feature. Where the SPCC Plan does not conform to the applicable requirements of paragraph (c) or (e) of this section, the SPCC Plan shall so indicate, stating the reasons for nonconformance and describing in detail alternative methods and how they will achieve equivalent protection.

(a) A facility which has experienced one or more oil spills within twelve months prior to the effective date of this part shall include a written description of each incident, corrective action taken, and plans for preventing recurrence.

(b) Considering local drainage patterns and facility storage capacity and throughout, the plans shall include a prediction of the direction, rate of flow and total quantity of oil which could be spilled from the facility as a result of a major failure or accident, (for example, a tank failure).

(c) *General requirements.* (1) Containment, Drainage Control and Diversionary Structures. Appropriate containment, drainage control and/or diversionary structures shall be provided. One of the following prevention systems as prescribed in paragraph (d) of this section or its equivalent shall be used as a minimum:

(i) Dikes, berms, retaining walls, impounding basins, diversion ponds, retention ponds or other forms of secondary containment. Secondary containment systems shall be sufficiently impervious to contain spilled oil until it can be removed or treated. The facility waste treatment system may be used to provide secondary containment provided sufficient excess holding capacity is always available to hold the capacity of the largest tank or container in the drainage area, plus a reasonable allowance for precipitation.

(ii) Curbing, culverting, gutters, sewers or other forms of drainage control.

(d) Demonstration of impracticability. When it is determined that the installation of structures or equipment listed in paragraph (c) of this section is not practicable for all or any portion of an onshore or offshore facility, the owner or operator shall clearly demonstrate such impracticability in the SPCC Plan.

(1) Plans containing such demonstrations must be certified in accordance with § 112.3(d) and shall provide the following:

(i) A strong oil spill contingency plan following the provision of 40 CFR Part 109; and

(ii) A written description of manpower, equipment and materials required to expeditiously control and remove any harmful quantity of oil spilled, and a commitment to deploy these resources to effect cleanup.

(2) Where the installation of structures or equipment listed in paragraph (c) of this section is practicable for a portion or portions of a facility, the SPCC Plan's coverage of those portions shall be in accordance with paragraph (c) and (e) of this section.

(e) *Specific requirements.* (1) *Facility drainage (onshore).* (i) Drainage from diked storage areas or other forms of secondary containment shall be restrained by open-and-close type valves, stand pipes, manually operated pumps or ejectors, or other positive means. These drainage control systems shall be kept locked, closed or secured in an equivalent manner, and shall be operated so that oil spills do not occur. Accumulated rainfall or other runoff from secondary containment systems shall be inspected prior to release to assure that upon release, a spill does not occur. A record of these inspections and releases shall be kept with the SPCC Plan in accordance with paragraph (e)(7) of this section.

(ii) Drainage from process areas of the facility shall be controlled by means of ditching, sewering, curbing, guttering, culverting or other means to prevent spills of oil from occurring. Drainage control systems shall be designed and operated to prevent oil spills from occurring during periods of storm water runoff.

(iii) Drainage control features shall be described in the SPCC Plan.

(2) *Oil storage (onshore).* (i) Tank or container materials shall be compatible

with the material stored and shall be described in the Plan.

(ii) Non-buried tanks (including those portions of partially buried tanks above grade). A secondary containment system, sufficient to contain the capacity of the largest single container or tank in the drainage system shall be provided. If the drainage area is subject to precipitation, a reasonable allowance for its accumulation, based on local weather conditions and plant operation (such as the time interval between dike inspections for the release of accumulated water) shall be provided over and above the volume necessary to contain the capacity of the largest single tank or container. Secondary containment system shall be sufficiently impervious to contain spilled oil until it can be removed or treated. The facility waste treatment system may be used to provide secondary containment, provided it has sufficient excess holding capacity always available to hold the contents of the largest container or tank in the drainage area, plus a reasonable allowance for precipitation. Secondary containment systems, including capacity and construction details, shall be described in the Plan. Non buried tanks must be inspected or tested for leaks or oil loss within five years of the installation of the tank, or the effective date of this part, and thereafter every five years. Dates and details of tank inspections or tests, including whether oil loss was discovered or not, and in what quantity, shall be included in the SPCC Plan.

(iii) Underground buried storage. Underground buried storage tanks at facilities subject to this part, which are installed after the effective date of this part, shall be provided with protection against corrosion. Corrosion protection systems shall take the form of cathodic protection for steel tanks, use of non-metallic tanks, or other equally effective means which are compatible with local soil conditions. Both metallic and non-metallic tanks shall be properly backfilled in accordance with manufacturer's instructions to insure that undue stress is not placed on the tank. Corrosion protection systems shall be fully described in the Plan. Tank systems with corrosion protection shall be tested for leaks or oil loss within five years of the installation of the tank or the effective date of this part and thereafter every five years. Dates and details of tank tests, including whether oil loss was discovered or not, and in what quantity, shall be placed in the SPCC Plan. Buried storage tanks installed prior to the effective date of this part which do not have corrosion protection shall be tested for leaks or oil loss within two years of the effective date of this part and thereafter every two years. Dates and details of tank tests, including whether oil loss was discovered or not, and in what quantity, shall be included in the SPCC Plan.

(3) Facility transfer (onshore).

(i) Piping systems shall be designed and operated in such a manner that oil spills will not occur. Appropriate protection from corrosion, vehicular traffic and other threats to piping system integrity shall be provided and described in the Plan.

(ii) Terminal connections of pipe which are not in service shall be capped, valved or otherwise restrained so that oil spills will not occur due to operator error.

(iii) Piping systems shall be examined with sufficient frequency to assure that deterioration will not cause an oil spill.

(4) Facility tank car and tank truck loading/unloading rack. Tank truck and tank car loading and unloading areas equipped with an oil loading or unloading rack shall contain sufficient secondary containment to hold the capacity of the largest compartment of a tank truck or tank rail car (if the tanks are compartmented), which is loaded or unloaded at the facility. The system shall be described in the Plan.

(5) Oil drilling, production, and workover facilities (onshore).

(i) Onshore oil drilling, production, and workover facilities are also subject to the provisions of paragraph (i) of this section, except those of paragraph (e)(6) of this section. However, tank batteries or other storage areas constructed on soils which will not support secondary containment systems may provide alternative means of protection provided that the soil conditions which prohibit secondary containment are documented in the SPCC plan. Alternative forms of protection include overflow equalizing lines between tanks which permit a full tank to overflow to an adjacent one, or high level sensors which shut down the production system, thus forestalling an overflow. Alternative protection systems must be described in the SPCC Plan.

(ii) Production facilities shall have a program of flowline and well head maintenance, described in the SPCC Plan, to prevent oil spills from this source. The program shall include periodic examinations, corrosion protection, flowline replacement, and adequate records, as appropriate, for the facility.

(iii) If the facility has oil based or oil contaminated drilling fluids or oil contaminated waste, secondary containment and drainage control shall be provided to prevent the spill of this material and the containment and control shall be described in the Plan.

(iv) Before drilling below any casing string or during workover operations a blow out prevention (BOP) assembly and well control system shall be installed that is capable of controlling any well head pressure that is expected to be encountered while that BOP assembly is on the well. Casing and BOP installations shall be in accordance with state regulatory agency requirements and described in the Plan.

(6) Oil drilling, production or workover facilities (offshore, located on the Outer Continental Shelf).

(i) Drainage control equipment such as drip pans and impervious concrete decks, connecting to a collecting sump, shall be provided to prevent the spillage of oil from storage, treatment, processing and transfer areas.

(ii) For facilities which employ deck drains and sumps or drip pans which accumulate storm water runoff, the drain and sump or drip pan shall be adequately sized to accumulate spilled oil and storm water without a spill. Pumps or other transfer means may be provided to remove accumulated liquid from sumps or pans to preclude spillage of oil. Drainage control systems including sump sizing shall be described in the SPCC Plan.

(iii) Oil storage tanks shall be subject to yearly inspections for corrosion, foundation deterioration, and other hazards to tank integrity. Inspection procedures and results shall be described in the SPCC Plan.

(iv) All wells capable of flowing oil shall be equipped with surface and subsurface well shut in valves or devices, in accordance with state regulatory requirements. The devices and their method of activation or control shall be described in the SPCC Plan.

(v) Before drilling below any casing string, and during workover operations, a blow out preventer (BOP) assembly and well control system shall be installed that is capable of controlling any well head pressure that is expected to be encountered while that BOP assembly is on the well. Casing and BOP installations shall be in accordance with state regulatory agency requirements and described in the Plan.

(vi) In order that there will be no misunderstanding of joint and separate duties and obligations to comply with this section, and to perform work in a safe and pollution free manner, written instructions shall be prepared by the owner or operator for contractors or subcontractors to follow while working on the facility. Such instructions shall be maintained at the facility and shall be

made part of the SPCC plan. These instructions may be changed by the owner or operator without requiring an SPCC plan amendment pursuant to § 112.5(a). If contractor or subcontractor activities are to be covered by the facility's SPCC Plan, the instructions shall clearly describe which activities are covered by the facility's plan, and which are not. If contractor or subcontractor activities are to be covered by an SPCC Plan other than that of the facility, this shall be clearly described in the instructions. Responsibilities and supervisory controls for contractor and subcontractor activities shall be described in the instructions.

(vii) All manifolds (headers) shall be equiped with check valves on individual flowlines.

(viii) If the shut-in well pressure is greater than the working pressure of flowline and manifold values up to and including the header values associated with the individual flowlines, the flowline shall be equipped with a high pressure sensing device and shut-in valve at the well head or a pressure relief valve, vented so that it will not cause an oil spill, to prevent overpressuring and rupturing the flowline. This protection shall be discribed in the SPCC Plan.

(ix) All piping appurtenant to the facility shall be protected from corrosion. Methods used, such as protective coatings or cathodic protection shall be described in the SPCC Plan.

(x) Submarine piping appurtenant to the facility shall be adequately protected against trawling or other fishing activity. This shall be described in the SPCC Plan.

(xi) Piping appurtenant to the facility shall be inspected on a scheduled, periodic basis for deterioration, support failure or other conditions which could cause an oil spill. Inspection procedures and intervals shall be described in the SPCC Plan.

(7) *Inspections and records.* (i) Inspections required by this part shall be described in the SPCC Plan. The description shall include inspection procedures and time intervals between inspections.

(ii) Records, to show the completion of inspections in accordance with the written description and results shall be signed by the appropriate supervisor or inspector and shall be maintained for a period of three years, unless the inspection interval is greater than three years, in which case records of at least two inspections (the most recent and the previous) shall be maintained as part of the SPCC Plan.

(8) *Security (excluding offshore oil drilling, production, or workover facilities).* Storage, processing, transfer and loading/unloading rack areas of facilities shall be fenced and entrance gates locked or otherwise secured when the plant is unattended.

(ii) Valves, pump controls and other equipment which could permit the spillage of oil if improperly operated shall be locked or otherwise secured.

(iii) The processing and loading/unloading rack area of refineries, petroleum marketing terminals and bulk plants shall be lighted so that spills or releases in these areas can be discovered and corrective action taken to prevent an oil spill. Security measures shall be described in the SPCC Plan.

(9) *Training.* (i) Owners or operators are responsible for properly instructing personnel using the facility in the operation of the SPCC Plan to prevent the spillage of oil, and in reporting any spills in accordance with 33 CFR 153.203.

(ii) Employees and other personnel using the facility shall be tranined at intervals specified in the Plan (but not less than once per year) in the SPCC Plan and prevention procedures and in requirements for reporting spills. The training program and frequency shall be described in the SPCC Plan.

(iii) The SPCC Plan shall designate a person or position accountable for spill prevention at the facility who will set up the necessary spill emergency procedures and reporting requirements and employee training program.

(iv) Contractor, subcontractor, or temporary personnel whose work could cause an oil spill or who might be able to prevent such a spill shall be informed of facility operating features and spill prevention features which they should know in order to prevent a spill from occurring.

**§ 112. Oil or gas drilling, production, or workover facilities (offshore, located on the Outer Continental Shelf).**

(a) Oil or gas drilling, production, or workover facilities on the Outer Continental Shelf (OCS) shall not be required to prepare SPCC Plans if they are in compliance with the regulations, Operating Orders, and Notices to Lessees issued by the U.S. Geological Survey.

(b) Whenever an offshore facility as described in paragraph (a) of this section fails to comply with the regulations, Operating Orders, and Notices to Lessees issued by the U.S. Geological Survey or, experiences an oil spill of more than two hundred barrels (8,400 gallons) of oil during a period of thirty days, that facility shall, prepare an SPCC Plan in accordance with §§ 112.1, 112.2, 112.3, 112.4, 112.5, 112.6 and 112.7.

(c) The SPCC Plan, plus the other items of information required in § 112.4(a), shall be forwarded within 120 days of the time the facility falls under either of the provisions of paragraph (b) of this section, to the Regional Administrator for review and possible amendment.

(d) The Regional Administrator shall review the SPCC Plan and any report prepared by the U.S. Coast Guard or the Department of the Interior pursuant to Section 22 of Section 208 of Title II of the Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95-372). As a result of this review, the Regional Administrator may require an amendment to the SPCC Plan and specify the terms of the amendment, as outlined in § 112.4(e).

(e) The owner or operator may appeal a decision by the Regional Administrator as outlined in § 112.4(f).

(f) When a facility subject to § 112.8 prepares an SPCC Plan in accordance with this part, it shall henceforth be subject to all applicable provisions of this part.

**Appendix-Memorandum of Understanding Between the Secretary of Transportation and the Administrator of the Environmental Protection Agency**

*Section II—Definitions*

The Environmental Protection Agency and the Department of Transportation agree that for the purposes of Executive Order 11548, the term:

(1) "Non-transportation-related onshore and offshore facilities" means:

(A) Fixed onshore and offshore oil well drilling facilities including all equipment and appurtenances related thereto used in drilling operations for exploratory or development wells, but excluding any terminal facility, unit or process integrally associated with the handling or transferring of oil in bulk to or from a vessel.

(B) Mobile onshore and offshore oil well drilling platforms, barges, trucks or other mobile facilities including all equipment and appurtenances related thereto when such mobile facilities are fixed in position for the purpose of drilling operations for exploratory or development wells, but excluding any terminal facility, unit or process integrally associated with the handling or transferring of oil in bulk to or from a vessel.

(C) Fixed onshore and offshore oil production structures, platforms, derricks, and rigs including all equipment and appurtenances related thereto, as well as completed wells and the wellhead separators, oil separators, and storage facilities used in the production of oil, but excluding any terminal facility, unit or process integrally associated with the handling or transferring of oil in bulk to or from a vessel.

(D) Mobile onshore and offshore oil production facilities including all equipment

and appurtenances related thereto as well as completed wells and wellhead equipment, piping from wellheads to oil separators, oil separators, and storage facilities used in the production of oil when such mobile facilities are fixed in position for the purpose of oil production operations, but excluding any terminal facility, unit or process integrally associated with the handling or transferring of oil in bulk to or from a vessel.

(E) Oil refining facilities including all equipment and appurtenances related thereto as well as in-plant processing units, storage units, piping, drainage systems and waste treatment units used in the refining of oil, but excluding any terminal facility, unit or process integrally associated with the handling or transferring of oil in bulk to or from a vessel.

(F) Oil storage facilities, including all equipment and appurtenances related thereto as well as fixed bulk plant storage, terminal oil storage facilities, consumer storage, pumps and drainage systems used in the storage of oil, but excluding inline or breakout storage tanks needed for the continuous operation of a pipeline system and any terminal facility, unit or process integrally associated with the handling or transferring of oil in bulk to or from a vessel.

(G) Industrial, commercial, agricultural or public facilities which use and store oil, but excluding any terminal facility, unit or process integrally associated with the handling or transferring of oil in bulk to or from a vessel.

(H) Waste treatment facilities including in-plant pipelines, effluent discharge lines, and storage tanks, but excluding waste treatment facilities located on vessels and terminal storage tanks and appurtenances for the reception of oily ballast water or tank washings from vessels and associated systems used for off-loading vessels.

(I) Loading racks, transfer hoses, loading arms and other equipment which are appurtenant to a non-transportation-related facility or terminal facility and which are used to transfer oil in bulk to or from highway vehicles or railroad cars.

(J) Highway vehicles and railroad cars which are used for the transport of oil exclusively within the confines of a non-transportation-related facility and which are not intended to transport oil in interstate or intrastate commerce.

(K) Pipeline systems which are used for the transport of oil exclusively within the confines of a non-transportation-related facility or terminal facility and which are not intended to transport oil in interstate or intrastate commerce, but excluding pipeline systems used to transfer oil in bulk to or from a vessel.

(2) "Transportation-related onshore and offshore facilities" means:

(A) Onshore and offshore terminal facilities including transfer hoses, loading arms and other equipment and appurtenances used for the purpose of handling or transferring oil in bulk to or from a vessel as well as storage handling or transferring oil in bulk to or from a vessel as well as storage tanks and appurtenances for the reception of oily ballast water or tank washings from vessels, but excluding terminal waste treatment facilities and terminal oil storage facilities.

(B) Transfer hoses, loading arms and other equipment appurtenant to a non-transportation-related facility which is used to transfer oil in bulk to or from a vessel.

(C) Interstate and intrastate onshore and offshore pipeline systems including pumps as in-line appurtenances related thereto as well as in-line or breakout storage tanks needed for the continuous operation of a pipeline system, and pipelines from onshore and offshore oil production facilities, but excluding onshore and offshore piping from wellheads to oil separators and pipelines which are used for the transport of oil exclusively within the confines of a non-transportation-related facility or terminal facility and which are not intended to transport oil in interstate or intrastate commerce or to transfer oil in bulk to or from a vessel.

(D) Highway vehicles and railroad cars which are used for the transport of oil in interstate or intrastate commerce and the equipment and appurtenances related thereto, and equipment used for the fueling of locomotive units, as well as the rights-of-way on which they operate. Excluded are highway vehicles and railroad cars and motive and railroad cars and motive power used exclusively within the confines of a non-transporation-related facility or terminal facility and which are not intended for use in interstate or intrastate commerce.

[FR Doc. 80-15339 Filed 5-19-80; 8:45 am]

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Federal Register

Tuesday
May 20, 1980

Part VI

# Department of Energy

## Industrial Energy Conservation Program; Proposed Exempt Corporations and Adequate Reporting Programs

## DEPARTMENT OF ENERGY

[Docket No. CAS-RM-80-304]

## Industrial Energy Conservation Progam; Proposed Exempt Corporations and Adequate Reporting Programs

**AGENCY:** Department of Energy.

**ACTION:** Notice of Proposed Exempt Corporations and Adequate Reporting Programs.

**SUMMARY:** The Department of Energy (DOE) is proposing to exempt certain corporations from the requirement of filing corporate reporting forms directly with DOE and to determine as adequate certain industrial reporting programs for sponsor reporting, pursuant to DOE's regulations implementing Part E of Title III of the Energy Policy and Conservation Act, as amended by the National Energy Conservation Policy Act. The proposed exempt corporations and the respective sponsors of proposed adequate reporting programs are listed alphabetically by industry in the appendix to this notice. DOE will receive written comments with respect to this proposed list.

**DATE:** Written comments must be received by June 19, 1980.

**ADDRESS:** Comments should be addressed to: Carol A. Snipes, U.S. Department of Energy, Office of Conservation and Solar Energy, Mail Station 6B-026, 1000 Independence Avenue SW., Washington, D.C. 20585. Docket No. CAS-RM-80-304.

**FOR FURTHER INFORMATION CONTACT:** Tyler E. Williams, Jr., Office of Industrial Programs, Mail Station 2H-085, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585 (202) 252-2371.

Pamela M. Pelcovits, Office of General Counsel, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585. (202) 252-9516.

**SUPPLEMENTARY INFORMATION:**

The Department of Energy (DOE) recently issued as a final rule Part 445 of Chapter II of Title 10 of the Code of Federal Regulations (45 FR 10194, February 14, 1980), which sets out the requirements of DOE's Industrial Energy Conservation Program, required by Part E of Title III of the Energy Policy and Conservation Act (Pub. L. 94-163), as amended by the National Energy Conservation Policy Act (Pub. L. 95-619).

DOE has today issued a list of identified corporations as required by § 445.15(b). Identified corporations are required to meet the applicable reporting requirements set forth in Subpart C of Part 445.

Subpart D of Part 445 sets forth the criteria and procedures for an identified corporation to be exempt from filing directly with DOE the corporate reporting form required by § 445.22 through participation in the adequate reporting program of a sponsor that files an aggregated report, based on reports from its participants, with DOE pursuant to § 445.23. The requirements for a request to be an exempt corporation are provided in § 445.34, and the requirements for a request to be a sponsor with an adequate reporting program are provided in § 445.35. The deadline for filing such requests with DOE for calendar year 1979 was changed to March 31, 1980, by a Federal Register notice, pursuant to § 445.36 (45 FR 10232, February 14, 1980).

Based on the requests received by DOE, DOE has made a preliminary determination in accordance with § 445.37 and proposes to exempt certain corporations from the reporting requirements of § 445.22(c)(1) and to determine as adequate certain industrial reporting programs. The appendix to this *Notice* sets forth sponsors of adequate reporting programs alphabetically by 2-digit SIC Industry. Following each sponsor are the names of those corporations that DOE proposes to exempt from direct reporting requirements through their full participation in that sponsor's reporting program.

Parentheses with the word "partial" follow any corporation which will be reporting other than its total energy data in any particular 2-digit SIC code through the program sponsor under which it is listed. This signifies that the corporation will be reporting only part of its data for that SIC code through that sponsor and may be reporting the rest of its efficiency data through another sponsor or sponsors or directly to DOE.

Comments on this proposal should be submitted to the address indicated in the "ADDRESS" section above on or before June 19, 1980. Five copies of all written comments should be provided.

After considering any comments, DOE will exempt corporations and determine the adequacy of the reporting programs in which they participate and publish a list of corporations and sponsors of reporting programs in the Federal Register pursuant to § 445.37.

Issued in Washington, D.C., May 12, 1980.

Worth Bateman,

*Acting Under Secretary.*

**Proposed Exempt Corporations and Sponsors of Proposed Adequate Reporting Programs**

*SIC 20*—Food and Kindred Products

American Bakers Association
- Campbell Soup Company (partial)
- Campbell Taggart, Inc.
- Consolidated Foods Corporation (partial)
- Flowers Industries Inc.
- ITT Continental Baking Company Inc. (partial)
- Interstate Brands Corporation

American Feed Manufacturers Association
- A. E. Staley Manufacturing Company (partial)
- Archer Daniels Midland Company (partial)
- Cargill Incorporated
- Central Soya Company Inc. (partial)
- Gold Kist Inc.
- Land O'Lakes, Inc. (partial)
- Ralston Purina Company (partial)
- United Suppliers Inc.

American Frozen Food Institute
- Campbell Soup Company (partial)
- J. R. Simplot Company
- RCA Corporation

American Meat Institute
- Beatrice Foods Company (partial)
- Consolidated Foods Corporation (partial)
- Cudahy Foods Company
- E. W. Kneip Inc
- Geo. A. Hormel & Company
- Greyhound Corporation
- ITT Continental Baking Company Inc (partial)
- Oscar Mayer & Company
- Swift & Company
- United Brands Company
- Wilson Foods Corporation

Biscuit & Cracker Manufacturers Association
- American Brands Inc
- Keebler Company
- Nabisco Inc (partial)

Corn Refiners Association
- A. E. Staley Manufacturing Company (partial)
- American Maize-Products Company
- Anheuser-Busch Inc (partial)
- Archer Daniels Midland Company (partial)
- CPC International Inc
- Grain Processing Corporation
- H. J. Heinz Company (partial)
- National Starch & Chemical Corporation

Grocery Manufacturers of America, Inc
- A. E. Staley Manufacturing Company (partial)
- American Home Products Corporation
- Ampco Foods Inc
- Amstar Corporation
- Anderson Clayton & Company
- Archer Daniels Midland Company (partial)
- Beatrice Foods Company (partial)
- Borden Inc (partial)
- Carnation Company
- Central Soya Company Inc (partial)
- Coca Cola Company
- Consolidated Foods Corporation (partial)
- General Foods Corporation
- General Mills Inc
- Great A & P Tea Company Inc
- H. J. Heinz Company (partial)
- Hershey Foods Corporation
- Heublein Inc
- I. C. Industries Inc
- ITT Continental Baking Company Inc (partial)
- Jewel Companies Inc
- Kellogg Company
- Kraft Inc
- Kroger Company
- Lever Brothers Company

Mars Incorporated
Nabisco Inc (partial)
Pepsico Inc
Proctor & Gamble Company
Quaker Oats Company
Ralston Purina Company (partial)
R. T. French Company
Savannah Foods & Industries Inc (partial)
Standard Brands Incorporated
Thomas J. Lipton Inc
Universal Foods Corporation

National Food Processors Association
California Canners and Growers Company
Campbell Soup Company (partial)
Castle & Cooke, Inc
Curtice-Burns Inc
Del Monte Corporation
Gerber Products Company
H. J. Heinz Company (partial)
Norton Simon Inc
R. J. Reynolds Industries, Inc
Ralston Purina Company (partial)
Stokely-Van Camp Inc
Sunkist Growers Inc
Tri/Valley Growers Inc

National Frozen Food Association
H. J. Heinz Company (partial)
ITT Continental Baking Company Inc (partial)

U.S. Beet Sugar Association
American Crystal Sugar Company
Consolidated Foods Corporation (partial)
Holly Sugar Corporation
Michigan Sugar Company
Minn-Dak Farmers Cooperative
Southern Minnesota Sugar Cooperative
U and I Incorporated

U.S. Brewers Association
Adolph Coors Company
Anheuser-Busch Inc (partial)
Archer Daniels Midland Company (partial)
Froedtert Malt Corporation
Jos. Schlitz Brewing Company
Ladish Malting Company
Olympia Brewing Company
Pabst Brewing Company

U.S. Cane Sugar Refiners Association
Archer Daniels Midland Company (partial)
Borden Inc (partial)
California & Hawaiian Sugar Company
Imperial Sugar Company
Refined Syrups & Sugars Inc
Revere Sugar Corporation
Savannah Foods & Industries Inc (partial)

*SIC 22*—Textile Mill Products

American Textile Manufacturers Institute
American Thread Company
Avondale Mills Inc
Bibb Company
Burlington Industries Inc
Cannon Mills Company
Clinton Mills Inc
Coats & Clark Inc
Colgate-Palmolive Company
Collins & Aikman Corporation
Cone Mills Corporation
Cranston Print Works Company
Crompton Company Inc
Dan River Inc
Dixie Yarns Inc
Fieldcrest Mills Inc
General Tire & Rubber Company
Goodyear Tire & Rubber Company
Graniteville Company
Greenwood Mills Inc
J. P. Stevens & Company Inc
Johnson & Johnson
M. Lowenstein & Sons Inc
Milliken & Company
Northwest Industries Inc
Reeves Brothers Inc
Riegel Textile Corporation
Spartan Mills Inc
Sperry and Hutchinson Company
Springs Mills Inc
Standard-Coosa-Thatcher Company
Texfi Industries Inc
Thomaston Mills Inc
Ti-Caro Inc
United Merchants & Manufacturers Inc
West Point-Pepperell Inc

Carpet & Rug Institute
Mohasco Corporation
Shaw Industries Inc
Standard Oil Company (Indiana)
WWG Industries Inc

*SIC 24*—Lumber and Wood Products

National Forest Products Association
Boise Cascade Corporation
Champion International Corporation
Georgia-Pacific Corporation
Kimberly-Clark Corporation
Koppers Company Inc
Louisiana-Pacific Corporation
Macmillan Bloedel Inc
Masonite Corporation
Potlatch Corporation
Southwest Forest Industries Inc
Time Inc
Union Camp Corporation
Weyerhaeuser Company
Willamette Industries Inc

*SIC 26*—Paper and Allied Products

American Paper Institute
Abitibi Corporation
Alton Box Board Company
American Can Company
Appleton Papers Inc
Arcata Corporation
Austell Box Board Corporation
Bell Fibre Products Corporation
Blandin Paper Company
Boise Cascade Corporation
Bowater Incorporated
Champion International Corporation
Chesapeake Corporation
Clevepak Corporation
Consolidated Papers Inc
Coantinental Group Inc
Crown Zellerbach Corporation
Deerfield Specialty Papers Inc
Dexter Corporation
Diamond International Corporation
Eddy Paper Company Limited
Erving Paper Mills Inc
Federal Paper Board Company Inc
Finch Pruyn & Company Inc
Fort Howard Paper Company
Fraser Paper, Limited
GAF Corporation
Garden State Paper Company Inc
Georgia Pacific Corporation
Gilman Paper Company
Great Northern Nekoosa Corporation
Green Bay Packaging Inc
Gulf & Western Industries Inc
Gulf States Paper Company
Hammermill Paper Company
Hollingsworth & Vose Company
International Paper Company
International Telephone & Telegraph Corporation
James River Corporation of Virginia
Johnson & Johnson
Kimberly-Clark Corporation
Litton Industries Inc
Longview Fibre Company
Louisiana-Pacific Corporation
Macmillan Bloedel Inc
Marcal Paper Mills Inc
Masonite Corporation
Mead Corporation
Menasha Corporation
Merrimac Paper Company Inc
Mobil Oil Corporation (partial)
Mosinee Paper Corporation
National Gypsum Company
Newark Boxboard Company
Olin Corporation
Owens-Illinois Inc
PH Glatfelter Company
Pacific Paperboard Products Inc
Penntech Papers Inc
Pentair Industries Inc
Pineville Kraft Corporation
Port Huron Paper Company
Potlatch Corporation
Procter & Gamble Company
Rhinelander Paper Company
Scott Paper Company
Simpson Paper Company
Sonoco Products Company
Sorg Paper Company
Southeast Paper Manufacturing Company
Southwest Forest Industries Inc
St. Joe Paper Company
St. Regis Paper Company
Stone Container Corporation
Tenneco Inc
Time Inc
Times Mirror Company
Union Camp Corporation
Virginia Fibre Corporation
Wausau Paper Mills Company
Western Paper & Manufacturing Company
Westvaco Corporation
Weyerhaeuser Company
Willamette Industries Inc

Chemical Manufacturers Association
Minnesota Mining & Manufacturing Company
Mobil Oil Corporation (partial)

Glass—Pressed and Blown (Battelle Institute)
Owens-Corning Fiberglas Corporation

*SIC 27*—Printing and Publishing

American Paper Institute
Arcata Corporation

*SIC 28*—Chemicals and Allied Products

Aluminum Association
Aluminum Company of America
Reynolds Metals Company

Chemical Manufacturers Association
Air Products & Chemicals Inc
Airco Inc
Akzona Incorporated
Allied Chemical Corporation
American Can Company
American Cyanamid Company
American Hoechst Corporation
American Petrofina Inc
Arizona Chemical Company
Ashland Oil Inc
Atlantic Richefield Company
B F. Goodrich Company
Badische Corporation
BASF Wyandotte Corporation
Big Three Industries Inc
Borden Inc (partial)
Borg-Warner Corporation
Buffalo Color Corporation
Cabot Corporation
CARUS Chemical Company Inc
Celanese Corporation
Cities Service Company
Commonwealth Oil Refining Company
CONOCO Inc
CPC International Inc
Diamond Crystal Salt Company
Diamond Shamrock Corporation
Dow Chemical Company
Dow Corning Corporation
E I Du Pont De Nemours & Company
Eastman Kodak Company
El Paso Products Company

Ethyl Corporation
Exxon Corporation
Firestone Tire & Rubber Company
FMC Corporation
Freeport Minerals Company
General Tire & Rubber Company
Georgia-Pacific Corporation
Getty Chemical Company
Goodyear Tire & Rubber Company
Gulf Oil Corporation
Halcon International Inc
Hercules Incorporated
ICI Americas Inc
International Minerals & Chemicals Corporation (partial)
Kaiser Aluminum & Chemical Corporation
Keer-McGee Corporation
Koppers Company Inc
Lubrizol Corporation
Mallinckrodt Inc
Minnesota Mining & Manufacturing Company
Mobay Chemical Corporation
Mobil Oil Corporation
Monsanto Company
Nalco Chemical Company
National Distillers & Chemical Corporation
NL Industries Inc
Northern Petrochemical Company
Occidental Petroleum Corporation (partial)
Olin Corporation
Pennwalt Corporation
Pfizer Inc
Phillips Petroleum Company
PPG Industries Inc
PQ Corporation
Procter & Gamble Company
Reilly Tar & Chemical Corporation
Rohm and Haas Company
Shell Oil Company
Standard Oil Company (Indiana)
Standard Oil Company (Ohio)
Standard Oil Company of California
Stauffer Chemical Company
SunOlin Chemical Company
Tenneco Inc
Texaco Inc
Texasgulf Inc
Thiokol Corporation
Union Carbide Corporation
Uniroyal Inc
United States Borax & Chemical Corporation
United States Steel Corporation (partial)
Upjohn Company (partial)
Vertac Inc (partial)
Virginia Chemicals Inc
W. R. Grace & Company
Westvaco Corporation
Weyerhaeuser Company
Witco Chemical Corporation

Fertilizer Institute
Beker Industries Corporation
Borden Inc (partial)
C F Industries Inc
Coastal Corporation
Cominco America Incorporated
Estech General Chemicals Corporation
Farmland Industries
First Mississippi Corporation
Gardinier Big River Inc
Green Valley Chemical Company
Hawkeye Chemical Company
International Minerals & Chemical Corporation (partial)
J R Simplot Company
Mississippi Chemical Corporation
Occidental Petroleum Corporation (partial)
Terra Chemicals International Inc
Tyler Corporation
Union Oil Company of California
United States Steel Corporation (partial)
Vertac Inc (partial)
Williams Companies
Wycon Chemical Company

Pharmaceutical Manufacturers Association
Abbott Laboratories
American Home Products Corporation
Merck & Company Inc
Miles Laboratories Inc
Richardson Merrell Inc
Squibb Corporation
Upjohn Company (partial)

*SIC 29*—Petroleum and Coal Products

American Petroleum Institute
Agway Inc
American Petrofina Inc
Asamera Oil (US) Inc
Ashland Oil Inc
Atlantic Richfield Company
Beacon Oil Company
Champlin Petroleum Company
Charter International Oil Company
Cities Services Company
Clark Oil & Refining Corporation
Coastal Corporation
Commonwealth Oil Refining Company
CONOCO Inc
CRA, Inc
Crown Central Petroleum Corporation
Crystal Oil Company
Diamond Shamrock Corporation
Earth Resources Company
Exxon Corporation
Farmers Union Central Exchange Inc
Farmland Industries Inc
Fletcher Oil & Refining Company
Getty Refining & Marketing Company
Gulf Oil Corporation
Holly Corporation
Howell Hydrocarbons Inc
Hunt Oil Company
Husky Oil Company
Indiana Farm Bureau Cooperative Association
Kerr-McGee Corporation
Koch Industries Inc
Little America Refining Company
Marathon Oil Company
Mobil Oil Corporation
Murphy Oil Corporation
National Cooperative Refinery Association
Nueces Petrochemical Company
OKC Corporation
Pennzoil Company
Phillips Petroleum Company
Placid Refining Company
Powerine Oil Company
Quaker State Oil Refining Corporation
Rock Island Refining Corporation
Shell Oil Company
Sinclair Oil Corporation
Southern Union Company
Southland Oil Company
Standard Oil Company (Indiana)
Standard Oil Company (Ohio)
Standard Oil Company of California
Sun Company Inc
Tenneco Inc
Tesoro Petroleum Corporation
Texaco Inc
Texas Eastern Transmission Corporation
Tosco Corporation
Total Petroleum Inc
Union Oil Company of California
USA Petroleum Corporation
Vickers Petroleum Corporation
Winston Refining Company
Witco Chemical Corporation

Chemical Manufacturers Association
Great Lakes Carbon Corporation
Koppers Company Inc
Uniroyal Inc

Glass—Pressed and Blown (Battelle Institute)
Owens-Corning Fiberglas Corporation

*SIC 30*—Rubber and Miscellaneous Plastic Products

Chemical and Manufacturers Association
American Cyanamid Company
Dart Industries Inc
Ethyl Corporation
Minnesota Mining & Manufacturing Company
Union Carbide Corporation
W. R. Grace & Company

Rubber Manufacturers Association
Armstrong Rubber Company
B. F. Goodrich Company
Dayco Corporation
Dunlop Tire & Rubber Corporation
Firestone Tire & Rubber Company
Gates Rubber Company
General Tire & Rubber Company
Goodyear Tire & Rubber Company
Uniroyal Inc

*SIC 32*—Stone, Clay and Glass Products

Chemical Manufacturers Association
Allied Chemical Company
Engelhard Minerals & Chemicals Corporation
Minnesota Mining & Manufacturing Company

Glass—Flat (Eugene L. Stewart)
AFG Industries Inc
Combustion Engineering Inc
Ford Motor Company
Guardian Industries Corporation
Libbey-Owens-Ford Company
PPG Industries Inc

Glass Packaging Institute
Adolph Coors Company
Anchor Hocking Corporation (partial)
Ball Corporation
Brockway Glass Company Inc
Dart Industries Inc
Dorsey Corporation
Gallo Glass Company
Glenshaw Glass Company Inc
Indian Head Inc
Kerr Glass Manufacturing Corporation
Latchford Glass Company
Liberty Glass Company
Midland Glass Company Inc
National Bottle Manufacturing Company
National Can Corporation
Norton Simon Inc
Owens-Illinois Inc (partial)
Wheaton Industries

Gypsum Association
Domtar Industries Inc
Flintkote Company (partial)
Georgia-Pacific Corporation
Jim Walter Corporation (partial)
National Gypsum Company (partial)
Pacific Coast Building Products Company
United States Gypsum Company (partial)

*SIC 33*—Primary Metal Industries

Aluminum Association
Alcan Aluminum Corporation
Alumax Inc
Aluminum Company of America
American Can Company
Atlantic Richfield Company (partial)
Cabot Corporation
Consolidated Aluminum Corporation
Ethyl Corporation
Kaiser Aluminum & Chemical Corporation
Martin Marietta Corporation
National Steel Corporation (partial)
Noranda Aluminum Inc
Pechiney Ugine Kuhlmann Corporation (partial)
Revere Copper and Brass Inc (partial)
Reynolds Metals Company
Southwire Company

American Foundrymen's Society
American Cast Iron Pipe Company
Clow Corporation
Dayton Malleable Inc

Grede Foundries Inc
Hayes-Albion Corporation (partial)
Jim Walter Corporation (partial)
Mead Corporation
Teledyne Inc (partial)
American Iron & Steel Institute
Allegheny Ludlum Industries Inc
Armco Inc
Athlone Industries Inc
Babcock & Wilcox Company
Bethlehem Steel Corporation
Carpenter Technology Corporation
Colt Industries Inc
Crane Company
Cyclops Corporation
Envirodyne Industries Inc
Florida Steel Corporation
Ford Motor Company (partial)
Inland Steel Company
Interlake Inc (partial)
Kaiser Steel Corporation
Keystone Consolidated Industries Inc
Korf Industries Inc
Laclede Steel Company
Lone Star Steel Company
LTV Corporation
Lukens Steel Corporation
McLouth Steel Corporation
National Steel Corporation (partial)
Northwestern Steel & Wire Company
Penn-Dixie Steel Corporation
Republic Steel Corporation
Sharon Steel Corporation
Shenango Inc
Structural Metals Inc
Teledyne Inc (partial)
Timken Company
United States Steel Corporation
Wheeling Pittsburgh Steel Corporation
Chemical Manufacturers Association
Allied Chemical Corporation
Dow Chemical Company (partial)
Great Lakes Carbon Corporation
NL Industries Inc
Construction Industry Manufacturers Association
Tenneco Inc
Motor Vehicle Manufacturers Association
Ford Motor Company (partial)
General Motors Corporation

*SIC 34*—Fabricated Metal Products

Aluminum Association
Aluminum Company of America
Kaiser Aluminum & Chemical Corporation
Martin Marietta Corporation
Reynolds Metals Company
American Feed Manufacturers Association
Moorman Manufacturing Company
Can Manufacturers Institute
American Can Company
Continental Group Inc
Crown Cork & Seal Company Inc
Jos Schiltz Brewing Company
National Can Corporation
Chemical Manufacturers Association
Olin Corporation
Remington Metals Company Inc
Motor Vehicle Manufacturers Association
Chrysler Corporation
Ford Motor Company
General Motors Corporation

*SIC 35*—Machinery, Except Electrical

Air Conditioning & Refrigeration Institute
Trane Company
United Technologies Corporation
Construction Industry Manufacturers Association
Bucyrus-Erie Company
Caterpillar Tractor Company
Clark Equipment Company
Cummins Engine Company Inc
FMC Corporation
Ford Motor Company (partial)
Harnischfeger Corporation
Ingersoll-Rand Company
International Harvester Company
Tenneco Inc
Motor Vehicle Manufacturers Association
Chrysler Corporation
Ford Motor Company (partial)
General Motors Corporation

*SIC 36*—Electric, Electronic Equipment

Chemical Manufacturers Association
Minnesota Mining & Manufacturing Company
Computer & Business Equipment Manufacturers Association
Digital Equipment Corporation
National Electrical Manufacturers Association
Airco Inc
Harvey Hubbell Inc
Johnson Controls Inc
McGraw-Edison Company
Reliance Electric Company
Square D Company
Union Carbide Corporation

*SIC 37*—Transportation Equipment

Chemical Manufacturers Association
Hercules Incorporated
Tenneco Inc.
Motor Vehicle Manufacturers Association
American Motors Corporation
Chrysler Corporation
Ford Motor Company
General Motors Corporation
International Harvester Company

*SIC 38*—Instruments and Related Products

Chemical Manufacturers Association
Eastman Kodak Company
Minnesota Mining & Manufacturing Company

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BILLING CODE 6450-01-M

Tuesday
May 20, 1980

Part VII

# Department of Energy

## Industrial Energy Conservation Program; Identification of Corporations for Purposes of Industrial Energy Reporting and Recovered Materials Reporting

## DEPARTMENT OF ENERGY

### Industrial Energy Conservation Program; Identification of Corporations for Purposes of Industrial Energy Reporting and Recovered Materials Reporting

**AGENCY:** Department of Energy.

**ACTION:** Notice of Corporate Identification.

**SUMMARY:** The Department of Energy (DOE) is identifying corporations which consumed at least one trillion British thermal units of energy in calendar year 1979 in any of 20 major energy-consuming manufacturing industries as required by DOE's regulations implementing the Industrial Energy Conservation Program established by the Energy Policy and Conservation Act, as amended by the National Energy Conservation Policy Act. Based on this identification, corporations are required to participate in the reporting aspects of the Industrial Energy Conservation Program. The identified corporations are listed alphabetically by industry in the appendix to this Notice.

**EFFECTIVE DATE:** May 20, 1980.

**FOR FURTHER INFORMATION CONTACT:**

Tyler E. Williams, Jr., Office of Industrial Programs, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-2371.

Pamela M. Pelcovits, Office of General Counsel, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-9516.

**SUPPLEMENTARY INFORMATION:** The Department of Energy (DOE) recently issued as a final rule Part 445 of Chapter II of Title 10 of the Code of Federal Regulations (45 FR 10194, February 14, 1980), which sets out the requirements of DOE's Industrial Energy Conservation Program, required by Part E of Title III of the Energy Policy and Conservation Act (Pub. L. 94-163), as amended by the National Energy Conservation Policy Act (Pub. L. 95-619).

Subpart B of Part 445 requires that a corporation that consumed at least one trillion British thermal units of energy in a calendar year in any of the 20 major energy-consuming industries file a statement to that effect with DOE and provides instructions for submitting the report. Pursuant to § 445.14(b), the deadline for filing a report on 1979 energy consumption was changed to March 31, 1980 by a Federal Register notice, (45 FR 10232, February 14, 1980). Based on the reports received by DOE and other information available to DOE, DOE is publishing a list of indentified corporations in the appendix to this notice, as required by § 445.15(b).

Identified corporations are required to meet the applicable reporting requirements set forth in subpart C of Part 445. The procedures for seeking a modification of identification are set forth at § 445.16.

Issued in Washington, D.C., May 12, 1980.

Worth Bateman,

*Acting Under Secretary.*

List of Identified Corporations

*SIC 20*—Food and Kindred Products

A E Staley Manufacturing Co
Adolph Coors Company
American Brands Inc
American Crystal Sugar Co
American Home Products Corp.
American Maize-Products Co
Amfac Inc
Ampco Foods Inc
Amstar Corporation
Anderson Clayton & Co
Anheuser-Busch Inc
Archer Daniels Midland Company
Beatrice Foods Co
Borden Inc
Bunge Corporation
California & Hawaiian Sugar Co
California Canners and Growers Co
Campbell Soup Company
Campbell Taggart Inc
Cargill Incorporated
Carnation Company
Castle & Cooke Inc
Central Soya Co Inc
Coca Cola Company
Conagra Inc
Consolidated Foods Corporation
Continental Grain Company
CPC International Inc
Cudahy Foods Co
Curtice-Burns Inc
Dawson Mills Inc
Del Monte Corporation
Dubuque Packing Company
E W Kneip Inc
Eli Lilly and Company
Farmland Industries Inc
Federal Company
Flowers Industries Inc
Foremost-McKesson Inc
Froedtert Malt Corp.
G Heileman Brewing Company Inc
General Foods Corporation
General Mills Inc
Geo A Hormel & Co
Gerber Products Company
Gold Kist Inc
Grain Processing Corporation
Grain Terminal Assoc.
Great A & P Tea Co Inc
Greyhound Corporation
Gulf & Western Industries Inc
H J Heinz Company
Hanson Industries Inc
Henkel Corporation
Hershey Foods Corporation
Heublein Inc
Holly Sugar Corporation
Hunt Intl Resources Corp.
Hygrade Food Products Corp.
IC Industries Inc
Imperial Sugar Company
International Tel & Tel Corp.
Interstate Brands Corporation
Iowa Beef Processors Inc
J R Simplot Company
Jewel Companies Inc
Jos Schlitz Brewing Company
Joseph E Seagram & Sons Inc
Keebler Company
Kellogg Company
Kraft Inc
Kroger Company
Ladish Malting Co
Land O' Lakes, Inc
Lauhoff Grain Company
Lever Brothers Company
Liggett Group Inc
Lykes Bros Inc
Mars Incorporated
MBPXL Corporation
Michigan Sugar Company
Midwest Solvents Company Inc
Minn-Dak Farmers Cooperative
Monitor Sugar Company
Moorman Manufacturing Co
Nabisco Inc
National Starch & Chemical Corp
Natl Distillers & Chemical Corp
Nestle Enterprises Inc
Norton Simon Inc
Olympia Brewing Company
Oscar Mayer & Co
Pabst Brewing Company
Pepsico Inc
Perdue Inc
Philip Morris Incorporated
Pillsbury Company
Proctor & Gamble Co
Quaker Oats Company
R J Reynolds Industries Inc
R T French Company
Ralston Purina Co
Rapid American Corporation
Rath Packing Company
RCA Corporation
Refined Syrups & Sugars Inc
Revere Sugar Corporation
Riceland Foods Inc
Safeway Stores Incorporated
Savannah Foods & Industries Inc
SCM Corporation
Southern Minnesota Sugar Cooperative
Standard Brands Incorporated
Stokely-Van Camp Inc
Stroh Brewery Co
Sunkist Growers Inc
Swift & Company
Thomas J Lipton Inc
Tillie Lewis Foods Inc
Tri/Valley Growers Inc
Twin City Foods Inc
U and I Incorporated
United Brands Company
United Suppliers Inc
Univar Corporation
Universal Foods Corporation
Wilson Foods Corporation

*SIC 21—Tobacco Products*

American Brands Inc
Brown & Williamson Tobacco Corp
Gulf & Western Industries Inc
Philip Morris Incorporated
R J Reynolds Industries Inc

*SIC 22*—Textile Mill Products

American Thread Company

Armstrong Cork Company
Avondale Mills Inc
Bibb Company
Burlington Industries Inc
Cannon Mills Company
Clinton Mills Inc
Coats & Clark Inc
Colgate-Palmolive Company
Collins & Aikman Corporation
Cone Mills Corporation
Consolidated Foods Corporation
Cranston Print Works Company
Crompton Company Inc
Crown America Inc
Daisy Hosiery Mills Inc
Dan River Inc
Dixie Yarns Inc
Fieldcrest Mills Inc
General Tire & Rubber Co
Goodyear Tire & Rubber Co
Graniteville Company
Greenwood Mills Inc
Gulf & Western Industries Inc
High Voltage Engineering Corp
J P Stevens & Co Inc
Johnson & Johnson
Kiddie Tot Hosiery Mills Inc
M Lowenstein & Sons Inc
Milliken & Company
Mohasco Corporation
Northwest Industries Inc
RCA Corporation
Reeves Brothers Inc
Riegel Textile Corporation
Shaw Industries Inc
Spartan Mills Inc
Sperry and Hutchinson Co
Springs Mills Inc
Standard Oil Company (Indiana)
Standard Oil Company of California
Standard-Ccosa-Thatcher Co
Texfi Industries Inc
Thomaston Mills Inc
Ti-Caro Inc
Union Underwear Company Inc
United Merchants & Mfgrs Inc
West Point-Pepperell Inc
WWG Industries Inc

*SIC 23*—Apparel and Other Textile Products

Kellwood Company

*SIC 24*—Lumber and Wood Products

Bendix Corporation
Boise Cascade Corporation
Champion International Corp
Crown Zellerbach Corp
Evans Products Company
Georgia-Pacific Corporation
Jim Walter Corporation
Kimberly-Clark Corp
Koppers Company Inc
Louisiana-Pacific Corporation
Macmillan Bloedel Inc
Masonite Corporation
Potlatch Corporation
Southwest Forest Ind Inc
Time Inc
Union Camp Corp
Weyerhaeuser Company
Willamette Industries Inc

*SIC 25*—Furniture and Fixtures

None.

*SIC 26*—Paper and Allied Products

Abitibi Corporation
Abitibi Southern Corporation
Alaska Lumber & Pulp Co Inc
Alton Box Board Company
American Can Company
Appleton Papers Inc
Arcata Corporation
Armstrong Cork Company
Austell Box Board Corporation
Bell Fibre Products Corp
Bird & Son Inc
Blandin Paper Company
Boise Cascade Corporation
Bowater Incorporated
Champion International Corp
Chesapeake Corporation
Clevepak Corporation
Collins & Aikman Corporation
Consolidated Papers Inc
Consolidated Packaging Corp
Continental Group Inc
Crown Zellerbach Corporation
Deerfield Specialty Papers Inc
Dennison Manufacturing Company
Dexter Corporation
Diamond International Corp
Eddy Paper Company Limited
Erving Paper Mills Inc
Federal Paper Board Co Inc
Finch Pruyn & Co Inc
Flintkote Company
Fort Howard Paper Company
Fraser Paper, Limited
GAF Corporation
Garden State Paper Co Inc
General Refractories Company
Georgia-Pacific Corporation
Gilman Paper Company
Great Northern Nekoosa Corp
Green Bay Packaging Inc
Gulf & Western Industries Inc
Gulf States Paper Corp
Hammermill Paper Company
Hollingsworth & Vose Co
Howard Paper Mills Inc
International Paper Company
International Tel & Tel Corp
Interstate Paper Corporation
James River Corporation of VA
Jim Walter Corporation
Johns-Manville Sales Corp
Johnson & Johnson
Kimberly-Clark Corporation
Litton Industries Inc
Longview Fiber Company
Louisiana-Pacific Corporation
MacMillan Bloedel Inc
Parcal Paper Mills Inc
Masonite Corporation
Mead Corporation
Menasha Corporation
Merrimac Paper Co Inc
Minnesota Mining & MFG Co
Mobil Oil Corporation
Mosinee Paper Corp
National Gypsum Company
Newark Boxboard Co
Newton Falls Paper Mill Inc
Clin Corporation
Owens-Corning Fiberglas Corp
Owens-Illinois Inc
P H Glatfelter Co
Pacific Paperboard Products Inc
Penntech Papers Inc
Pentair Industries Inc
Philip Morris Incorporated
Pineville Kraft Corporation
Port Huron Paper Company
Potlatch Corporation
Procter & Gamble Co
Rhinelander Paper Co
SCM Corporation
Scott Paper Company
Simpson Paper Company
Sonoco Products Company
Sorg Paper Co
Southeast Paper Manufacturing Company
Southwest Forest Ind Inc
St Joe Paper Company
St Regis Paper Company
Stone Container Corporation
Tenneco Inc
Time Inc
Times Mirror Company
Union Camp Corporation
United States Gypsum Company
Virginia Fibre Corporation
Wausau Paper Mills Company
Western Paper & Mfg Co
Westvaco Corporation
Weyerhaeuser Company
Willamette Industries Inc

*SIC 27*—Printing and Publishing

Arcata Corporation
Gulf & Western Industries Inc
R R Donnelley & Sons Company
W. F. Hall Printing Co

*SIC 28*—Chemicals and Allied Products

Abbott Laboratories
Air Products & Chemicals Inc
Airco Inc
Akzona Incorporated
Alcon Laboratories Inc
Allegheny Ludlum Industries Inc
Allied Chemical Corporation
Aluminum Company of America
American Can Company
American Cyanamid Company
American Hoechst Corporation
American Home Products Corp
American Petrofina Inc
American Synthetic Rubber Corp
Arizona Chemical Company
Asarco Incorporated
Ashland Oil Inc
Atlantic Richfield Company
Avtex Fibers Inc
B F Goodrich Company
Badische Corporation
Basf Wyandotte Corporation
Beker Industries Corp
Big Three Industries Inc
Borden Inc
Borg-Warner Corporation
Bristol-Myers Company
Buffalo Color Corp
C F Industries Inc
Cabot Corporation
Cargill Incorporated
Carus Chemical Company Inc
Celanese Corporation
Ciba-Geigy Corporation
Cities Service Company
Coastal Corporation
Colgate-Palmolive Company
Cominco American Incorporated
Commonwealth Oil Refining Co
Conoco Inc
Copolymer Rubber & Chem Corp
CPC International Inc
Diamond Crystal Salt Company

Diamond Shamrock Corporation
Dow Chemical Company
Dow Corning Corporation
E I Du Pont De Nemours & Co
Eagle Picher Industries Inc
Eastman Kodak Company
Economics Laboratory Inc
El Paso Products Company
Eli Lilly and Company
Estech General Chemicals Corp
Ethyl Corporation
Exxon Corporation
Farmland Industries Inc
Felmont Oil Corporation
Ferro Corporation
Firestone Tire & Rubber Co
First Mississippi Corporation
FMC Corporation
Freeport Minerals Company
GAF Corporation
Gardinier Big River Inc
General Electric Company
General Tire & Rubber Co
Georgia-Pacific Corporation
Getty Chemical Company
Goodyear Tire & Rubber Co
Greyhound Corporation
Gulf & Western Industries Inc
Gulf Oil Corporation
Gulf Resources & Chemical Corp
Halcon International Inc
Hardy Salt Company
Hawkeye Chemical Company
Henkel Corporation
Hercules Incorporated
Hoffmann-La Roche Inc
Hygrade Food Products Corp
ICI Americas Inc
Internatl Minerals & Chem Corp
J M Huber Corporation
J R Simplot Company
Johnson & Johnson
Kaiser Aluminum & Chemical Corp
Kerr-McGee Corporation
Knoll Pharmaceutical Co
Koppers Company Inc
Kraft Inc
Lever Brothers Company
Linden Chemicals & Plastics Inc
Lubrizol Corporation
Mallinckrodt Inc
Martin Marietta Corporation
Melamine Chemicals Inc
Merck & Co Inc
Merichem Company
Miles Laboratory Inc
Minnesota Mining & Mfg Co
Mississippi Chemical Corp
Mobay Chemical Corporation
Mobil Oil Corporation
Monsanto Company
Morton-Norwich Products Inc
Neren Corporation
Nalco Chemical Company
Natl Distillers & Chemical Corp
NIPRC Inc
NL Industries Inc
North American Rayon Corp
Northern Natural Gas Company
Northern Petrochemical Co
Northwest Industries Inc
Occidental Petroleum Corp
Olin Corporation
Pennwalt Corporation
Pfizer Inc
Phillips Petroleum Company
PPG Industries Inc
PQ Corporation
Proctor & Gamble Co
Publicker Industries Inc
Quaker Oats Company
Reichhold Chemicals Inc
Reilly Tar & Chemical Corp
Reynolds Metal Company
Richardson-Merrell Inc
Rohm & Haas Company
SCM Corporation
Shell Oil Company
Sherex Chemical Co Inc
Sherwin-Williams Company
Signal Companies Inc
Soltex Polymer Corporation
Squibb Corporation
St Joe Minerals Corporation
Standard Oil Company (Indiana)
Standard Oil Company (Ohio)
Standard Oil Company of Calif
Stauffer Chemical Company
Sterling Drug Inc
Superior Oil Company
Sunolin Chemical Company
Tenneco Inc
Terra Chemicals Internatl Inc
Texaco Inc
Tesasgulf Inc
Thiokol Corporation
Tyler Corporation
Union Camp Corporation
Union Carbide Corporation
Union Oil Co of California
Uniroyal Inc
United States Borax & Chem Corp
United States Steel Corp
United Technologies Corp
Upjohn Company
USA Petroleum Corp
Valley Nitrogen Producers Inc
Velsicol Chemical Corporation
Vertac Inc
Virginia Chemicals Inc
Vulcan Materials Company
W R Grace & Co
Warner-Lambert Company
Westvaco Corporation
Willamette Industries Inc
Williams Companies
WITCO Chemical Corporation
Wycon Chemical Co

*SIC 29*—Petroleum and Coal Products

Agway Inc
Amerada Hess Corporation
American Petrofina Inc
Asamera Oil (US) Inc
Ashland Oil Inc
Atlantic Richfield Company
Beacon Oil Company
Belridge Oil Company
Bird & Son Inc
Certainteed Corporation
Champlin Petroleum Co
Charter International Oil Co
Cities Service Company
Clark Oil & Refining Corp
Coastal Corporation
Commonwealth Oil Refining Co
Conoco Inc
CRA Inc
Crown Central Petroleum Corp
Crystal Oil Company
Diamond Shamrock Corporation
Dorchester Gas Corporation
Earth Resources Company
Energy Cooperative Inc
Exxon Corporation
Farmers Union Central Exch. Inc
Farmland Industries Inc
Fletcher Oil & Refining Co
GAF Corporation
Getty Refining & Marketing Co
Great Lakes Carbon Corporation
Guam Oil & Refining Co Inc
Gulf Oil Corporation
Holly Corp
Howell Hydrocarbons Inc
Hunt Oil Company
Husky Oil Company
Indiana Farm Bureau Coop. Assn.
Jim Walter Corporation
Johns-Manville Sales Corp
Kern County Refinery Inc
Kerr-McGee Corporation
Koch Industries Inc
Koppers Company Inc
Little America Refining Co
Louisiana Land & Exploration Co
Marathon Oil Company
Mobil Oil Corporation
Murphy Oil Corporation
National Coop. Refinery Assn.
Nueces Petrochemical Co
OKC Corp
Oklahoma Refining Company
Owens-Corning Fiberglas Corp
Pacific Resources Inc
Pennzoil Company
Petrolite Corp
Phillips Petroleum Company
Placid Refining Company
Powerine Oil Company
Pride Refining Inc
Quaker State Oil Refining Corp
Reserve Oil & Gas Company
Rock Island Refining Corp
Shell Oil Company
Sinclair Oil Corp
Southern Union Company
Southland Oil Company
Standard Oil Company (Indiana)
Standard Oil Company (Ohio)
Standard Oil Company of Calif.
Standard Products Co
Sun Company Inc
Superior Oil Company
Tenneco Inc
Tesoro Petroleum Corp
Texaco Inc
Texas Eastern Transmission Corp
Time Oil Company
Tosco Corporation
Total Petroleum Inc
Union Oil Co of California
Uniroyal Inc
United Refining Company
USA Petroleum Corp
Vickers Petroleum Corporation
Winston Refining Company
Witco Chemical Corporation

*SIC 30*—Rubber and Miscellaneous Plastics Products

Amerace Corporation
American Cyanamid Company
Armstrong Rubber Company
B F Goodrich Company
Baxter Travenol Labs Inc
Eudd Company
Continental Group Inc

Cooper Tire & Rubber Company
Dart Industries Inc
Dayco Corporation
Dunlop Tire & Rubber Corp
Eagle Picher Industries Inc
Ethyl Corporation
Firestone Tire & Rubber Co
Gates Rubber Company
General Electric Company
General Motors Corporation
General Tire & Rubber Co
Goodyear Tire & Rubber Co
High Voltage Engineering Corp
Michelin Tire Corporation
Minnesota Mining & Mfg Co
Novamont Corporation
Owens-Illinois Inc
Reichhold Chemicals Inc
Union Carbide Corporation
Uniroyal Inc
W R Grace & Co
Westinghouse Electric Corp

*SIC 31*—Leather and Leather Products

None.

*SIC 32*—Stone, Clay and Glass Products

Adolph Coors Company
AFG Industries Inc
Alamo Cement Co
Allied Chemical Corp
Allied Products Company
Alpha Portland Cement Company
Amcord Inc
American Standard Inc
Amsted Industries Incorporated
Anchor Hocking Corporation
Arkansas Cement Co
Arkansas Louisiana Gas Company
ARMCC Inc
Armstrong Cork Company
Ash Grove Cement Company
Austin White Lime Company
Babcock & Wilcox Company
Ball Corporation
Basic Incorporated
Belden Brick Company
Bethlehem Steel Corporation
Bickerstaff Clay Prod Co Inc
Boren Clay Products Company
Brockway Glass Company Inc
California Portland Cement Co
Can-Am Corporation
Capitol Aggregates Inc
Centex Corporation
Certainteed Corporation
Citadel Cement Corporation
CLM Corporation
Combustion Engineering Inc
Coplay Cement Manufacturing Co
Corning Glass Works
Crane Co
Cyprus Hawaiian Cement Co
Dart Industries Inc
Delta Macon Brick & Tile Co
Dickey Company
Domtar Industries Inc
Dorsey Corporation
Dravo Corporation
Dresser Industries Inc
Dundee Cement Company
Eagle Picher Industries In
EDW C Levy Company
Engelhard Minerals & Chemicals Corp
Federal Paper Board Co Inc
Ferro Corporation
Filtrol Corporation
Flintkote Company
Florida Mining & Materials Corp
Ford Motor Company
GAF Corporation
Gallo Glass Company
Gen Telephone & Electronic Corp
General Dynamics Corp
General Electric Company
General Portland Inc
General Refractories Company
General Shale Products Corp
Georgia-Pacific Corporation
Giant Portland & Masonry Cem Co
Gifford-Hill & Company Inc
Glen-Gery Corporation
Glenshaw Glass Company Inc
Guardian Industries Corp
Gulf & Western Industries Inc
Harsco Corporation
Ideal Basic Industries Inc
Illinois Cement Company
Independent Cement Corp
Indian Head Inc
Interface Corporation
J E Baker Company
Jim Walter Corporation
Johns-Manville Sales Corp
Justin Industries Inc
Kaiser Aluminum & Chemical Corp
Kaiser Cement & Gypsum Corp
Kennecott Copper Corporation
Kerr Glass Manufacturing Corp
Keystone Portland Cement Co
Kohler Co
Kraft Inc
Lancaster Colony Corp
Latchford Glass Company
Lehigh Portland Cement Company
Libbey-Owens-Ford Company
Liberty Glass Company
Lone Star Industries Inc
Louisville Cement Company
Martin Marietta Corporation
McDonough Co
Midland Glass Company Inc
Minnesota Mining & MFG Co
Mississippi Lime Company
Missouri Portland Cement Co
Monarch Cement Company
Monolith Portland Cement Co
National Bottle MFG Company
National Can Corporation
National Cement Company
National Gypsum Company
Nevada Cement Company
Newmont Mining Corporation
Northwstrn St Portland Cemt Co
Norton Company
Norton Simon Inc
Oko Corp
Oregon Portland Cement Company
Owens-Corning Fiberglas Corp
Owens-Illinois Inc
Pacific Coast Building Prods Co
Pacific Holding Corporation
Penn-Dixie Industries Inc
Pfizer Inc
Pomona Corporation
Portland Cement Co of Utah
Ppg Industries Inc
Puerto Rican Cement Co Inc
Rangaire Corporation
Raybestos Manhattan Inc
Reicphold Chemicals Inc
Republic Steel Corp
Rinker Portland Cement Corp
River Cement Company
Rockwool Industries Inc
Round Rock Lime Company
San Antonio Portland Cement Co
Solite Corporation
South Dakota Cement Company
Southdown Inc
St Clair Lime Company
Texas Industries Inc
United States Gypsum Company
United States Steel Corp
Vulcan Materials Company
Warner Company
Weyerhaeuser Company
Wheaton Industries
Whitehall Cement Mfg Co
Woodville Lime & Chemical Co

*SIC 33*—Primary Metal Industries

Airco Inc
Alcan Aluminum Corporation
Allegheny Ludlum Industries Inc
Allied Chemical Corporation
Alumax Inc
Aluminum Company of America
Amax Inc
American Can Company
American Cast Iron Pipe Co
American Tele & Tele Co
Amsted Industries Incorporated
Armco Inc
Asarco Incorporated
Athlone Industries Inc
Atlantic Richfield Company
Atlantic Steel Company
Babcock & Wilcox Company
Bethlehem Steel Corporation
Budd Company
Cargill Incorporated
Carpenter Technology Corp
Caterpillar Tractor Co
Ceco Corp
Century Brass Products Inc
Chromium Mining & Smelting Corp
Clow Corporation
Colt Industries Inc
Connors Steel Company
Consolidated Aluminum Corp
Copperweld Corporation
Crane Company
Cyclops Corporation
Dana Corporation
Dayton Malleable Inc
Dow Chemical Company
Eastmet Corp
Engelhard Minerals & Chemicals
Envirodyne Industries Inc
Ethyl Corporation
Evans Products Company
Florida Steel Corporation
Ford Motor Company
General Cable Corporation
General Electric Company
General Motors Corporation
Great Lakes Carbon Corporation
Grede Foundries Inc
Gulf & Western Industries Inc
Elif Resources & Chemical Corp
Hanna Mining Co—Silicon Div
Hanna Nickel Smelting Company
Hayes-Albion Corp
Huntington Alloys Inc
IC Industries Inc
Inland Steel Company
Inspiration Consol Copper Co

Interlake Inc
Internatl Minerals & Chem Corp
Jim Walter Corporation
Jones & Laughlin Steel Corp
Kaiser Aluminum & Chemical Corp
Kaiser Steel Corporation
Kennecott Copper Corporation
Keystone Consolidated Ind Inc
Koppers Company Inc
Korf Industries Inc
Laclede Steel Company
Lone Star Steel Co
Louisiana Land & Exploration Co
Lukens Steel Company
Martin Industries, Inc
Martin Marietta Corporation
McLouth Steel Corporation
Mead Corporation
Midland-Ross Corporation
Natl Distillers & Chemical Corp
National Steel Corporation
National-Standard Company
Neenah Foundry Company
Newmont Mining Corporation
NL Industries Inc
Noranda Aluminum Inc
Northwest Industries Inc
Northwest Steel Rolling Mills Inc
Northwestern Steel & Wire Co
Ohio Ferro-Alloys Corporation
Olin Corporation
Outboard Marine Corporation
Pechiney Ugine Kuhlmann Corp
Penn-Dixie Steel Corp
Phelps Dodge Corporation
Phoenix Steel Corporation
Quanex Corporation
Republic Steel Corp
Revere Copper and Brass Inc
Reynolds Metals Company
Roane Electric Furnace Co Inc
Satralloy Inc
Sharon Steel Corporation
Shenango Incorporated
SKW Alloys Inc
Southwire Co
St Joe Minerals Corporation
Standard Oil Company (Indiana)
Structural Metals Inc
Sundstrand Corporation
Teledyne Inc
Tenneco Inc
Textron Inc
Timken Company
Tyler Corporation
Union Carbide Corporation
United States Steel Corp
United Technologies Corp
Vulcan Materials Company
Wabash Alloys Inc
Wheeling Pittsburgh Steel Corp
White Consolidated Ind Inc

*SIC 34*—Fabricated Metal Products

Adolph Coors Company
Allegheny Ludlum Industries Inc
Aluminum Company of America
American Can Company
American Standard Inc
AMPCO-Pittsburgh Corp
Amsted Industries Incorporated
Babcock & Wilcox Company
Bethlehem Steel Corporation
Budd Company
Cameron Iron Works Inc
Cameron Tool & Supply Co
Canton Drop Forging & Mfg Co
Century Brass Products Inc
Chrysler Corporation
Combustion Engineering Inc
Continental Group Inc
Crown Cork & Seal Company Inc
Ford Motor Company
Frost Co
General Motors Corporation
Gulf & Western Industries Inc
Gulf Coast Machine & Supply Co
Harsco Corporation
Inland Steel Company
International Tel & Tel Corp
Jos Schlitz Brewing Company
Kaiser Aluminum & Chemical Corp
Kohler Co
Ladish Co
Litton Industrial Products Inc
Martin Marietta Corporation
Moorman Manufacturing Co
National Can Corporation
National Steel Corporation
Olin Corporation
Park-Ohio Industries Inc
Remington Arms Company Inc
Reynolds Metals Company
Rockwell International Corp
Signal Companies Inc
SKF Industries Inc
Stanley Works Inc
Sundstrand Corporation
Textron Inc
TRW Inc
United States Steel Corp
Wallace Murray Corporation
Wyman-Gordon Company

*SIC 35*—Machinery, Except Electrical

Allis-Chalmers Corporation
Arkansas Louisiana Gas Co
Borg-Warner Corporation
Briggs & Stratton Corporation
Bucyrus-Erie Company
Caterpillar Tractor Co
Chrysler Corporation
Clark Equipment Company
Colt Industries Inc
Control Data Corporation
Cooper Industries Inc
Cummins Engine Company Inc
Dana Corporation
Deere & Company
Dresser Industries Inc
Eaton Corp
Federal-Mogul Corporation
FMC Corporation
Ford Motor Company
General Electric Company
General Motors Corporation
Harnischfeger Corporation
Hughes Tool Company
IC Industries Inc
Ingersoll-Rand Company
International Harvester Co
Intl Business Machines Corp
Litton Industries Inc
Mesta Machine Company
NCR Corporation
Outboard Marine Corporation
Rexnord, Inc
Rockwell International Corp
SKF Industries Inc
Sperry Rand Corporation
Sundstrand Corporation
Teledyne Inc
Tenneco Inc
Timken Company
Trane Co
TRW Inc
United Technologies Corp
Xerox Corporation
Westinghouse Electric Corp
White Consolidated Ind Inc

*SIC 36*—Electric, Electronic Equipment

A O Smith Corporation
Airco Inc
Allied Chemical Corp
American Tele & Tele Co
Arkansas Louisiana Gas Co
Bendix Corporation
Dayton-Walther Corporation
Digital Equipment Corp
Emerson Electric Co
Ford Motor Company
Gen Telephone & Electronic Corp
General Cable Corporation
General Electric Company
General Motors Corporation
Great Lakes Carbon Corporation
Harvey Hubbell Inc
High Voltage Engineering Corp
Hughes Aircraft Company
Johnson Controls Inc
Maytag Company
McGraw-Edison Company
Minnesota Mining & Mfg Co
Raytheon Company
RCA Corporation
Reliance Electric Company
Rockwell International Corp
Square D Company
Stackpole Carbon Company
Sunbeam Corporation
Tappan Company
Union Carbide Corporation
Westinghouse Electric Corp
Whilpool Corporation
White Consolidated Ind Inc

*SIC 37*—Transportation Equipment

A O Smith Corporation
American Motors Corporation
Avco Corporation
Bendix Corporation
Bethlehem Steel Corporation
Boeing Company
Borg-Warner Corporation
Budd Company
Chrysler Corporation
Congoleum Corporation
Dayton-Walther Corporation
Eaton Corp
Ford Motor Company
Fruehauf Corporation
Gatx Corp
General Dynamics Corp
General Electric Company
General Motors Corporation
Goodyear Tire & Rubber Co
Grumman Corporation
Hercules Incorporated
Hughes Aircraft Company
International Harvester Co
Litton Industries Inc
Lockheed Corporation
Martin Marietta Corporation
McDonnell Douglas Corp
Northrop Corporation
Pullman Incorporated
Rockwell International Corp

Signal Companies Inc
Sundstrand Corporation
Tenneco Inc
Textron Inc
Thiokol Corporation
TRW Inc
United Technologies Corp
Vought Corporation

*SIC 38*—Instruments and Related Products

Eastman Kodak Company
Gaf Corporation
Johnson & Johnson
Johnson Controls Inc
Minnesota Mining & Mfg Co
Polaroid Corporation
Sundstrand Corporation
Warner-Lambert Company
Armstrong Cork Company
Congoleum Corporation

[FR Doc. 80-15254 Filed 5-19-80; 8:45 am]
BILLING CODE 6450-01-M

Federal Register

Tuesday
May 20, 1980

Part VIII

# Department of the Interior

Fish and Wildlife Service

Endangered Species Convention;
Revision of Implementation Rules

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

## Endangered Species Convention; Revision of Implementation Rules

**AGENCY:** U.S. Fish and Wildlife Service.

**ACTION:** Proposed rule.

**SUMMARY:** The Service proposes to amend the rules implementing the Convention on International Trade in Endangered Species of Wild Fauna and Flora [hereinafter referred to as the Convention or by the acronym CITES] to provide for procedures for public participation and agency consultation in the development of negotiating positions for such meetings.

**DATE:** All relevant comments on this proposed rule received by July 21, 1980, will be considered in developing the final rule.

**ADDRESSES:** Comments on this proposed rule should be sent to the Director, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, Washington, D.C. 20240.

**FOR FURTHER INFORMATION CONTACT:** Richard M. Parsons, Chief, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone 703/235-2418.

**SUPPLEMENTARY INFORMATION:** CITES provides for biennial and extraordinary meetings of the Conference of the Parties for purposes of reviewing its implementation, making provisions enabling the Secretariat to carry out its duties, considering and adopting amendments to Appendices I and II, considering any reports presented by the Secretariat or any party and, where appropriate, making recommendations for improving its effectiveness. Since 1975 when CITES entered into force, the United States has been represented at two biennial meetings, one extraordinary meeting and one special working session by delegations led by an official of the Department of the Interior. Typically, preparation of negotiating positions has involved extensive consultations with other Federal agencies and consideration of information and comments received from non-Federal governments, non-governmental organizations and members of the general public. Sequential notices have been published in the Federal Register soliciting information and comments, announcing public meetings and setting forth proposed negotiating positions. the law does not require public participation in the development of a United States position for these international negotiations, but such participation is the policy of the Department which has found it to be very helpful in the development of positions.

The Service proposes to regularize this process by incorporating a sequence of four Federal Register notices in its rules implementing CITES. A notice of meeting of the Conference of the Parties to the Convention will set forth the time, place and proposed agenda of the meeting to the Conference of the Parties and invite the public to provide information on the proposed agenda items, including, where appropriate, suggestions for additional agenda items. The notice will also set forth the time and place of one or more public meetings to enable members of the public to provide information and comments on the proposed agenda. Next, a notice of proposed negotiating positions will be published summarizing the information and comments received in response to the notice of meeting, the negotiating positions the Service proposes for use at the meeting and the basis thereof. The notice will also invite the public to provide information and comments on the proposed negotiating positions and will set forth the time and place of one or more public meetings to enable members of the public to provide information and comments on the Service's proposed negotiating positions. After the public meeting and the close of the comment period, a notice of negotiating positions will be published setting forth a summary of the information and comments received in response to the notice or proposed negotiating positions, a summary of the negotiating positions to be used at the meeting and the basis thereof. Lastly, a notice of availability of delegation report will set forth how and where copies of such report can be obtained. the proposal also recognizes the Service's responsibility to consult with appropriate Federal agencies. The Service intends to follow past practice by holding regular meetings and informal contacts with the appropriate agencies.

Negotiating positions, by their very nature, may be changed in the course of negotiations. For this reason, the proposal includes a provision enabling the representative of the United States to modify, reverse or abandon any positions where to do so would be in the best interests of the United States.

It is the intention of the Service to follow the procedures for public participation in the development of negotiating positions. However, time limits set by the CITES Parties, the Secretariat, or by other CITES mechanisms and the possible need to avoid disclosure of a position might make that impossible or undesirable.

The proposal provides that any of the procedures may be modified or suspended where to follow them would interfere with the timely or appropriate development of negotiating positions. The Service wishes to assure the public that modifications of these rules of procedure will only be made after thorough examination of the circumstances leaves no other reasonable alternative.

This proposal is issued under authority contained in the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*; 87 Stat. 884). The primary author of this proposal is Arthur Lazarowitz, Federal Wildlife Permit Office 703/235-2418.

Note.—The Service has determined that this document does not contain a significant proposal requiring preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Dated: May 12, 1980.

Robert S. Cook,

*Acting Director, Fish and Wildlife Service.*

Accordingly, it is proposed that Part 23, Subchapter B, Chapter 1 of Title 50 Code of Federal Regulations be amended by adding a new Subpart D which reads as follows:

## PART 23—ENDANGERED SPECIES CONVENTION

* * * * *

### Subpart D—Public Participation in the Development of Negotiating Positions for Meetings of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora; Federal Agency Consultation

Sec.

23.31 Purpose of regulations.
23.32 Notice of meeting of Conference of the Parties to the Convention.
23.33 Notice of proposed negotiating positions.
23.34 Public meetings.
23.35 Notice of negotiating positions.
23.36 Federal agency consultation.
23.37 Modification of procedures and negotiating positions.
23.38 Notice of availability of official report.

Authority: Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*; 87 Stat. 884).

## Subpart D—Public Participation in the Development of Negotiating Positions for Meetings of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora; Federal Agency Consultation.

### § 23.31 Purpose of regulation.

The regulation contained in this subpart procedures for participation of the public and consultation with appropriate Federal agencies in the Service's process of developing negotiating positions to be used by the representative of the United States to meetings of the Conference of the Parties to the Convention provided for by Article XI of the Convention.

### § 23.32 Notice of meeting of Conference of the Parties to the Convention.

Upon receipt of a notice of a meeting of the Conference of the Parties to the Convention, the Director shall publish in the Federal Register a notice setting forth the time and place of the meeting, and the proposed agenda, and inviting the public to comment and provide information on agenda items including, when appropriate, suggestions for additional agenda items.

### § 23.33 Notice of proposed negotiating positions.

Subsequent to the comment period of the notice of meeting of the Conference of the Parties to the Convention, the Director shall publish in the Federal Register a notice of proposed negotiating positions setting forth a summary of the information and comments received in response to the notice of meeting, the negotiating positions which the Service proposes to use at the meetings of the Conference of the Parties to the Convention, and the basis thereof, and inviting information and comments on the proposed negotiating positions. The notice will also set forth the time and place of at least one public meeting to enable members of the public to provide information and comments on the proposed negoitating positions of the Service.

### § 23.34 Public meeting.

The Service shall hold at least one public meeting to enable interested persons to provide information and comments on the proposed agenda and at least one such public meeting on the proposed negotiating positions of the Service. Written statements my be submitted to the Service before and at the meeting. Appointments to speak at the meetings may be made with the Fededral Wildlife Permit Office, Washington, D.C. 20240 (703/235–2418). Participants without prior appointments will be given an opportunity to speak to the extent time allows following speakers with appointments.

### § 23.35 Notice of negotiating positions.

Subsequent to the comment period of the notice of proposed negotiating positions, and after all associated public meetings have been held, the Director shall publish in the Federal Register a notice setting forth (a) a summary of the information and comments received in respose to the notice of proposed negotiating positions, (b) a summary of negotiating positions of the Service, to be used by the representatives of the United States to the meeting of the Conference of the Parties to the Convention, and (c) the basis of such negoitating positions.

### § 23.36 Federal agency consultation.

The Service shall consult with appropriate Federal agencies in the development of negotiating positions.

### § 23.37 Modifications of procedures and negotiating positions.

(a) Any of the procedures in §§ 23.32 through 23.35 may be modified or suspended by the Director on notice published in the Federal Register where to follow the procedures would interfere with the timely or appropriate development of negotiating positions.

(b) Any of the negotiating positions set forth in a notice of negotiating positions may be modified, reversed or abandoned by the United States representative to a meeting of the Conference of the Parties to the Convention where to do so would be in the best interests of the United States.

### § 23.38 Notice of availability of official report.

After any meeting of the Conference of the Parties to the Convention attended by a United States representative, the Service shall publish a notice of availability of the official report of such representative and set forth how and where copies of such report can be obtained.

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Tuesday
May 20, 1980

# Part IX

# Department of Labor

## Employment and Training Administration

## Comprehensive Employment and Training Act Regulations; Final Rule and Proposed Rule

## DEPARTMENT OF LABOR

### Employment and Training Administration

### 20 CFR Parts 675, 676, 677, 678, 679, 680

### Comprehensive Employment and Training Act Regulations

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Final rule.

**SUMMARY:** This document contains final regulations for programs under Titles I, II, VI and VII, and Youth Programs under Title IV of the Comprehensive Employment and Training Act (CETA). The purpose of this document is to implement changes proposed to the CETA regulations which were originally published on April 3, 1979, 44 FR 19990. Proposed changes were published on April 4, 1980, 45 FR 23296.

**EFFECTIVE DATE:** May 15, 1980.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert Anderson, Administrator Office of Comprehensive Employment Development, Employment and Training Administration, U.S. Department of Labor, 601 D Street, N.W., Washington, D.C. 20213; Telephone: (202) 376-6254.

**SUPPLEMENTARY INFORMATION:**

#### Background

Proposed revisions to the rules implementing the Comprehensive Employment and Training Act (CETA) were published in the Federal Register on April 4, 1980, 45 FR 23296 for the purpose of soliciting public comment on those sections identified in the preamble to which the Department was proposing changes. These final regulations have taken into account all comments we received which addressed these identified proposed changes.

The document published on April 4, 1980, incorporated all changes to CETA regulations published in the Federal Register since April 3, 1979. Additionally, as noted in the preamble to the proposed rules, this final rule incorporates the regulations at 20 CFR Part 680—Youth Programs Operated by Prime Sponsors Under CETA, which were published October 2, 1979, 44 FR 56866. These Youth regulations are republished in final form here for the convenience of the public so that all CETA regulations may be contained in one document. The Youth regulations are unchanged from the October 2, 1979, publication. These regulations do not include revisions to 20 CFR Part 676, Subpart F, Complaints and Sanctions. The proposed revisions to Part 676, Subpart F, have been delayed because of the necessity of coordinating the CETA complaint procedures with revisions to 29 CFR Part 31, which are currently being reviewed by the Department of Justice. A separate proposal for 20 CFR Part 676, Subpart F will be published in the Federal Register at a later date. Until revised final regulations are published in final form, the requirements of 20 CFR Part 676, Subpart F, as published on April 3, 1979, remain in effect.

These regulations are effective May 15, 1980. Pursuant to 5 U.S.C. 553(d)(3), the Secretary has determined that in order to meet the publication date requirements of section 104(c)(1) of CETA, an immediate effective date is necessary.

#### OMB Clearance Provision

The planning, recordkeeping and reporting requirements contained in these final regulations and in the Forms Preparation Handbook have been submitted to the Office of Management and Budget for clearance as required by the Federal Reports Act of 1942, 44 U.S.C. 3501. Clearance for these regulations, for the proposed regulations also published today concerning recordkeeping and reporting, and for the Forms Preparation Handbook have been provided under OMB number 44-R1655. Additional requirements, if any, on planning, recordkeeping or reporting will be submitted to OMB for clearance and subsequently published in the Federal Register along with the OMB's approval numbers.

#### EEOC

The Equal Employment Opportunity Commission has waived the prepublication consultation requirements of Executive Order 12067 in order to allow these regulations to be published in a timely manner. Consultation will take place following publication and any changes to the regulations will be published thereafter.

#### Revision to § 676.71

The proposed regulations published on April 4 contained no revisions to § 676.71, concerning sectarian activities. Since then, however, the United States District Court for the Eastern District of Wisconsin has issued an order in the case of *Decker* v. *United States Department of Labor,* C.A. No. 78-C-634, prohibiting the funding of certain CETA positions in religiously affiliated elementary and secondary schools. The Department of Justice has filed an appeal with the United States Court of Appeals for the Seventh Circuit, but has not appealed the court's disapproval of the instructional components contained in § 676.71(c) (except with respect to adult education programs) or of § 676.71(d). Accordingly, paragraph (c) is now being revised to specify that CETA participants may be employed in summer or other programs providing custodial child care or recreational activities only if such programs do not involve educational components such as those commonly included in the educational curriculum of elementary and secondary schools. Paragraph (d) has been deleted in its entirety since it was limited to programs with such educational components. Paragraphs (e) and (f) are relettered (d) and (e), and references to these paragraphs are corrected to reflect this change. These revisions to § 676.71 are being issued in final form, without any opportunity for notice and comment, since they are required by the court's order and the government's decision not to appeal from this part of the court's order.

Although the district court's order enjoined the application of other parts of § 676.71, these aspects of the court's order are being appealed and therefore no other amendments to the section are being made at this time. Prime sponsors have received special instructions from the Department of Labor for handling those programs which may not continue to receive funds under the district court's order. These instructions shall remain in effect until the government's appeal in the *Decker* case is decided or until a stay of the district court's order has been obtained.

These regulations are effective on the date officially filed with the Federal Register (1 CFR 17.2).

#### Comments

The proposed regulations were published for a 30-day review and comment period. The Department received approximately 75 written comments on the proposed changes.

Following is a description of each affected section as it appears in these final regulations, a summary of the comments received and the Department's response.

*Definitions*

In the proposed regulation, the definition of "area of substantial unemployment" was amended by adding the word "and" to subsection (a) to make clear that this requirement is in the conjunctive. No comments were received on the proposed change to the definition. Therefore, the definition remains as proposed.

In the proposed regulation, the definition of "dependent" was expanded

to show that a participant may claim as a dependent any one who may be claimed as a dependent on his or her individual income tax return. This change will permit persons in a dependent status for less than 12 months to be claimed as a dependent. One commentator objected to the change because some individuals are supported by a taxpayer without being claimed as a dependent. The commentator has misconceived the effect of this change. The expanded definition would not limit the term "dependent" to a person who is claimed as such by a taxpayer; on the contrary, it continues the prior tests which are based on support and family relationship or membership in the household. Accordingly, the provision remains as proposed.

In the proposed regulation, the definition of "family" was amended to provide that an offender released within six months of application is considered a "family of one" for income determination purposes, when such person is not claimed as a dependent by another taxpayer for tax purposes and when the person's offender status presents a barrier to employment. The Department received only one comment on this proposed change. It recommended elimination of that portion of the definition which reads when such "person is not claimed as a dependent on a family member's income tax return." The commentator reasoned that most offenders would not recognize, at the time the tax return is filed, that being claimed as a dependent could make the offender ineligible for CETA services if the family was not economically disadvantaged. The definition remains unchanged in the final regulations. Where a person is claimed on another individual's tax return as a dependent and that family is not economically disadvantaged, the statute makes clear that the offender should not be eligible for CETA services. [§ 3(8)(D)].

In the proposed regulations the definition of "family income" was clarified to indicate the period during which the "family member's" income is to be counted. The definition was also amended to include "black lung payments" as an exclusion from family income. In response to a comment received requesting information on which "black lung" payments were proposed to be excluded from the definition of "family income", the Department has added a reference to the Black Lung Reform Act of 1977, 30 U.S.C. 901, *et seq.* No other comments were received and no other changes to the definition were made.

In the proposed regulations the definition of "program of demonstrated effectiveness" was clarified to indicate that programs funded directly by the Department in a prime sponsor's area are to be included in a prime sponsor's consideration. Several commentators stated that this clarification is redundant. Other commentators stated that the change was necessary to insure that all programs under CETA, regardless of the source of funding, were considered. The Department has determined that the definition will remain as proposed.

In the proposed regulation, the definition of "residence" was clarified by substituting the word "principal" for the word "permanent" to make it clear that the legal concept of "domicile" is not applicable. The only comment received requested further clarification on the definition of "principal." The Department intends the word "principal" to be applied within its common everyday usage. The definition will remain as proposed.

*Eligibility Requirements*

Section 675.5–1(c) was amended to insert the word "current" prior to "eligibility requirements" in order to clarify that a participant may transfer from one title into another if that participant meets the current eligibility requirements of the title into which he or she is transferring at the time he or she was originally determined eligible for CETA. Many comments were received stating that the preamble to the proposed regulations was inconsistent with the language of the regulation. The preamble was in error. However, because the language of the regulation itself was clear, the section is adopted as proposed. One commentator brought to the Department's attention the fact that § 675.5–1(b) contained a typographical error which excluded part of the statutory eligibility at Section 132(e) of the Act. The regulation is amended, therefore, to add the words "lawfully admitted refugees and parolees" in order to track the statutory language.

Section 675.5–3(a)(ii) was amended to allow participants to be eligible for upgrading if they were employed by more than one employer during the previous six months. Numerous favorable comments were received on this proposed change. Accordingly, the provision remains as proposed.

Section 675.5–7 and § 679.2 were amended to revise eligibility criteria for Title VII programs in order to permit the use of Title VII funds to be used for programs authorized under Title IIC. The proposal also added language to prescribe conditions and limits on the use of such authority. The majority of comments received were favorable. Some commentators objected to the restrictions placed on the use of funds for this purpose, asking for further relaxation of the restrictions on the use of these funds. The Department has decided to retain the language of the proposed regulation because of the need to strongly tie the use of upgrading and retraining program funds to the needs of the economically disadvantaged. However, these commentators also pointed out that the restrictions on the use of funds should be contained in the program section at § 679.6 which deals with administrative limitations. The Department agrees with those comments which dealt with organization of the regulations and has accordingly moved these provisions, unchanged from the proposal, to the appropriate section.

Section 675.5–8 was revised to more clearly state the eligibility requirements for Youth Employment and Training Programs (YETP). No comments were received on the proposed revisions. However, several commentators indicated that a paragraph was deleted in the proposal from the original YETP regulations at § 675.5–8(c). The deleted paragraph allowed for the participation of non-disadvantaged youth in special components of YETP. That paragraph was inadvertently left out of the proposed regulations and is being restored in this final rule, exactly as it was promulgated in the final Youth Regulations published at 44 FR 56866, October 2, 1979. The paragraph which was labelled (c) has been relettered as (d) in this final rule. In addition, some commentators pointed out that the eligibility criteria for Youth Incentive Entitlement Pilot Project (YIEPP) was deleted from the proposed regulations. This deletion was inadvertent and accordingly, the eligibility criteria for YIEPP are added at § 675.5–11. Again, the language is identical to that contained in the October 1979 Youth Regulations.

*Grant Procedures*

Section 676.6(d) was revised to more specifically reflect the provisions of the statute regarding prime sponsor service to veterans. Many commentators felt that the inclusion of this provision went beyond the statute. Other commentators viewed the inclusion as a positive change. The proposed language is being retained. The Department believes that this provision will enhance services to qualified veterans and thereby more fully reflect the intent of the law.

Section 676.11(c)(5)(viii) was added to require descriptions in the Annual Plan

of efforts to be undertaken to provide special consideration with respect to the enrollment of veterans and public assistance recipients. Numerous comments requested that this new provision be deleted. In the view of these commentators, prime sponsors must provide special consideration to so many groups that the term "special consideration" itself becomes meaningless. Other commentators commended the Department on the inclusion of the new provision. After carefully analyzing the comments the Department has decided that the provision, as proposed, more fully complies with the intent of the law to target services to qualified public assistance recipients and veterans. Thus, it remains as proposed.

Section 676.12(b)(3) and § 676.16(d)(2) were amended by adding a new paragraph stipulating that prime sponsors are not required to publish subsequent modifications to their CETP, provided that subsequent modifications may be reviewed upon request. All the comments received on these sections were favorable. Accordingly, these sections are adopted as proposed.

Section 676.24 was amended at (b)(1) to clarify that labor organization consultation must be undertaken in the planning of training programs and that training standards are included. Further clarification was included at (b)(2) to indicate that 30 working days were to be provided after written notification to the collective bargaining agent. One comment suggested that (b)(1) would result in the withdrawal of many non-union employers from the Private Sector Initiative Program because the consultation requirements in this section and in § 679.3–7(b)(8) are too onerous. The comment also expressed concern that in the consultation process, employers would be forced to reveal confidential information about their business. The comment misconceives this section. It does not require concurrence by a union unless the employer is covered by a collective bargaining agreement with that union. In addition, no confidential information need be disclosed, because the only information required to be disclosed is the type and number of training positions available, their functions and wage rates and the kind of training to be provided. Moreover, this requirement is provided for in the Act at section 103(a)(9). Accordingly, the proposed section remains unchanged. Several commentators stated that the term "training standards" is not defined. The Department intends for the term to have its everyday meaning and no change in the proposed regulations has been made. With respect to the change in § 676.24(b)(2), many commentators objected to allowing 30 working days for collective bargaining agents to provide written concurrence on proposed training and subsidized employment activities. They stated that the longer period provided would unacceptably disrupt the implementation of these programs. Other commentators stated that the added days would be helpful in reviewing these proposed activities. The Department has carefully considered all the comments and has determined that the potential disruption to employment and training activities outweighs any added benefit in enlarging the concurrence period. Accordingly, the final rule allows 30 calendar days rather than 30 working days for this concurrence.

*Program Design and Management*

Section 676.25–1(b)(3) was amended to indicate that the Department will consider training in the apparel industry as an allowable activity under CETA. A number of commentators objected to the amount of information required to be submitted for such training. Other commentators requested further restrictions on such training. The Department believes that all the information specified is necessary to ascertain whether the training is appropriate, whether it leads to economic self-sufficiency and upward mobility, and whether it results in an increase in employment opportunities. Accordingly, the regulation is adopted as proposed.

Section 676.25–3(c) was amended to state the outstationing provisions more clearly. However, due to the inadvertent omission of a paragraph regarding the determination of the wages, benefits and working conditions of outstationed participants, the clarification was incomplete. Therefore, these final regulations are amended to add at § 676.25–3(c)(5) the word "wages" to the phrase "the same working conditions and benefits" and to add the following phrase to the end of that sentence: "Except where the participant is outstationed pursuant to § 676.25–3(c)(1)(i)(C)". Many commentators believed that the restrictions on outstationing are too severe; other commentators stated that there are not enough limits on outstationing. The Department's proposed changes in this section were meant only to clarify and not to substantively change the policy in the regulations. Accordingly, no further changes other than those noted above are being made.

Section 676.25–5(b)(8) was amended to indicate that the Vocational Exploration Program (VEP) is not exclusively for youth. All commentators agreed with this change. Thus the regulation is adopted as proposed.

Section 676.25–5(d) was amended to extend the maximum period for post-termination services from 30 days to 90 days. This change received favorable comment and is adopted as proposed. However, one commentator pointed out that to be consistent, the same change would have to be made in § 677.13(b)(7). The Department agrees with this comment and has revised the section accordingly.

Section 676.26–1(c)(2) was amended to provide that in areas where the maximum wage decreases from one year to the next, participants receiving the previous maximum wage rate may continue to receive that rate. Most commentators approved of the proposed change; however, some commentators stated that the regulations should allow areas to retain the higher wage rates for all participants when the maximum wage decreases. The Department believes that such a proposal is inconsistent with the statutory language. Therefore, this section is adopted as proposed.

Section 676.26–1(c)(5)(ii) was amended to clarify that the provision regarding the local share of PSE wage rates applies in subsequent years and not just during the initial implementation of these provisions. "Employing agency" was also substituted for "prime sponsor". No comments were received on this change. Therefore, the proposed language is adopted.

Section 676.26–2(a)(2) made several clarifications in the allowance payment section, including setting the starting date for the 104 week limit on allowance payments for classroom training, and clarifying that an individual can continue participation without allowances beyond the 104 week period. Several commentators objected to the use of the term "payments" in this section. They stated that the term is confusing and should be changed to "compensation." The Department agrees with these comments and the final rule substitutes the word "compensation" for the phrase "allowances (and other payments)".

Section 676.26–2(a)(3) through (6) were amended to clarify reporting requirements and notification procedures in allowance payment systems. No comments were received. Therefore, this section is adopted as proposed.

Section 676.26–2(d)(2) was amended to clarify that allowances, other than dependent allowances, may be held in reserve for institutionalized persons. No comments were received on this proposed change. Accordingly, the section is adopted as proposed.

Section 676.26–2 was clarified at (e), to more clearly state the provisions for dependent allowances; at (f), to make it clear that youths participating in programs under Subparts A, B, and D of Part 680 shall be paid incentive allowances regardless of their public assistance status; and at (f)(3), to add provisions authorizing the downward adjustment of incentive allowances. Several comments were received on this section, particularly concerning paragraph (f)(3) and the downward adjustment of incentive allowances. The comments received on the first two changes were favorable; however, some commentators objected to the change in (f)(3) stating that in light of the increases in the minimum wage and other increases in the cost of living, the Department should not allow downward adjustment of allowances. It is the Department's view that there were inequities in the allowance payments system in the past and the statutory language establishes $30 as a ceiling rather than as an entitlement. Accordingly, the Department is retaining the language as proposed.

Section 676.26–2(h) this section was amended to clearly indicate that allowances are not to be reduced for receipt of unemployment compensation benefits which were earned prior to enrollment in the allowance paying activity but received after enrollment. The subsection is also revised to reorder and more clearly state the adjustment provisions. No comments were received on this proposed change. Accordingly, it is adopted as proposed.

Section 676.26–2(i) was amended to make the rounding of allowances optional. One commentator suggested a change in the wording which he believed would make the intent clearer. However, the Department believes the language is clear and is adopting the section as proposed.

Section 676.26–2(j) was clarified to indicate that the restrictions on the waiver of allowances do not apply where a participant, who had received allowances, continues in an activity beyond the 104 week period which is the limit for the payment of allowances.

One commentor suggested alternative language which he believed was clearer but had no substantive disagreement with the provision. The Department believes the language is clear and accordingly the section is adopted as proposed.

Section 676.26–2(k) was amended to clarify the need for documenting the reason for not requiring the repayment of improperly paid allowances. No comments were received on this section. Accordingly, the Department adopts the section as proposed.

Section 676.26–3(a) was amended by adding the word "sequentially" to make it clear that the provision permitting wages to be paid for combined activities applies regardless of whether the activities are undertaken simultaneously or sequentially. A commentator stated that there could be confusion in the application of the policy where a participant enrolled in a combined activity was first enrolled in OJT and then enrolled in a classroom training component. The regulation is intended to make clear that regardless of which activity is engaged in first, a participant should be paid the form of compensation that is appropriate to the primary activity, i.e., the activity engaged in for more than 50 percent of the participant's time. Accordingly, the section is adopted as proposed.

Section 676.27(a)(2) on workers compensation was amended to change the word "coverage" to "benefits" with regard to CETA participants where others similarly employed are not covered by an applicable workers compensation statute. This clarifies that the benefits are to be comparable to those provided by State law while the method of coverage may be different. No comments were received on this change. Accordingly, it is adopted as proposed.

Section 676.27(a)(3) was added to further amend § 676.27(a)(2). It indicates that CETA participants in a non-employment status need not be covered at the level of benefits provided by State law for workers. They must, however, receive adequate protection for onsite accidents. Some commentators requested that the terms "employment" and "nonemployment status" be clarified. The Department agrees with these comments and believes that § 676.27(a)(2) and (a)(3) should be clarified to indicate which activities under CETA are covered by these sections. Accordingly, § 676.27(a)(2) is amended by deleting the phrase "in any CETA program activity" and substituting the phrase "in OJT, PSE or work-experience." § 676.27(a)(3) is amended to delete the phrase "nonemployment status" and to substitute the phrase "CETA activity, other than OJT, PSE, and work experience."

Section 676.27(b)(5) was amended to clarify that the restrictions on retirement payments to CETA participants do not apply to persons participating on OJT programs. This section received no comment and remains as proposed.

Section 676.28–2 was amended to clarify that an employer may not use CETA funds to maintain a reserve account for the employer's share of the contribution to the retirement system. Several commentors stated that allowing a reserve account for employer contributions would ease the accounting burdens on the employing agency. However, the Department has determined that such a provision cannot be permitted because it would be inconsistent with the Federal Cost Principles at 41 CFR 29–70.103.

Section 676.30 was amended at (a) to clarify that, except for the conditions set forth, CETA workers are subject to the general termination conditions applicable to comparably employed non-CETA workers. Some commentators stated that the language needed to be strengthened to make it clear that a participant is entitled to all the protections of non-CETA workers upon termination. The commentators also recommended that the word "similarly" be substituted for "comparably" in order to make it parallel with the accepted terminology in the other sections of the regulations. The Department agrees with these changes and has revised this section accordingly.

Section 676.30(d) was amended to clarify the manner in which classroom training is to be counted in determining compliance with the 78 week PSE limitation. No comments were received on this change. Therefore, the section is adopted as proposed.

Section 676.30 (g)(1) and (g)(2) were amended to clarify the treatment of in-school youth within the 30 month overall participation limit, and to clarify that an extension of the 1,000 hour limit also serves to extend the 2,000 hour limit. One commentator suggested that the Department does not have the authority to make the change proposed in (g)(2). The Department believes that section 212(b) of CETA provides the statutory authority for extending the hour limitations on work experience. Accordingly, the Department has adopted the section as proposed.

Section 676.30(i) was amended to clarify that the 30 month total participation limit is not extended for those individuals under PSE waivers hired after October 1, 1978. No comments were received on this section. Accordingly, it is adopted as proposed.

Section 676.30(k)(5)(ii) was amended to clarify that the last quarter refers to that in the waiver plan and not to the fiscal year. No comments were received

on this clarification and it is adopted as proposed.

Section 676.30(n)(4) was amended to clarify that participants terminated to meet a quarterly goal are only to be terminated from those groups specified for termination in that quarter. One commentator suggested that the provision was unduly restrictive and that anyone scheduled for termination during the year, rather than only during the quarter, should be able to be terminated. The Department has decided to retain the provision as proposed because waivers are granted for identified groups for particular quarters and it would nullify the terms of the waivers to permit terminations of other participants.

Section 676.30(o) was amended to clarify that subsequent waivers may only be granted for participants completing an initial four quarter waiver period. One commentator suggested that the provision was unclear because it would be interpreted to permit a request for an extension of the initial waiver to be submitted within a few days of the projected termination date. The Department agrees with this comment and accordingly the language has been revised at § 676.30(o)(2) to specify the appropriate time limits for submitting a subsequent waiver request.

Section 676.30a(a)(5) was amended to clarify prime sponsor responsibility for coordinating veterans activities and services. The commentators were generally enthusiatic about this change and accordingly, the section is adopted as proposed.

*Administrative Standards and Procedures*

Section 676.32 was amended to add the word "subrecipient", to "recipient" to more specifically reflect the provisions of the statute. Some commentators suggested that 41 CFR 29–70.210 should not apply to subrecipients because they do not directly receive Federal funds.

Because 41 CFR 29–70.210 applies to payments by the Department to grantees, and because the Department makes no direct payment to subrecipients, we believe the commentator is correct and the term "subrecipient" is deleted.

Section 676.36 was amended to clarify program income requirements for subrecipients in order to provide consistency with the Department's grant regulations at 41 CFR 29–70.205(b). Several commentators suggested that this proposed change would discourage community income-producing activities and would require excessive accounting. The federal grant regulations require a recipient or subrecipient to account for any income provided from those funds. Accordingly, we have decided not to make any changes to the proposed language at this time.

Section 676.40(a) and (c)(2) were amended to conform these provisions to the Department's policy regarding indirect costs. Several commentators suggested that the changes resulted in less specificity than the previous regulations. The changes conform to the cost principles contained in 41 CFR 29–70.103 and although more general, provide the necessary guidance to grantees of federal funds. Accordingly, the proposed language is being retained.

Section 676.40–2(c) was amended to clarify the circumstances under which CETA funds may be used for the travel of elected officials. One commentator indicated that the placement of the added language caused confusion. It was suggested that the sentence beginning "These costs" should be moved to the end of the paragraph. The Department agrees with this suggestion. Accordingly, the provision is adopted as proposed except that the sentence reading "These costs shall be charged to administration" was moved to the end of the paragraph.

Section 676.43(b) was amended to clarify that bonding is only required in the circumstances where a recipient or subrecipient operates on a cash advance basis. Only one comment was received on the change. It indicated that bonding should not be limited to those recipients and subrecipients who are on a cash advance basis, since the risk of possible misuse of funds also exist where recipients and subrecipients are on a cost reimbursement basis. The Department has concluded that the potential for misappropriation of funds is far greater where the cash advance method of payment is used than where the cost reimbursement basis is used. Accordingly, the section is adopted as proposed.

Section 676.45(f)(2) was amended to clarify that adding parties to a consortium agreement requires a new Master Plan. The Department received no comment on the proposed change. Therefore, the proposed language is being retained.

Section 676.47 was amended at (d) to delete the requirement that consideration must first be given to reallocating funds to other deliverers within the prime sponsor's area, and at (c) to delete the requirement that first consideration goes to areas of 6.5 percent unemployment or greater. Several comments were received stating that reallocation of any part of a grant ultimately works to the disadvantage of the area residents who bear no responsibility for nonutilization of funds. This change was designed to make the language in the regulations consistent with the language contained in the Act with respect to reallocation. The regulation does not preclude utilizing other deliverers in the area in accordance with section 102 of the Act where the Department deems it necessary and appropriate to do so. Thus, residents of an area which has not fully utilized funds will not necessarily be denied services in the case of a reallocation. Accordingly, the section is adopted as proposed.

*Nondiscrimination; Equal Opportunity; Equitable Service and Affirmative Action*

Subpart D was retitled in the proposed regulations to reflect the fact that the regulations incorporate the broader concepts of equal opportunity and affirmative action required or recommended under the Act to ensure nondiscrimination, equal opportunity and the equitable provision of services.

The nondiscrimination section at § 676.52 was amended to include the statutory prohibition against discrimination on the basis of citizenship. The affirmative action section (now § 676.54) was reordered to clarify that prime sponsors are required to take affirmative action to recruit and hire staff which will reflect the significant segments of their population. Affirmative action is also recommended for participants as a means of ensuring equitable provision of services and achieving planned levels of participation. Also as a mechanism for ensuring nondiscrimination and equal opportunity, prime sponsors may require their subrecipients and contractors to prepare affirmative action plans for CETA participants and CETA administrative staff.

One commentator suggested that in § 676.52(a) the sentence beginning "With respect to participants" be expanded to include the exact legislative language at § 132(e) which reads: "No participant under the Act shall be discriminated against by reason of citizenship. Participation shall be open to citizens and nationals of the United States, lawfully admitted permanent resident aliens, and lawfully admitted refugees and parolees." As explained in § 675.5–1(b), above, the Department agrees with this comment and, accordingly, the section is amended to track the statutory language. Another commentator objected to the requirement in § 675.54(a) which provides that recipients shall take affirmative action to recruit and hire

staff who reflect the significant segments of the area. They indicated that the requirement goes beyond the law. The commentator also suggested that the requirement to take affirmative action presumes that the recipient's staff does not reflect the significant segments of the area's population. Section 121(b)(1)[B) of the Act provides that members of the eligible population shall be provided maximum employment opportunities in the administration of programs under the Act and requires prime sponsors to make "special efforts" to recruit and hire qualified persons reflecting the significant demographic segments of the population residing in the area. The affirmative action requirement with respect to staff is clearly a form of special effort to enable prime sponsors to meet this statutory obligation. Clearly, where a recipient's staff reflects the significant segments of the population, no affirmative action is required.

Another commentator requested clarification of the effective date of the new requirements in light of the fact that the Department has not yet proposed new regulations under Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000 d. These requirements are effective immediately. Although remedies under Title VI of the Civil Rights Act may be coordinated with those under CETA, the CETA requirements stand by themselves. However, to address the general confusion reflected in the comments about the meaning of affirmative action, the Department has added to the final rule a reference to the Equal Employment Opportunity Commission's Affirmative Action Guidelines. One commentator suggested that § 676.54(c) be revised to make clear that affirmative action plans which may be required of subrecipients and contractors are for CETA participants and CETA administrative staff. The Department agrees with this comment and the regulations have been revised accordingly.

*Prevention of Fraud and Abuse*

Section 676.66 was amended to specify that the nepotism provisions in the Indian and Native American regulations shall be used when Indian and Native American organizations operate programs on Indian reservations as subgrantees, contractors, or employing agencies under a prime sponsor program. One commentator indicated that there was a lack of clarity as to which recipients or subrecipients were covered by this provision. The Department believes that because the provision specifies subgrantees, contractors and employing agencies which are Indian and Native American entities as defined in section 302(c)(1)(A) of the Act, no further clarification is required. Therefore, this section is being retained as proposed.

Section 676.73 was amended to clarify that in layoff situations CETA participants in OJT, work experience or PSE may not remain working in the same or substantially equivalent job. It was also revised to more clearly present our current policy on positions affected by layoffs. A number of commentators suggested that the language be changed to quote Section 121(e)(2) of the Act. The Department believes that the language is clear as it is written, and has therefore not made this change. One commentator suggested that § 677.73(a) be changed to read "Recipients and subrecipients shall ensure that all programs under the Act;". The Department agrees that this change clarifies the meaning of this section and has substituted the new language in the final rule. One commentator suggested that § 676.73(d) be clarified. One commentator questioned how the requirements of this section would be construed. The maintenance of effort requirements provide for the layoff of CETA employees only where a regular employee is removed from the same or a substantially equivalent position. Other commentators welcomed the clarifications. The Department believes that the regulation, as clarified, is required by the Act in order to preclude substitution, as is required by section 122(c)(1) of the Act. Accordingly, no changes are made in (d) in the final rulemaking.

*Complaints and Sanctions*

No changes were proposed in Part 676, Subpart F. They were delayed because of the necessity of coordinating the CETA complaint procedures with the equal opportunity complaint procedures, to be published in 29 CFR Part 31, which are currently being reviewed by the Department of Justice. A separate proposal for Part 676 Subpart F, will be published in the Federal Register at a later date.

*Programs Under Title II B*

Several commentators drew the Department's attention to the fact that §§ 677.2, 677.3 and 677.11 were partially or completely omitted from the proposed rules. This omission was inadvertent and no change from the April 3, 1979 final CETA regulations was proposed in these sections. Accordingly, the Department has included these sections without change in these final rules.

Section 677.15(e) was amended to indicate that the Annual Plan Subpart must include a list of organizations to whom the plan was sent. Several commentators pointed out the reference in the preamble should have been § 677.15(e) rather than § 677.15(c). The Department agrees and accordingly the reference has been changed in the final rules. Many commentators objected to the paperwork burden of providing such a list. Other commentators expressed support for such a change. The Department agrees with the many recommendations to delete this section. In our view, because the regulations specify at § 676.12(c)(1) the organizations which must receive a copy of the plan, it serves no purpose to require the prime sponsor to submit such a list which only recites that the required organizations were sent a copy of the plan.

Section 677.40 was amended to clarify that the provisions with respect to the Independent Monitoring Unit (IMU) do not apply to the Special Grants to Governors. Some commentators stated that the requirements for establishing an IMU should apply to the Special Grants to Governors since there was no evident reason why these grants should be treated differently. Other commentators agreed with the proposed change. In the Department's view, the IMU provisions apply with particular force to the operations of prime sponsors, while different kinds of monitoring are more appropriate to the Governor's grants. In addition, the Act specifies at section 121(g) that the prime sponsors must establish IMUs. No other grantees are specified by the Act. The Department has accordingly determined to adopt the proposed rule without change.

*Public Service Employment*

Sections 677.53(g) and 678.3(g) were amended to clarify that PSE jobs may be allocated to private non-profit agencies. Several commentators objected to the second sentence in § 677.53(g)(2) and § 678.3(g)(2) stating that the proposed language would seem to preclude placement of PSE participants in private non-profit agencies which are concerned with a particular disadvantaged group, such as senior citizens, since these agencies serve a constituency, e.g., senior citizens, rather than the general public. The Department agrees with this comment and has clarified the regulations accordingly.

Section 678.3(a) was amended to clarify that 50 percent of the funds expended within a fiscal year by the prime sponsor must be used for PSE jobs in projects. Several commentators objected to the 50% requirement; however, that requirement is required by Sec. 605(a) of the Act. Accordingly, the section is adopted as proposed.

Several commentators noted, however, that § 678.8(a) and §677.58(a) in the proposed regulations are inconsistent with the changes proposed in § 678.3(a). The Department agrees with these comments and accordingly both of these sections have been amended in the final rule to make clear that the limit on funds refers to funds expended rather than received.

Section 678.7(b)(2)(iii) was amended to clarify that where the maximum wage decreases from the maximum in the previous year, the supplementation rate of the previous year remains in effect. No comments were received on this section. Accordingly, the Department has adopted this provision as proposed.

Section 678.7(g) was added to clarify that the prohibition against reducing the non-CETA portion of a participant's wages where the maximum wage has been adjusted upward, is applicable to CETA participants generally and not only to those CETA participants who were receiving non-CETA wages on September 30, 1978. No comments were received on this section. Accordingly, the Department has adopted this provision as proposed.

Section 678.8(c) was amended to clarify that Title VI funds may be used for non-PSE activities for those persons eligible under Title VI. Several commentators noted that the regulation did not effect this change. The Department agrees with these comments. Accordingly, the Department has amended this section by deleting the phrase "for eligible persons not in PSE" and substituting the phrase "for persons eligible under Title VI."

*Private Sector Programs*

In § 679.1(e) and § 679.3–7 (c) and (d) the Department has corrected the name of the "Job Service Improvement Program employer committees" to "Job Service Employer Committees."

Section 679.3–2 was amended to clarify that a PIC member's business or organization must be within the area served by the PIC. It also requires that building and construction trade councils be consulted in the planning process. Generally, commentators were in support of this change. Some commentators suggested, however, that the whole paragraph is misplaced. The Department believes that the paragraph most logically belongs in § 679.3–2. Accordingly, it is adopted unchanged.

Section 679.3–7(b)(8) was added to the proposed regulations but was inadvertently omitted from discussion in the preamble. The section requires prime sponsors and PICs to observe the labor consultation and/or concurrence requirements of § 676.24. Several commentators objected to the requirement as onerous and duplicative of the requirement at § 676.24. Other commentators approved of the addition. As noted in detail in this preamble in the discussion of § 676.24, the requirement to consult for all titles is clearly required by the Act at section 103(a)(9) and does not require non-union employers to obtain the concurrence of a union. The Department has determined that it will retain (8) to make clear the consultation and/or concurrence requirements under Title VII.

Section 676.3–9 clarified conflict of interest constraints on voting by PIC members. One commentator indicated that the provision was too restrictive and was inconsistent with the nature and goals of Title VII. The Department believes that the clarification is consistent with § 676.62 of these regulations, the general conflict of interest rules under CETA and is not inconsistent with Title VII. Accordingly, the provision is adopted as proposed.

Section 679.5 was clarified to indicate that the PIC must concur with all modifications to the Title VII Annual Plan Subpart. One commentator objected to this provision on the basis of the possible delays such a process might cause. However, many commentators expressed support for this provision. Since the provision is consistent with the role of the PIC, the Department is adopting the section as proposed.

Throughout the regulations, typographical errors have been corrected.

Accordingly, Part 675–680 of Title 20 of the Code of Federal Regulations are amended to read as follows:

## PART 675—INTRODUCTION TO THE REGULATIONS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Sec.

675.1 Scope and purpose of the Act.
675.2 Format of these regulations.
675.3 Table of contents for the regulations under CETA.
675.4 Definitions.
675.5 Eligibility requirements to participate in programs under CETA.
675.5–1 Eligibility requirements pertaining to all prime sponsor programs.
675.5–2 Eligibility requirements under Title II B.
675.5–3 Eligibility requirements under Title II C upgrading and retraining.
675.5–4 Eligibility requirements for Special Grants to Governors.
675.5–5 Eligibility requirements for Title II D programs.
675.5–6 Eligibility requirements for Title VI programs.
675.5–7 Eligibility requirements for Private Sector Initiative Programs.
675.5–8 Eligibility requirements for Youth Employment and Training Programs.
675.5–9 Eligibility requirements for Youth Community Conservation Improvement Projects.
675.5–10 Eligibility requirements for Summer Youth Employment Programs.
675.6 Intake and assessment.

Authority: Sec. 126 of the Comprehensive Employment and Training Act (29 U.S.C. 801 et seq., Pub. L. 95–524, 92 Stat. 1907), unless otherwise noted.

### § 675.1 Scope and purpose of the Act.

(a) It is the purpose of this Act to:

(1) Provide training and employment opportunities to increase the earned income of economically disadvantaged, unemployed, or underemployed persons;

(2) Establish a flexible, coordinated and decentralized system of Federal, State, and local programs so that services will lead to maximum employment opportunities and enhance self-sufficiency; and

(3) Provide for the coordination of programs under CETA with other social service, employment and training related programs, economic development, community development, and related activities, such as vocational education, vocational rehabilitation, public assistance, self-employment training, and social service programs.

(b) The Act is comprised of eight titles.

(1) Title I sets forth the administrative provisions governing programs under the other titles.

(2) Title II establishes programs administered by State and local prime sponsors to provide comprehensive employment and training services for economically disadvantaged persons.

(3) Title III establishes national programs administered by the Secretary:

(i) To provide employment and training services for groups of persons with disadvantages in specific and general labor markets or occupations.

(ii) To provide comprehensive employment and training programs for Indians and Native Americans, and for migrant and seasonal farmworkers.

(iii) To provide research and technical assistance programs and to evaluate activities under CETA.

(4) Title IV establishes a broad range of coordinated employment and training programs for youth.

(5) Title V establishes a National Commission for Employment Policy to examine issues of development, coordination and administration of employment and training programs, and to advise the President and the Congress on these issues.

(6) Title VI authorizes temporary employment in public service jobs during periods of high unemployment.

(7) Title VII authorizes activities to increase the involvement of the private sector in employment and training.

(8) Title VIII establishes a Young Adult Conservation Corps to provide conservation work on public lands and waters and other benefits to youth.

**§ 675.2 Format of these regulations.**

(a) Regulations promulgated by the Department of Labor to implement the new provisions of the Act are set forth in Parts 675 through 695 of Title 20 of the Code of Federal Regulations.

(b) Statutory authority of the regulations is found at section 126(a)(1) of the Act. Specific statutory authorities other than section 126(a)(1) are noted throughout the regulations.

**§ 675.3 Table of contents for regulations under CETA.**

## PART 675—INTRODUCTION TO THE REGULATIONS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Sec.
675.1 Scope and purpose of the Act.
675.2 Format of these regulations.
675.3 Table of contents for regulations under CETA.
675.4 Definitions.
675.5 Eligibility requirements to participate in programs under CETA.
675.5-1 Eligibility requirements pertaining to all prime sponsor programs.
675.5-2 Eligibility requirements under Title II-B.
675.5-3 Eligibility requirements under Title II-C upgrading and retraining.
675.5-4 Eligibility requirements for the Special Grants to Governors.
675.5-5 Eligibility requirements for Title II-D programs.
675.5-6 Eligibility requirements for Title VI programs.
675.5-7 Eligibility requirements for Private Sector Initiative Programs (PSIP).
675.5-8 Eligibility requirements for Youth Employment and Training Programs (YETP).
675.5-9 Eligibility requirements for Youth Community Conservation Improvement Projects (YCCIP).
675.5-10 Eligibility requirements for the Summer Youth Employment Programs (SYEP).
675.5-11 Eligibility requirements for Youth Incentive Entitlement Pilot Project Programs.
675.6 Intake and assessment.

## PART 676—GENERAL PROVISIONS GOVERNING PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

### Subpart A—Grant Procedures

Sec.
676.1 General.
676.2 Prime sponsor applicants.
676.3 Preapplication for Federal assistance.
676.4 Consortium agreements.
676.5 Prime sponsor designation.
676.6 Planning process.
676.7 Prime sponsor planning councils.
676.8 Area planning bodies.
676.9 Comprehensive employment and training plan (CETP).
676.10 Master plan.
676.10-1 General.
676.10-2 Signature page.
676.10-3 Assurances and certifications.
676.10-4 Narrative description.
676.11 Annual plan.
676.12 Comment and publication procedures relating to submission of CETP.
676.13 Submission of CETP.
676.14 Review, approval and disapproval of the CETP.
676.15 Use of alternative prime sponsors; Services by the Secretary.
676.16 Modifications.

### Subpart B—Program Design and Management

676.21 General responsibilities of CETA recipients.
676.22 Program management systems.
676.23 Program linkages and selection of deliverers.
676.24 Labor organization consultation and/or concurrence.
676.25 Employment and training activities.
676.25-1 Classroom training.
676.25-2 On-the-job training.
676.25-3 Public service employment.
676.25-4 Work experience.
676.25-5 Services.
676.25-6 Other activities.
676.25-7 Combined activities.
676.26 Payments to participants.
676.26-1 Payment of wages.
676.26-2 Payment of allowances.
676.26-3 Combined activities.
676.27 Benefits and working conditions for participants.
676.28 Retirement benefits for program participants.
676.28-1 General rules.
676.28-2 Allowable costs.
676.28-3 Package benefits.
676.28-4 FICA.
676.29 Non-Federal status of participants.
676.30 Termination conditions.
676.30a Procedures for serving specific target groups.

### Subpart C—Administrative Standards and Procedures

676.31 General.
676.32 Methods of payment to recipients of CETA funds.
676.33 Depositories for CETA funds.
676.34 Management information systems.
676.35 Retention of records.
676.36 Program income.
676.37 Recipient contracts and subgrants.
676.38 Requirements for contracts with nongovernmental organizations.
676.39 Property management standards.
676.40 Allowable costs.
676.40-1 Allowable CETA costs.
676.40-2 Administration and travel costs.
676.41 CETA cost allocation.
676.41-1 Classification of costs by category.
676.41-2 Allocations of fixed unit charges.
676.41-3 Cost categories assignable to program activities.
676.42 Administrative annual plan subpart.
676.43 Adminstratrative staff and personnel standards.
676.44 Reporting requirements for prime sponsors.
676.45 Annual plan subpart settlement procedures; termination of master plan.
676.46 Secretary's responsibilities.
676.47 Reallocation of funds based on nonutilization.

### Subpart D—Nondiscrimination; Equal Opportunity; Equitable Service and Affirmative Action

676.51 General.
676.52 Nondiscrimination and equal opportunity.
676.53 Equitable provision of services to significant segments of the eligible population.
676.54 Affirmative action.

### Subpart E—Prevention of Fraud and Program Abuse

676.61 General.
676.62 Conflict of interest.
676.63 Kickbacks.
676.64 Commingling of funds.
676.65 Charging of fees.
676.66 Nepotism.
676.67 Child labor.
676.68 Political patronage.
676.69 Political activities.
676.70 Lobbying activities.
676.71 Sectarian activities.
676.72 Unionization and antiunionization activities/work stoppages.
676.73 Maintenance of effort.
676.74 Theft or embezzlement from employment and training funds; improper inducement; obstruction of investigations and other criminal provisions.
676.75 Responsibilities of recipients and subrecipients for prevention of fraud and program abuse and for general program management.
676.75-1 General requirements.
676.75-2 Prime sponsor monitoring procedures.
676.75-3 Eligibility determination and verification.
676.76 Action required of the Secretary.

### Subpart F—Complaints, Investigations and Sanctions

676.81-676.93 [Reserved]

## PART 677—PROGRAMS UNDER TITLE II OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

### Subpart A—General Provisions

Sec.
677.1 Purpose.
677.2 Employability development plan.

Sec.
677.3 Agreements with State or local education agencies or institutions of higher education.

**Subpart B—Training Activities for the Economically Disadvantaged**

677.11 Purpose.
677.12 Participant eligibility.
677.13 Activities and services.
677.14 Allocation of funds.
677.15 Annual plan subpart.
677.16 Administrative limitations.

**Subpart C—Upgrading and Retraining**

677.21 Purpose.
677.22 Participant eligibility.
677.23 Activities and services.
677.24 Agreement with employers.
677.25 Compensation and benefits to participants.
677.26 Reimbursement of employers.

**Subpart D—Special Grants to Governors**

677.31 Purpose.
677.32 Allocation of funds.
677.33 Grant application; annual plan.
677.34 Governor's distribution of vocational education funds.
677.35 Nonfinancial agreement between prime sponsor and vocational education board.
677.36 State employment and training council.
677.37 Governor's coordination and special services.
677.38 Coordination and establishment of linkages with education agencies.
677.39 Vocational education activities.
677.40 Funding grant administration.
677.41 Reporting.
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**Subpart E—Transitional Employment Opportunities for the Economically Disadvantaged**

677.51 Purpose.
677.52 Participant eligibility.
677.53 Activities and services.
677.54 Eligibility for funds.
677.55 Allocation of funds.
677.56 Annual plan subpart.
677.57 Wages and wage supplementation.
677.58 Special cost provisions.

**PART 678—PUBLIC SERVICE EMPLOYMENT PROGRAMS UNDER TITLE VI OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT**

678.1 Purpose.
678.2 Participant eligibility.
678.3 Activities and services.
678.4 Eligibility for funds.
678.5 Allocation of funds.
678.6 Annual plan subpart.
678.7 Wages and wage supplementation.
678.8 Special cost provisions.

**PART 679—PRIVATE SECTOR INITIATIVE PROGRAM FOR THE ECONOMICALLY DISADVANTAGED UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT**

679.1 Scope and purpose.
679.2 Participant eligibility.
679.3 Private industry councils (PIC's).
679.3-1 Purpose.
679.3-2 Appointments of PIC members.
679.3-3 Chairperson.
679.3-4 Organizational position.
679.3-5 Staff.
679.3-6 Multijurisdictional PIC's.
679.3-7 Functions of the PIC.
679.3-8 Accountability.
679.3-9 Conflict of interest.
679.4 Allocation of funds.
679.5 Annual plan subpart.
679.6 Administrative limitations.
679.7 Allowable activities.

**PART 680—YOUTH PROGRAMS OPERATED BY PRIME SPONSORS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT**

**Subpart A—Youth Employment and Training Programs**

Sec.
680.1 Purpose.
680.2 Eligibility funds under YETP.
680.3 Allocation of funds
680.4 Program planning, planning and youth councils.
680.5 Description of the YETP annual plan subpart.
680.6 Activities and services.
680.7 Local educational agency agreements.
680.8 Eligibility for participation.
680.9 Eligibility for participation (extraordinary).
680.10 Participant compensation, benefits and working conditions.
680.11 Earnings disregard.
680.12 Maintenance of effort.
680.13 Substitution for Title II programs.
680.14 Academic credit.
680.15 Reallocation procedures.
680.16 Modifications.
680.17 Reporting requirements.
680.18 Government's Statewide Youth Services Program.

**Subpart B—Youth Community Conservation and Improvement Projects**

680.100 Purpose.
680.101 Eligibility for funds under YCCIP.
680.102 Allocation of funds.
680.103 Program planning, planning and youth councils.
680.104 Description of YCCIP annual plan subpart.
680.105 Project planning process.
680.106 Project application content.
680.107 Project application submission.
680.108 Project review.
680.109 Project prioritization.
680.110 Project activities.
680.111 Agreements with project applicants.
680.112 Program agent responsibility.
680.113 Limitation on use of funds.
680.114 Supervisory personnel.
680.115 Eligibility for participation.
680.116 Participant compensation, benefits and working conditions.
680.117 Earnings disregard.
680.118 Maintenance of effort.
680.119 Substitution for Title II programs.
680.120 Academic credit.
680.121 Reallocation procedures.
680.122 Modifications.
680.123 Reporting requirements.
680.124 Review by the RA, redistribution.

**Subpart C—Summer Youth Employment Programs**

680.200 Purpose.
680.201 Eligibility for SYEP funds.
680.202 Allocation of funds.
680.203 Unexpended previous year funds.
680.204 Startup of program
680.205 Program planning; planning and youth councils.
680.206 Basic program design provisions.
680.207 Description of the SYEP annual plan subpart.
680.208 Activities and services.
680.209 Program management provisions.
680.210 Worksite standards.
680.211 Eligibility for participation.
680.212 Participants compensation, benefits and working conditions.
680.213 Reallocation procedures.
680.214 Modifications.
680.215 Reporting requirements.
680.216 Termination date for the summer program.

**Subpart D—Youth Incentive Entitlement Pilot Projects**

680.300 Scope and purpose of subpart.
680.301 Regulations governing entitlement, definitions.
680.302 Funding of entitlement projects.
680.303 Eligibility for funds.
680.304 [Reserved]
680.305 [Reserved]
680.306 [Reserved]
680.307 [Reserved]
680.308 [Reserved]
680.309 [Reserved]
680.310 [Reserved]
680.311 [Reserved]
680.312 [Reserved]
680.313 [Reserved]
680.314 Assurances and certifications.
680.315 Project responsibilities and requirements.
680.316 Eligibility of participants.
680.317 Worksites.
680.318 Allowable activities.
680.319 Participant benefits.
680.320 Academic credit.
680.321 Disregarding earnings.
680.322 Maintenance of effort.
680.323 Limitations on use of funds.

Authority: Sec. 126 of the Comprehensive Employment and Training Act [29 U.S.C. 801 et seq.], unless otherwise noted.

**§ 675.4 Definitions.**

*Academic Credit* means credit for education, training or work experience applicable toward a secondary school diploma, a post secondary degree, or an accredited certificate of completion, consistent with applicable State law, regulations, and policy, and the requirements of an accredited educational agency or institution.

*Act* means the Comprehensive Employment and Training Act (29 USC § 801 *et seq.*)

*Alternative Working Arrangements* means the patterns or schedules of work which deviate from the regular work week. They may include staggered hours, flexible hours or flexi-time, compressed work weeks, part-time employment, job sharing, and work sharing.

*Annual Plan* means that part of the Comprehensive Employment and Training Plan which consists of the yearly description of program activities and services to be provided by prime sponsors.

*Appropriate Labor Organization* means a local labor organization that represents employees in the prime sponsor's area in the same or substantially equivalent jobs as those for which recipients provide, or propose to provide, employment and training under the Act.

*Architectural Barriers* means physical conditions of a building, facility, or other physical structure which reduce the accessibility to or usefulness of such building, facility or structure to handicapped individuals.

*Area of Substantial Unemployment* (ASU) means an area within a prime sponsor's jurisdiction:

(a) Which has a population of at least 10,000; and

(b)(1) Which has an average unemployment rate of at least 6.5 percent for the most recent twelve month period, as determined by the Bureau of Labor Statistics (BLS); or

(2) Which for fiscal year 1979, and for Parts A, B, and C of Title II of the Act for all fiscal years, has an average unemployment rate of at least 6.5 percent for any three consecutive months during the most recent 12 month period as determined by the Bureau of Labor Statistics.

*Artificial Barriers to Employment* means limitations (such as: age, sex, race, national origin, parental status, credential requirements, criminal record, lack of child care, physical or mental status and absence of part-time or alternative working patterns/schedules) in hiring, firing, promotion, licensing, and conditions of employment which are not directly related to an individual's fitness or ability to perform the tasks required by the job.

*Balance of State* (BOS) means the area which consists of all areas within a State which are not within the jurisdictions of local prime sponsors and, therefore, are served by the State acting as the prime sponsor.

*Capital Improvement* means any modification, addition, restoration or other improvement:

(a) Which increases the usefulness, productivity, or serviceable life of an existing building, structure, or major item of equipment;

(b) Which is classified for accounting purposes as a "fixed asset"; and

(c) The cost of which increases the recorded value of the existing building, structure, or major item of equipment and is subject to depreciation.

*CETA* means the Comprehensive Employment and Training Act.

*Community Based Organization* (CBO) means a private nonprofit organization which is representative of the community or a significant segment of a community, and which provides employment and training services or activities. (Examples include: Opportunities Industrialization Centers, the National Urban League, SER-Jobs for Progress, United Way of America, Mainstream, the National Puerto Rican Forum, agencies serving women, neighborhood groups and organizations, community action agencies, community development corporations, vocational rehabilitation organizations, rehabilitation facilities (as defined in Sec. 7(11) of the Rehabilitation Act of 1973, 29 USC § 706), agencies serving youth, union-related organizations, and employer-related nonprofit organizations).

*Comprehensive Employment and Training Plan* (CETP) means the plan of a prime sponsor for operating programs under the Act, consisting of the Master Plan and Annual Plan.

*Construction* means the erection, installation, assembly, or painting of a new structure or a major addition, expansion, or extension of an existing structure, and the related site preparation, excavation, filling and landscaping or other land improvements.

*Consumer Price Index* means the "All Urban Consumer Index" as determined by the Bureau of Labor Statistics (BLS).

*Contract* means a procurement instrument by which the Department, a recipient, or a subrecipient pays for property, services, supplies, materials or equipment.

*Contractor* means any person, corporation, partnership, public agency, or other entity which enters into a contract with the DOL, a recipient or a subrecipient under the Act.

*Department* means the United States Department of Labor (DOL), including its agencies and organizational units.

*Dependent* means any person for whom, both currently and during the previous 12 months, the participant has assumed 50% of their support, and is

(a) A member of the immediate household; or

(b) Not a member of the household, but a parent or child of the participant, or a relative of the participant who is unemployed because of a mental or physical disability; or

(c) who may be claimed as a dependent on the person's tax return under Section 151(e) of the Internal Revenue Code of 1954.

*Displaced Homemaker* means an individual who:

(a) Has not worked in the labor force for a substantial number of years but has, during those years, worked in the home providing unpaid services for family members; and

(b)(1) Has been dependent on public assistance or on the income of another family member but is no longer supported by that income; or

(2) Is receiving public assistance on account of dependent children in the home, especially where such assistance will soon be terminated; and

(c) Is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

*DOL* means the U.S. Department of Labor.

*Economically Disadvantaged* means a person who is either:

(a) A member of a family which receives public assistance;

(b) A member of a family whose income during the previous 6 months on an annualized basis was such that

(1) The family would have qualified for public assistance, if it had applied for such assistance; or

(2) It does not exceed the poverty level; or

(3) It does not exceed 70 percent of the lower living standard income level;

(c) A foster child on whose behalf State or local government payments are made;

(d) Where such status presents significant barriers to employment;

(1) A client of a sheltered workshop;

(2) A handicapped individual;

(3) A person residing in an institution or facility providing 24 hour support such as a prison, a hospital or community care facility; or

(4) A regular outpatient of a mental hospital, rehabilitation facility or similar institution.

*Employing Agency* means any public or private nonprofit employer which employs PSE or work experience participants and which establishes and maintains the personnel standards applicable to those participants covering such areas as wage rates, fringe benefits, job titles, and employment status.

*Entry Level* means the lowest position in any promotional line, as defined locally by collective bargaining agreements, past practice, or applicable personnel rules.

*Family* (a) Means one or more persons living in a single residence who are related to each other by blood, marriage, or adoption. A step-child or a step-parent shall be considered to be related by marriage.

(b)(1) For purposes of paragraph (a) of this section, one or more persons not living in the single residence but who were claimed as a dependent on another person's Federal Income Tax return for the previous year shall be presumed, unless otherwise demonstrated, part of the other person's family.

(2) An older worker, as defined in this section, whether living in the residence or not, or a handicapped individual who is 16 years of age or older may be considered a family of one when applying for programs under the Act.

(3) An individual 18 or older, except as provided in (2) above, who receives less than 50 percent of support from the family, and who is not the principal earner nor the spouse of the principal earner shall not be considered a member of the family. Such an individual shall be considered a family of one.

(4) Any individual released within 6 months of the date of applying for programs under the Act, from an institution or facility providing 24-hour support such as a prison, hospital or community care facility may be considered a family of one, provided that such confinement status presents a significant barrier to employment and the person is not claimed as a dependent on a family member's income tax return.

*Family Income* means all income actually received from all sources by all members of the family, during the income determination period. Family size shall be the maximum number of family members during the income determination period. When computing family income, income of a spouse and/or other family members shall be counted for the portion of the income determination period that the person was actually a part of the family unit of the applicant.

(a) Family income shall include:

(1) Gross wages and salary (before deductions);

(2) Net self-employment income (gross receipts minus operating expenses);

(3) Other money income received from sources such as net rents, OASI (Old Age and Survivors Insurance) social security benefits, pensions, alimony, child support, and periodic income from insurance policy annuities, and other sources of income.

(b) Family income shall exclude:

(1) Non-cash income such as food stamps, or compensation received in the form of food or housing;

(2) Imputed value of owner-occupied property, i.e., rental value;

(3) Public assistance payments;

(4) Cash payments received pursuant to a State plan approved under Titles I, IV, X, or XVI of the Social Security Act, or disability insurance payments received under Title II of the Social Security Act;

(5) Federal, State or local unemployment benefits;

(6) Payments made to participants in employment and training programs (including payments received under CETA Title IV or Title VIII or Title V of the Older Americans Act), except wages paid for PSE and OJT.

(7) Capital gains and losses;

(8) One time unearned income, such as, but not limited to:

(i) Payments received for a limited fixed term under income maintenance programs and supplemental (private) unemployment benefits plans;

(ii) One-time or fixed-term scholarship and fellowship grants;

(iii) Accident, health, and casualty insurance proceeds;

(iv) Disability and death payments, including fixed term (but not lifetime) life insurance annuities and death benefits;

(v) One-time awards and gifts;

(vi) Inheritance, including fixed term annuities;

(vii) Fixed term workers' compensation awards;

(viii) Terminal leave pay;

(ix) Soil bank payments;

(x) Agriculture crop stabilization payments;

(9) Pay or allowances which were previously received by any veteran while serving on active duty in the Armed Forces; and

(10) Educational assistance and compensation payments to veterans and other eligible persons under Chapters 11, 13, 31, 34, 35, and 36 of Title 38, United States Code.

(11) Payments received under the Trade Act of 1974.

(12) Black Lung payments received under the Benefits Reform Act of 1977, Pub. L. 95-239, 30 U.S.C. 901.

*Financial Assistance* means any grant, loan, or any other arrangement by which the Department or recipient provides or otherwise makes available assistance in the form of:

(a) Funds;

(b) Services of Federal or recipient's personnel; or

(c) Real and personal property or any interest in or use of such property, including:

(1) Transfers or leases of such property for less than fair market value or for reduced consideration; and

(2) Proceeds from a subsequent transfer or lease of such property if the Federal or recipient share of its fair market value is not returned to the Federal Government or recipient.

*Governor* means the chief executive, or his or her designee, of any State.

*Handicapped Individual* means any person who has a physical or mental disability which constitutes a substantial barrier to employment and can benefit from CETA services as determined by the prime sponsor.

*In-school* means the status of being enrolled full-time and attending an elementary, secondary, trade, technical or vocational school, a college, including a junior community college or a university. An individual shall maintain the status of "in-school" between semesters or quarters or during the summer months provided that individual is scheduled to attend full-time the next regularly scheduled quarter of any of these schools.

*In-School Youth* means a person age 14 to 21, who:

(a) Is currently enrolled full-time in, and attending, a secondary, trade, technical, vocational school or junior or community college or is scheduled to attend full-time the next regularly scheduled quarter or semester of any of these schools; or

(b) Has not completed high school and is scheduled to attend or is attending, on a full-time basis, a program leading to a secondary school diploma or its equivalent. Full-time may be defined by the requirements of the agency administering the program.

*Institutions of higher education* means an educational institution in any State which:

(a) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate;

(b) is legally authorized within such State to provide a program of education beyond secondary education;

(c) Provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree;

(d) Is a public or other nonprofit institution;

(e) Is accredited by a nationally recognized accrediting agency or association; and

(f) Admits as regular students, persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have

the ability to benefit from the education offered by the institution.

*Job restructuring* means:

(a) The procedure which includes:

(1) Identifying the separate tasks that comprise a job or group of jobs;

(2) Developing new position descriptions which retain some of the tasks of the original job; and

(3) Developing a career ladder which builds upward from the new positions containing the lesser skilled tasks to regular jobs.

(b) A restructered job shall be clearly different from the original one in terms of skills, knowledge, abilities, and experience needed to perform the work (sec. 432(a)(3)(L)).

*Local Educational Agency* means:

(a) Except for purposes of Youth Employment and Training Programs (YETP) under Part 680, a board of education or other legally constituted local school authority having administrative control and direction of public elementary or secondary schools in a city, county, township, school district or political subdivision in a State, or any other public educational institution or agency having administrative control and direction of a vocational education program;

(b) For purposes of YETP under Part 680, a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or combination of such school districts or counties which are recognized in a State as an administrative agency for their public elementary or secondary schools.

*Lower Living Standard Income Level* means that income level (adjusted for selected Standard Metropolitan statistical areas and regional metropolitan and nonmetropolitan differences and family size) determined annually by the Secretary, based upon the most recent lower living family budget issued by the Bureau of Labor Statistics.

*Low Income Housing* means:

(a) For weatherization or winterization projects, those dwellings occupied by persons whose family income does not exceed 125 percent of the poverty level and which are

(1) Owned by the occupant;

(2) Publicly owned;

(3) Owned by a private nonprofit organization; or

(4) Cooperatively owned; or

(5) For projects funded and approved by the Federal Energy Administration, privately owned rental housing.

(b) For rehabilitation as part of community revitalization or stabilization, those dwellings occupied by persons whose family income does not exceed 80 percent of the median income for the area, in accordance with Section 8(f)(1) of the United States Housing Act of 1937, (42 U.S.C. 1437f) and which are:

(1) Owned by the occupant;

(2) Publicly owned;

(3) Owned by a private nonprofit organization; or

(4) Cooperatively owned.

*Low Income Level* means $7,000 with respect to income in 1969, and for any later year means that amount which bears the same relationship to $7,000 as the Consumer Price Index for that year bears to the Consumer Price Index for 1969, rounded to the nearest $1,000.

*Master Plan* means that part of the Comprehensive Employment and Training Plan (CETP) which serves as the long-term agreement between the Department and a prime sponsor.

*Offender* means any adult or juvenile who is or has been subject to any stage of the criminal justice process for whom employment and training services may be beneficial or who requires assistance in overcoming artificial barriers to employment resulting from a record of arrest or conviction.

*Older Worker* means a person who is 55 years of age or older.

*Outstationing* means the positioning of PSE or work-experience participants by an employing agency at a location or facility operated by an organization other than the employing agency so that the other organization supervises and assigns work to the participants.

*Participant* means an individual who is:

(a) Declared eligible upon intake; and

(b) Receiving employment, training or services (except post-termination services) funded under the Act following intake, except for an individual who receives only outreach or intake services.

*Placement* means the act of securing unsubsidized employment for or by a participant.

*Poverty Level* means the annual income level at, or below which families are considered to live in poverty, as annually determined by the Office of Management and Budget.

*Prime Sponsor* means a recipient of financial assistance designated pursuant to § 676.5.

*Program Agent* means:

(a) A unit of general local government with a population of at least 50,000 within the jurisdiction of a single prime sponsor.

(b) A combination of units of general local government (preferably contiguous) with a total population of at least 50,000 within the jurisdiction of a single prime sponsor which possesses:

(1) The legal authority to receive funds and to transact business throughout its jurisdiction in accordance with the Act and regulations; and

(2) The administrative capability to plan, administer, and operate an employment and training program.

*Program of Demonstrated Effectiveness* means a program which has demonstrated the capacity to achieve planned goals at reasonable cost within acceptable timeframes, and is either:

(1) A program which has demonstrated to the prime sponsor that it has performed effectively within the prime sponsor's jurisdiction, or

(2) A program which can demonstrate to the prime sponsor that it has carried out a similar program under similar circumstances in other jurisdictions and can carry out such program effectively within the prime sponsor's jurisdiction; or

(3) A program funded by the Secretary which has demonstrated to the prime sponsor that it has performed effectively.

*Project* means:

(a) For the purpose of public service employment in Parts 677 and 678, a definable task or group of related tasks which will be completed within eighteen months, has a public service objective, will result in a specific product or accomplishment, and would otherwise not be done with existing funds;

(b) For the purposes of Youth Community Conservation and Improvement Projects in Part 680, an activity which provides constructive work, conducted by youth, under the guidance of skilled supervisors, which (1) results in tangible outputs or a specific product; (2) benefits the participants in terms of work habits, skills, and attainment of academic credit where applicable; and (3) will be completed within a definable period of time not to exceed 12 months (sec. 421).

*Project Applicants* means States and agencies thereof, units of general local governments and agencies thereof, combinations or associations of such governmental units when the primary purpose of such combinations or associations is to assist such governmental units to provide public service, special purpose political subdivisions having the power to levy taxes and spend funds or serving such special purpose within an area served by one or more units of general local government, local educational agencies,

institutions of higher education, community based organizations, nonprofit groups and organizations serving Native Americans, and other private nonprofit organizations or institutions engaged in a public service.

*Public Assistance* means Federal, State, or local government cash payments for which eligibility is determined by a need or income test.

*Public Service Employment* means the type of work normally provided by governments and includes, but is not limited to, work (including part-time work) in such fields as environmental quality, child care, health care, education, crime prevention and control, prisoner rehabilitation, transportation, recreation, maintenance of parks, streets and other public facilities, solid waste removal, pollution control, housing and neighborhood improvement, rural development, conservation, beautification, veterans outreach, development of alternative energy technologies, and other fields of human betterment and community improvement.

*RA* means Regional Administrator of the Employment and Training Administration of the U.S. Department of Labor.

*Recipient* means State or local government, a Federally recognized Indian tribal government, a public or private institution of higher education, a public or private hospital, an Indian or Native American entity other than a Federally recognized Indian tribal government, or other quasi-public or private for profit or nonprofit organization which receives CETA financial assistance directly from DOL, through a grant to perform substantive work under the Act (employment, training, supportive services, etc.).

*Residence* means an individual's principal dwelling or home. Maintenance of an address is not necessarily the same as residence.

*Secretary* means the Secretary of Labor.

*Significant Segments* means the groups of the population identified in terms of the following demographic characteristics: Age, sex, race, and national origin. (sec. 103(b)(2)).

*Similarly Employed* means the status of a person who is working for the same employer as the CETA participant, is doing the same type of work, and is similarly classified with respect to employment status (e.g., full time, permanent, or temporary).

*Special Disabled Veteran* means a person who served in the Armed Forces and was discharged or released, with other than a dishonorable discharge, and who had been given a disability rating of 30 per centum or more, or a person whose discharge or release from active duty was for a disability incurred or aggravated in the line of duty.

*State* means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Northern Marianas Islands, American Samoa, and the Trust Territory of the Pacific Islands.

*State Employment Security Agency* (SESA) means the State agency which exercises control over the Unemployment Insurance Service and the Employment Service.

*Subrecipient* means any person, organization or other entity which receives financial assistance under CETA through a recipient to carry out substantive work (e.g., employment, training, supportive services).

*Underemployed Person* means:

(a) Persons who are working part time but seeking full time work; or

(b) Persons who are working full time but whose current annualized wage rate is not in excess of "for a family of one", the higher of either:

(1) The poverty level; or

(2) 70 percent of the lower living standard income level.

*Unemployed Person* means for purposes of determining eligibility:

(a) A person who is without a job for at least seven consecutive days prior to application for participation. A person shall be considered as being without a job if, for seven consecutive days, such person:

(1) Worked no more than 10 hours; and

(2) Earned no more than $30; and

(3) Was seeking and available for work; or

(b) A person who is:

(1) A client of a sheltered workshop;

(2) Institutionalized in a hospital, prison, or similar institution; or

(c) A person who is 18 years of age or older and whose family receives public assistance or whose family would be eligible to receive public assistance but for the fact that both parents are in the home; or

(d) A person who is a veteran who has not obtained permanent unsubsidized employment since being released from active duty. Such person shall be considered to meet "unemployed" eligibility requirements regardless of the specific term of unemployment required.

*Unit of general local government* means any city, municipality, county, town, township, parish, village, or other general purpose political subdivision which has the power to levy taxes and spend funds, as well as general corporate and police powers.

*Veteran* means a person who:

(a) Served on active duty for more than 180 days, and was released with other than a dishonorable discharge; or

(b) Was discharged or released from active duty for a service connected disability.

*Veterans Outreach* means:

(a) The recruitment, counseling and registration of eligible veterans for participation in appropriate employment or training programs provided under the Act;

(b) Coordination with the outreach services program carried out under Subchapter IV of Chapter 3 of Title 38, United States Code (pertaining to the dissemination of information about Veterans Administration benefits and services and the provision of such services to eligible veterans), with full utilization of veterans receiving educational assistance or vocational rehabilitation under Chapter 31 or 34 of Title 38, United States Code.

*Vietnam-era Veteran* means a veteran under 35 years of age who served on active duty between August 5, 1964, and May 7, 1975 and who was discharged or released with other than a dishonorable discharge.

### § 675.5 Eligibility requirements to participate in programs under CETA.

### § 675.5-1 Eligibility requirements pertaining to all prime sponsor programs.

(a) All recipients shall establish effective systems to determine participant eligibility in accordance with § 676.75-3. To assist in eligibility determination, a consolidated list of all eligibility requirements for programs administered by prime sponsors under CETA is presented in this section.

(b) Participants shall be limited to citizens of the United States, United States nationals, permanent resident aliens, and lawfully admitted refugees and parolees, or other aliens who have been permitted to accept permanent employment in the United States by the Immigration and Naturalization Service (sec. 132(e) and 121(p)).

(c) Participants may be transferred from one title or program under the Act into another title or program under the Act within the prime sponsor jurisdiction, if they met the current eligibility requirements for such other title or program at the time that they were originally determined eligible for their first CETA title or program, except that if the subsequent title or program has an age limitation, participants shall meet the age limitation at the time of transfer into that title or program.

(d) Eligibility determinations for each program shall be made at the time of

application. Applicants determined eligible may be enrolled as participants within 45 days of the date of the application without an update of the information on the application, and provided they did not obtain full-time permanent unsubsidized employment in the interim. This provision does not apply to the Summer Youth Employment Program (SYEP) or as otherwise specified in this section.

(e) Persons institutionalized in a prison, jail, or similar correctional institution shall be eligible only when such person has a reasonable expectation of release, parole, or work release within 12 months of enrollment in activities under the Act.

(f) Specific eligibility requirements for programs not found at § 675.5–2 through § 675.5–10 are found in the specific regulations for those programs.

**§ 675.5–2 Eligibility requirements under Title II–B.**

For Programs described in Subpart B of Part 677, a person shall be:

(a) Economically disadvantaged; and

(b) Unemployed, underemployed, or in-school (sec. 213).

**§ 675.5–3 Eligibility requirements under Title II–C upgrading and retraining.**

For Upgrading and Retraining Programs described in Subpart C of Part 677:

(a) For Upgrading, a person must be:

(1)(i) Operating at less than full skill potential, and

(ii) Working for at least the prior six months in either entry level, unskilled or semi-skilled positions or positions with little or no advancement opportunity in a normal promotional line;

(2) Priority consideration shall be given to those workers who have been in entry level positions for the longest period of time, and who have potential for upward mobility.

(b) For retraining a person must:

(1) Have received a bona fide notice of impending layoff within the last 6 months; and

(2) Have been determined by the prime sponsor, with the assistance of the local employment service, as having little opportunity to be reemployed in the same or an equivalent occupation or skill level within the labor market area.

**§ 675.5–4 Eligibility requirements for Special Grants to Governors.**

For programs under the Special Grants for Governors described in Subpart D of Part 677, a person unless otherwise approved in the grant must be economically disadvantaged, and unemployed, underemployed or in school. For PSE the eligibility requirements are the same as those for Titles II–D or VI which are described in § 675.5–5 or § 675.5–6.

**§ 675.5–5 Eligibility requirements for Title II–D programs.**

For Title II–D funded programs described in Subpart E of Part 677, a person must:

(a)(1) Be economically disadvantaged, be unemployed at the time of application and have been unemployed during 15 of the 20 weeks immediately prior to application or

(2) Be a member of a family which is receiving public assistance (sec. 236(a)); and

(b) Reside within the prime sponsor's jurisdiction, except that:

(1) Where a prime sponsor subgrants to units of general local government with a population of 50,000 or more, such units may not hire persons outside of their jurisdiction nor may prime sponsors hire persons from such jurisdictions. However, participants may be exchanged between such units when there are equivalent funds expended to support such persons by each unit. This does not require the layoff of present participants eligible under the residency requirements that were applicable at the time of their eligibility determination; and

(2) In cases where a prime sponsor is operating a program for a unit of general local government over 50,000, a formal subgrant is not necessary to enroll residents of that jurisdiction. The prime sponsor shall assure that funds allocated for use within that jurisdiction's area are spent only for residents of that area.

(c) Not have, within the immediately prior six months, voluntarily terminated, without good cause, as described in the *Forms Preparation Handbook*, his/her last previous full-time employment at a wage rate not less than the highest of the minimum wage under Section 6(a)(1) of the Fair Labor Standards Act (29 U.S.C. 206) or under the applicable State or local minimum wage law (sec. 122(n)).

**§ 675.5–6 Eligibility requirements for Title VI programs.**

(a) For Title VI funded programs described in Part 678, a person must reside within the prime sponsor's jurisdiction as provided in § 675.5–5(b); and

(1)(i) Be unemployed at the time of application; and

(ii) Have been unemployed for at least 10 out of the 12 weeks immediately prior to application; and

(iii) Have a family income which does not exceed 100 percent of the lower living standard income level based on the annualization of the three-month period prior to the individual's application for participation; or

(2) Be a member of a family which has been receiving public assistance for 10 of the last 12 weeks immediately prior to application (sec. 607).

(b) The provisions of § 675.5–5(c) regarding individuals who voluntarily terminated their last employment shall apply (sec. 122(n)).

**§ 675.5–7 Eligibility requirements for Private Sector Initiative Program (PSIP).**

For PSIP programs described in Part 679, the eligibility requirements are the same as set forth for Title II–B and II–C of the Act in § 675.5–2 and § 675.5–3.

**§ 675.5–8 Eligibility requirements for Youth Employment and Training Programs (YETP).**

(a)(1) For YETP programs described in Subpart A of Part 680, except as provided in § 675.5–8(b) of this section, at the time of application a youth must be (sec. 435):

(i) Unemployed or underemployed, or an in-school youth (excluding persons aged 14 and 15);

(ii) 16 through 21 years of age inclusive; and

(iii) A member of a family with a total family income, annualized on a 6-month basis, at or below 85 percent of the lower living standard income level; or

(iv) Economically disadvantaged.

(2) Programs funded under YETP shall give preference to economically disadvantaged youth within the eligible population. Appropriate efforts shall be made to give service to those youth who have severe handicaps in obtaining employment, including but not limited to those who lack credentials (such as a high school diploma), those who require substantial basic and remedial skill development, those who are women and minorities, those who are veterans of military services, those who are offenders, those who are physically or mentally handicapped, those with dependents, or those who have otherwise demonstrated special needs as determined by the Secretary (sec. 444(a)).

(3) A youth may not be enrolled in full-time employment opportunities if:

(i) The individual has not attained the age with respect to which the requirement of compulsory education ceases to apply under the laws of the State in which such individual resides, except: (A) During periods when school is not in session and (B) where employment is undertaken in cooperation with school-related programs awarding academic credit for work experience; or (C) The individual has not attained a high school diploma

or its equivalent and it is determined by the prime sponsor that the youth dropped out of high school in order to participate in YETP (sec. 443(f)).

(b) Youth who are 14 and 15 years of age, in school and otherwise eligible under paragraph (a) above of this section, may participate in YETP when that section of the annual plan specifies a youth development strategy which provides broad career exposure for these youth (sec. 435).

(c) Youth who are 16 through 21 years of age, but who do not meet the income or economically disadvantaged criteria may participate in a special component as described in § 680.6(c).

(d) Youth who are 16 through 21 years of age, but who do not meet the income or economically disadvantaged criteria may be offered services which are limited to:

(1) Counseling, including occupational information;

(2) Occupational, education, and training information including information on apprenticeship training;

(3) Placement services;

(4) Job referral information through coordinated intake systems; and/or

(5) Assistance in overcoming employment related sex-stereotyping in job development, placement, counseling, and guidance.

**§ 675.5-9 Eligibility requirements for Youth Community Conservation Improvement Projects (YCCIP).**

(a) For YCCIP program described under Subpart B of Part 680; at the time of application a person must be:

(1) 16 through 19 years of age, inclusive; and

(2) Unemployed (sec. 442).

(b) *Selection.* In selecting eligible youth, prime sponsors shall give preference to the economically disadvantaged youth within the eligible population.

(1) Appropriate efforts shall be made to serve those eligible youths who have severe handicaps in obtaining employment (sec. 444(a)).

(2) A youth may not be enrolled in full-time employment opportunities if:

(i) The individual has not attained the age at which the requirement of compulsory education ceases to apply under the laws of the State in which such individual resides, except: (A) During periods when school is not in session, and (B) where employment is undertaken in cooperation with school-related programs awarding academic credit for work experience; or

(ii) The individual has not attained a high school diploma or its equivalent and it is determined by the prime sponsor that the youth dropped out of high school in order to participate in YCCIP (sec. 443(f)).

(c) *Limitation.* Each participant shall be limited to a maximum enrollment of 12 months with no more than two reenrollments, provided age eligibility is met at the time of each reenrollment and the 12 month limitation is not exceeded. Consistent with the termination procedures specified in § 676.30(b), every effort shall be made to transition participants into unsubsidized jobs or other CETA opportunities upon completion of the 12 months enrollment (sec. 428).

**§ 675.5-10 Eligibility requirements for the Summer Youth Employment Programs (SYEP).**

For SYEP programs described in Subpart C of Part 680, a youth must be:

(a) At the time of application, economically disadvantaged; and

(b) At the time of enrollment, 14 through 21 years of age inclusive (sec. 402).

**§ 675.5-11 Eligibility requirements for Youth Incentive Pilot Project Programs.**

(a) Every youth who resides in the geographic area of the Entitlement Project shall be entitled to participate in the program provided that, at the time of application and selection, the youth provides documented evidence which shows that:

(1) The youth is aged 16-19 inclusive, unless the Department has authorized the prime sponsor to administer an entitlement Project for youths between 19 and 25 years of age;

(2) The youth has not received a high school diploma or certificate of high school equivalency;

(3) The youth has resided in the Entitlement Project area for 30 days. Newly discharged veterans however, are exempt from the 30 day residency requirement;

(4) The youth is economically disadvantaged. For purposes of this subpart, economically disadvantaged shall mean that the youth:

(i) Either constitutes a family of one, or is a member of a family,

(ii) And receives cash welfare payments under a Federal, State or local program, or whose income is at or below the poverty level as determined by the Office of Management and Budget (OMB). For the purposes of this paragraph a "family" is as defined in § 675.4 of this title, and the term "family income" is as defined in § 675.4 of this title. Family income shall be computed pursuant to § 675.4 of this title except that earnings received by a youth under Title IV OJT shall be disregarded in computing family income. In the case of newly discharged veterans, income received while in military service shall be disregarded in computing family income; and

(5) The youth is:

(i) Enrolled in and attending a State-certified secondary school program leading to a high school diploma, or enrolled in such a program scheduled to begin within 30 days of the Youth's Entitlement program enrollment; or.

(ii) Enrolled in and attending a certified or approved program leading to a certificate of high school equivalency (GED), or enrolled in such a program scheduled to begin within 30 days of the Youth's Entitlement program enrollment.

(b) If the youth is under the juvenile or criminal justice system, the appropriate authorities must approve the youth's participation or continued participation in writing.

(c) The citizenship provisions of § 675.5(b) of this title shall apply to the Entitlement program.

(d)(1) No otherwise eligible youth shall be excluded from participation because of any mental or physical handicap.

(2) The prime sponsor must take every step necessary to insure that such youths can participate. The prime sponsor may not segregate such youths from regular program activities, but must redesign these activities to ensure participation.

(e) No youth may take a job under this subpart if a member of his or her immediate family as defined in § 676.66(c)(1) of this title, has responsibility for hiring persons into that job. Therefore, prime sponsors shall assure that eligible youths are not placed in jobs by members of their immediate families. The provisions of § 676.66 (a) and (b) shall not apply to this subpart. (Section 418(a)(4)(I).)

(f) A participant must continue to be economically disadvantaged as defined in § 680.316(a)(4) and to reside within the Entitlement Area or be terminated from the program. The prime sponsor shall re-verify participant economically disadvantaged status and residency between the seventh and twelfth month following enrollment and annually thereafter. In re-verifying economically disadvantaged status, however, wages and allowances received under the Entitlement program shall not be included when computing family income.

(g) A participant must meet minimum academic and attendance requirements of the secondary school or high school equivalency program in which the participant is enrolled or be terminated from the Entitlement program. The secondary school or GED program must

provide monthly assurances that the participant is meeting minimum academic and attendance requirements.

(h) A participant who has been found by the prime sponsor, after notice and an opportunity for a hearing, to have refused a job or to be otherwise refusing to participate in the program without good cause, shall be terminated from the program. The participant shall be given a termination notice which states that the participant may appeal the termination to the appropriate ETA regional office. Upon receipt of such an appeal the regional office shall process it as a complaint pursuant to Subpart (f) of Part 676.

(i) Except as provided below, any participant who has been terminated from the Entitlement program may re-enroll at any time provided the participant meets the eligiblity criteria in this section. Participants who have been terminated for failure to participate without good cause must wait 60 days before they apply for re-enrollment. Re-enrollment of such participant after the 60-day period shall be subject to a determination by the prime sponsor as to whether such individual would properly participate in the program.

(j) For youths who remain eligible as stated in (f) through (i) of this section, the minimum guaranteed period of employment for Entitlement-eligible youth is either 8 weeks of full-time summer employment or 6 months of part-time school-year employment (sec. 417). Therefore:

(1) A participant reaching 20 years of age while in the program may remain in the program until the participant completes either 8 weeks of full-time summer employment or 6 months of part-time school-year employment. If upon reaching the 20th birthday the participant has already completed either 8 weeks of full-time summer or 6 months of part-time school-year employment, the participant shall be immediately terminated from the program. For projects that are serving youth 19–25, this requirement applies to youth reaching 25 years of age.

(2) A participant who receives a high school diploma or a certificate of high school equivalency while in the program may remain in the program until the completion of either 8 weeks of full-time summer employment or 6 months of part-time school-year employment.

(k) Since jobs during the school year must last at least 6 months, and jobs in the summer must last at least 8 weeks, no youth may be enrolled in the program if the grant will end before the youth can complete the required period of employment unless there are sufficient funds to maintain that youth for the minimum guaranteed period of employment.

### § 675.6 Intake and assessment.

(a) Each recipient shall, at the time of intake, assess every individual to determine the person's eligibility and to decide whether CETA can offer the applicant those services or activities which will enable the applicant to obtain unsubsidized employment and increase earned income.

(b) In determining who shall be enrolled, recipients shall establish appropriate mechanisms to ensure that employment and training activities available under the grant are provided to those most in need (sec. 103(a)(5)(A)).

(c) Once enrolled, each prime sponsor shall make a more detailed assessment for each participant, and an employability development plan shall be prepared for each Title II participant in accordance with § 677.2. In doing the detailed assessment, recipients shall consider the utilization of all available CETA and community resources, such as those from SESA, the prime sponsor's Private Industry Council, area apprenticeship opportunities, CBO's, the educational system, and all other resources. Such assessment does not mandate a central intake system, but does require that recipients provide an opportunity for referral to the full range of available services.

(d) In designing programs, all recipients shall develop goals and provide maximum efforts for transitioning participants into unsubsidized employment. They shall periodically assess participant progress towards these goals, as provided for each title in § 676.25–4(b), § 677.2(e), § 677.53(b) and § 678.3(h).

(e) In designing and operating programs, recipients and subrecipients shall give special consideration to providing for alternative working arrangements such as flexible hours of work, work-sharing and part-time jobs, particularly for older workers and those with household obligations and including parents of young children (sec. 121(d)(3)).

## PART 676—GENERAL PROVISIONS GOVERNING PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

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Authority: Sec. 126 of the Comprehensive Employment and Training Act (29 U.S.C. 801 *et seq.*), unless otherwise noted.

## PART 676—GENERAL PROVISIONS GOVERNING PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

### Subpart A—Grant Procedures

#### § 676.1 General.

This Subpart specifies the procedures by which prime sponsors may obtain funds to operate programs under the Act.

#### § 676.2 Prime sponsor applicants.

The following entities may apply to be prime sponsors (sec. 101):

(a) A State;

(b) A unit of general local government which has a population of 100,000 or more;

(c)(1) Any consortium of units of general local government which includes a unit of general local government qualifying under paragraph (b) of this section;

(2) Any consortium consisting of a State and a unit or units of general local government, at least one of which qualifies under paragraph (b) of this section;

(d) Existing Concentrated Employment Program (CEP) prime sponsors;

(e) Any unit of general local government previously designated as a prime sponsor, with a population below 100,000 persons, which the Secretary certifies has demonstrated its effectiveness in, and continues to have the capability for, adequately carrying out programs under the Act;

(f) Any unit of general local government or any consortium of such units with a population below 100,000 which demonstrates:

(1)(i) It has the capacity to serve a substantial portion of a functioning labor market area, or

(ii) It is a rural area having a high level of unemployment; and

(2)(i) It has the capability for adequately carrying out programs under the Act,

(ii) That there is a special need for services within the area to be served, and

(iii) That it will carry out programs and services in the area as effectively as any larger unit of general local government in its jurisdiction or as the State.

#### § 676.3 Preapplication for Federal assistance.

(a) The Secretary, through a notice in the Federal Register, shall annually invite all potential prime sponsor applicants to apply for financial assistance by a specified date. The notice may include a list of those potential applicants which the Secretary believes may wish to apply. This, however, shall not preclude other applicants from applying. An applicant interested in being designated as a prime sponsor shall submit a preapplication to the RA, the Governor, and the appropriate State and areawide clearinghouses pursuant to Office of Management and Budget (OMB) Circular A–95, not later than 30 days prior to the submission of its completed Comprehensive Employment and Training Plan to the clearinghouse for formal review. The preapplication shall consist of Standard Form 424 described in 41 CFR Part 29–70.

(b) All applicants with populations below 100,000 shall include documentation showing that they meet the requirements for such applicants.

(c) A consortium covering more than one State shall obtain the approval of the Governors of the States involved.

#### § 676.4 Consortium agreements.

(a) Except as provided in paragraph (b) of this section, each consortium applicant, at a date established by the RA, shall submit to the RA a consortium agreement signed by the chief elected official or chief executive officer of each consortium member. The agreement shall include the following:

(1) A statement that the agreement has been formed under CETA or that another agreement has been amended to conduct programs under CETA and a statement of the duration of the agreement, which shall be for at least one fiscal year.

(2) A listing of the units of general local government which are members of the consortium.

(3) A listing of any unit of general local government which is within the area served by the consortium but has not joined the consortium.

(4) An identification of the geographical area(s) which will be served.

(5) A letter of certification from each member's chief legal officer assuring that:

(i) The member has the legal authority to enter the consortium agreement;

(ii) State and local law permits the provision of services within the entire geographical area covered by the agreement; and

(iii) Pursuant to State or local law, each consortium member jointly and separately accepts responsibility for the operation of the program.

(6) A statement that:

(i) The grant shall be signed by the chief-elected official or chief executive officer of each consortium member; or

(ii) As designated in the consortium agreement, the grant shall be signed by the chief-elected official or chief executive officer of one or more consortium members or by the chief executive of the administrative unit.

(7) A description of the powers and responsibilities reserved by the consortium members specifying the process by which decisions will be made, the process by which each member will review and approve the CETP, and the procedure by which chief-elected officials will participate in the planning and operation of the program. It shall also describe the

powers and responsibilities which will be delegated to an administrative entity, which may be a consortium member or a separate entity, to operate the program, and the name and organizational structure of that entity. The administrative unit may be delegated the power to enter into contracts, subgrants and other necessary agreements; to receive and expend funds; to employ personnel including participants under the Act for the purposes of administering the program; to organize and train staff; to develop procedures for program planning, operation, assessment and fiscal management; to evaluate program performance and determine whether there is a need to reallocate resources; and, to modify the grant agreement with the Department. The administrative arm of the consortium should have responsibility for the entire operation of the program, except that the consortium members shall reserve to the consortium the right of evaluation and the decision to reprogram funds.

(b) The chief-elected official or chief executive officer of each member of a consortium which was a prime sponsor in the prior year shall attest in writing that the agreement remains the same or note the specific changes.

(c) In order to encourage the formation of consortia that comprise at least 75 percent of labor market areas, the Secretary may use up to 5 percent of the funds available for Parts A, B, and C of Title II to provide additional funding only for such consortia. Prior to making decisions concerning these funds, the RA shall consult with the Governors of the appropriate States and afford them an opportunity to make recommendations.

**§ 676.5 Prime sponsor designation.**

(a) Upon receipt of a completed preapplication and a consortium agreement, if required, the RA shall designate prime sponsor applicants as prime sponsors and shall notify all applicants in writing of the determination. A grant application package (§ 676.9) shall be sent to each prime sponsor designee.

(b)(1) A State shall not be designated as a prime sponsor for any geographical area within the jurisdiction of any prime sponsor applicant described in § 676.2 (b), (c), (d), (e) and (f) unless such prime sponsor applicant has not submitted an approvable CETP for such area (sec. 101(b)(1)).

(2) A larger unit of general local government shall not be designated as prime sponsor with respect to the jurisdiction within its area of any smaller eligible unit of general local government unless such smaller unit has not submitted an approvable Comprehensive Employment and Training Plan for such area (sec. 101(b)(2).

(c) The Secretary shall not designate as a prime sponsor any applicant with less than 100,000 population except in exceptional circumstances and unless it has demonstrated that it qualifies pursuant to § 676.2 (e) or (f).

**§ 676.6 Planning process.**

(a) Each prime sponsor shall have a planning process which shall involve a broad spectrum of groups and individuals, in the development of the Comprehensive Employment and Training Plan. This process shall utilize the prime sponsor planning council and shall include community groups insofar as they are not represented on the planning council, local educational agencies, community-based organizations, appropriate labor organizations, organizations serving women, local apprenticeship programs, local advisory councils established under the Vocational Education Act of 1963, the youth and private industry councils, and post-secondary institutions (sec. 103(a) (6) and (14)).

(b) Prime sponsors are specifically encouraged to join or initiate local public and private approaches to the coordinated planning and operation of economic, community and employment development activities to accomplish such objectives as reducing outmigration from an area and encouraging private sector investment in order to enhance existing employment opportunities (sec. 103(a)(20) and 105(b)(5)).

(c) Where employment opportunities already exist, or where there is a reasonable expectation of expansion in the near future of such employment potential, prime sponsors shall plan to provide, to the extent consistent with the needs and interests of program participants, employment and training opportunities in the development and use of solar, geothermal, hydroelectric and other alternative energy technologies, and conservation (sec. 121(m)).

(d) Prime sponsors shall coordinate services to veterans provided under this Act with appropriate benefits, programs, services, and activities authorized under Title 38, United States Code, particularly those authorized under Subchapter IV of Chapter 3 (relating to veterans outreach), Chapter 41 (relating to counseling and employment services to veterans provided by SESA's) and with other similar activities carried out by other public agencies and organizations. Prime sponsors shall also coordinate services with the appropriate Veterans Administration facilities including outreach, the Readjustment Professional Counseling Program authorized under Section 612A, the vocational and occupational counseling program authorized under Section 1663, and the utilization of apprenticeship and other on-the-job training activities available under Section 1787 of Title 39 United States Code (sec. 121(b)(2)(c)).

**§ 676.7 Prime sponsor planning councils.**

(a) Each prime sponsor shall establish a planning council (sec. 109(a)).

(b) Each prime sponsor shall appoint to its planning council members broadly representative of the significant segments, as defined in § 675.4, who are representative of the eligible population, CBO's, the employment service, veterans organizations (a congressionally chartered veterans organization or an organization incorporated as a veteran service organization under appropriate laws of the State in which they are located), representatives of handicapped individuals, vocational education agencies, public assistance agencies, other education and training agencies and institutions, business (e.g., representatives of a locally based business firm, the National Alliance of Business, or Chamber of Commerce), organized labor (e.g., representatives of the central labor council, or the principal labor organizations in the areas where employment or training activities are expected or apprenticeship programs), employees who are not represented by organized labor, and, where appropriate, agricultural employers and workers (sec. 109(b)). Each mandated planning council member shall not represent more than one of the above groups or organizations and shall have voting privileges. Staff of State or local government agencies shall not take the place of representatives of the participant communities which their agencies serve.

(c) The prime sponsor shall designate a person who is not an elected official of or an employee of the prime sponsor as chairperson and furnish staff to provide professional, technical, and clerical assistance to the council (sec. 109(c)).

(d) The Planning Council shall:

(1) Meet no less than five times per year. The meetings shall be publicly announced, open and accessible to the general public, and a record of the proceedings shall be maintained by the prime sponsor at a location accessible to the public (sec. 109(d));

(2) Actively participate in the development of, and submit recommendations regarding, the prime sponsor's CETP and the basic goals,

policies, and procedures of the prime sponsor's program (sec. 109(e));

(3) Consider any comments and recommendations of the Private Industry and Youth councils (sec. 109(f); and

(4) Continuously analyze the need for employment, training and related services in the prime sponsor area, including efforts to reduce and eliminate artificial barriers to employment, and shall monitor and evaluate employment and training programs in the prime sponsor area and make recommendations with respect to them (sec. 109(e)); and

(5) Plan for the coordination and involvement of the local CETA program with the Targeted Jobs Tax Credit-Program established by the Revenue Act of 1978.

(e) Special consideration shall be given to the recommendations of the planning council, but any final decisions with respect to such recommendations shall be made by the prime sponsor (sec. 109(e)).

**§ 676.8 Area Planning Bodies.**

(a) Balance of State (BOS) prime sponsors, in coordination with units of general local government, shall make arrangements for appropriate area planning bodies to assist in the effective planning and delivery of programs in the BOS (sec. 101(d)).

(b) The BOS shall appoint members of area planning bodies, considering nominations made by local elected officials. The membership shall be composed of groups and organizations which represent a broad cross section of the area to be served and should include the groups and organizations on the Prime Sponsor Planning Councils described in § 676.7(b).

(c) The BOS shall convene the planning bodies at least quarterly to review plans and programs.

(d) Area planning bodies shall be given the opportunity to review and comment upon services to be provided in their area under the CETP.

**§ 676.9 Comprehensive Employment and Training Plan (CETP).**

(a) Designated prime sponsors shall submit a CETP to apply for financial assistance. The CETP shall consist of two distinct parts, the Master Plan and the Annual Plan.

(1) The Master Plan shall serve as the long-term agreement between the Department and the prime sponsor which describes the established administrative and programmatic arrangements that will govern all programs under the Act operated by the prime sponsor (sec. 103(a)).

(2) The Annual Plan shall be the prime sponsor's yearly plan for providing activities and services to the eligible population.

(3) Detailed instructions for completing the CETP are contained in the *Forms Preparation Handbook.*

(b) The Secretary will, not later than March 31, establish a date for submission of the Annual Plan. With respect to funds allocated to prime sponsors under the Act on the basis of a formula, the Secretary will also provide such prime sponsors a preliminary planning estimate. The Secretary will make available to each prime sponsor a complete and final set of all applicable regulations and necessary application materials no later than May 15, unless the Secretary extends the date. In such cases, the Secretary will allow prime sponsors an additional fiscal quarter to adapt to such regulations and to complete such materials unless such regulations, guidelines, or interpretations do not require a change in the prime sponsor's Annual Plan which is a condition for the Secretary's approval or disapproval of the Annual Plan. The prime sponsor, however, may at its own discretion submit the required change by the date it was originally due (sec. 104(e)).

**§ 676.10 Master Plan.**

**§ 676.10-1 General.**

(a) A prime sponsor applying for financial assistance for the first time shall have approved by the RA a signed copy of the Master Plan prior to the execution of an Annual Plan.

(b) A prime sponsor which already has an approved Master Plan shall submit to the RA with its Annual Plan a certification that the Master Plan remains the same or a modification reflecting any changes. In submitting the initial Master Plan and subsequent certification, the prime sponsor shall comply with the comment and publication procedures of § 676.12, and the planning process in § 676.6. The Master Plan shall consist of the Signature Page, Narrative Description and Assurances and Certifications.

**§ 676.10-2 Signature page.**

By signing the signature page the prime sponsor agrees that all work performed under its CETP will be in accordance with the Act and the regulations.

**§ 676.10-3 Assurances and certifications.**

Prime sponsors shall assure compliance with the Act, the regulations under the Act, the CETP, the Assurances and Certifications form appearing in the *Forms Preparation Handbook* and, for consortia, the approved consortium agreement (sec. 103(a)(21)).

**§ 676.10-4 Narrative description.**

The narrative description shall include:

(a) *Statement of purpose.—*

(b) *Geographic Area, Population and Labor Market.* (1) A detailed description of the geographic area to be served and demographic characteristics of the population (with data, if available, indicating the number of potential eligible participants from each significant segment and their income and employment status) (sec. 103(a)(1)(A)).

(2) A comprehensive analysis of the local labor market and economic conditions, using existing sources such as the Employment Service, which includes identification of the availability of employment and training in the public and private sectors and the potential for job growth in those sectors (sec. 103(a)(1)(B)).

(3) A statement of long-term program goals related to the improvement of the labor market and economic conditions (sec. 103(a)(2)).

(c) *Approach.* (1)(i) A description of arrangements to ensure that employment and training services are provided to those individuals most in need, including low-income persons, handicapped individuals, older workers facing artificial barriers to employment and persons of limited English-language proficiency (sec. 103(a)(5)(A)).

(ii) The method used to determine priorities for service based on objective locally established criteria using such factors as employment status, household status, level of employability development, handicap, veteran status, age, race, sex or other criteria established by the prime sponsor (sec. 103(b)(12)).

(2) A description of the recruitment, intake, and selection methods to be used to identify, and place participants in programs (secs. 103(a)(4)(B) and 103(a)(5)(A)).

(3) A description of the system for developing participant employability plans, including the methods for determining the appropriate training and services to provide to each participant (sec. 205).

(4) A description of job development and placement services, and how these services will relate to, and be coordinated with, other area employment and training opportunities not provided under the Act, including any special activities designed to orient participants for their job responsibilities (sec. 103(b)(6)).

(5) A description of arrangements to provide participants with job search assistance, counseling and other services (sec. 103(a)(4)(B)).

(6) A description of methods to insure compliance with personnel procedures and collective bargaining agreements where participants are engaged in employment and training activities (sec. 103(a)(18)).

(d) *Service Deliverers.* (1) A description of procedures and criteria used to select service deliverers in accordance with § 676.23 (sec. 103(a)(3)(B)).

(2) A description of the criteria used to designate programs of demonstrated effectiveness (sec. 103(a)(4)(A)).

(3) A description of procedures for giving special consideration to employment and training programs of demonstrated effectiveness which are operated by community-based organizations (sec. 123(1)).

(e) *Coordination.* (1) A description of the methods for coordination between the prime sponsor and local State Employment Security Agencies, as provided in the agreement under § 676.23(g) (sec. 103(a)(15)).

(2) A summary of the agreement made with State or local educational agencies or post-secondary institutions for the conduct of employment and training programs (sec. 103(b)(16)).

(3) A description of procedures used to ensure the participation of, and consultation with, local educational agencies, vocational education agencies, community-based organizations, Federal and State agencies, organized labor, apprenticeship programs, business and other institutions and organizations, including women's organizations, in the conduct of programs (sec. 103(a)(8) (A) and (9)).

(4) A description of methods to coordinate programs with employment and training programs administered by the Secretary and other federally-funded programs in the area (sec. 103(a)(8)(B)).

(5) A description of arrangements for the use of skill centers established under section 231 of the Manpower Development and Training Act of 1962 and efforts to promote maximum feasible use of apprenticeship or other on-the-job training opportunities available for veterans under Section 1787 of Title 38 United States Code, and coordination with the appropriate apprenticeship agency (sec. 103(a)(8) (A) and (c)).

(6) A description of procedures concerning academic credit developed in conjunction with the appropriate local educational agency or institution of higher education and approved by the appropriate State educational agency (sec. 103(a)(16)).

(7) A description of plans and activities to coordinate, strengthen, and expand employment and training activities with economic development activities in the private sector (sec. 103(a)(20)).

(8) A description of arrangements for implementing responsibilities under the Targeted Jobs Tax Credit program established by the Revenue Act of 1978.

(f) *Prime Sponsor Planning.* (1) A description of the functions and responsibilities of the prime sponsor Planning Council (secs. 109(e) and 103(a)(10)).

(2) A description of the procedures used to ensure that council meetings are publicly announced, open and accessible to the general public, and that minutes of such meetings are maintained (sec. 109(d)).

(3) A description of staff support provided by the prime sponsor to the council (secs. 109(c)).

(4) A list of the groups within the community represented on the council (sec. 109(b)).

(5) A description of procedures used to select members of the council (sec. 103(a)(4)(C)).

(6) A description of the methods and arrangements for the participation of groups not directly represented on the council as required by § 676.6, Planning Process, (secs. 103(a)(6) and 103(a)(14)).

(7) A description of efforts to involve the private sector in the design and implementation of programs (sec. 103(b)(8)).

(8) A description of coordination and consultation linkages between the Prime Sponsor Planning Council, Youth Council, and Private Industry Council (secs. 109(f) and 103(a)(4)(C)).

(g) *Management and Administration.* (1) Organizational Structure and Staffing.

(i) A description of the prime sponsor's organizational structure (sec. 103(a)(4)(A)).

(ii) A description of procedures to recruit and select administrative staff (sec. 103(a)(4)(A)).

(iii) A description of the Personnel Merit System including any plan for obtaining an acceptable personnel system as required in § 676.43 (Administrative Staff and Personnel Standards).

(2) Administrative Controls. A description of arrangements and procedures for:

(i) Management Information System (including accounting, participant tracking system, client record and reporting systems) (sec. 103(a)(11));

(ii) Evaluation and monitoring system, including the independent unit responsible for monitoring programs and subrecipients (secs. 103(a)(12) and 121(o)(3));

(iii) Fiscal and program auditing, including procedures for auditing subrecipients and bonding (secs. 103(a)(12) and 134);

(iv) Supervising deliverers of services (sec. 103(a)(4)(A));

(v) Determining and verifying eligibility of applicants, including the quarterly sampling procedures as required in § 676.75 (sec. 103(a)(11));

(vi) Allowance payments system, including waiver provisions (sec. 124);

(vii) A description of methods to ensure compliance with the retirement provisions set forth in § 676.28 (sec. 121(j)).

(viii) A description of procedures to ensure that funds received under the Act will be used in compliance with the maintenance of effort provisions set forth in § 676.73 (secs. 121 (e) and (g), 122 (c) and (e)).

(3) Grievance procedures. A description of the procedures for resolving any complaints or grievances alleging violation of the Act, regulations, and CETP from CETA participants, contractors, subrecipients and other parties (secs. 106 and 103(a)(4)(A)).

(h) *Nondiscrimination and equal opportunity.* (1) A description of the mechanisms which will be used to ensure nondiscrimination and the provision of equal opportunities (sec. 103(a)(5)(B)).

(2) A description of plans and procedures concerning affirmative action, as described in § 676.54.

(3) A description of efforts and procedures to eliminate artificial barriers to employment and occupational advancement for CETA participants, including the hiring, licensing and contracting activities of subrecipients and contractors of the prime sponsor (sec. 103(a)(19) and 103(b)(11));

(4) A description of efforts to remove architectural barriers to employment of the handicapped (sec. 121(a)(5)).

(i) *Public Service Employment.* (1) An explanation of the basis for distributing funds and the basis upon which job allocation to each employing agency will be made (sec. 123(i) and 606(b)).

(2) A description of the process for selecting project applicants including (sec. 605 (a) and (b)):

(i) The methods and criteria to be used for soliciting and approving project applicants;

(ii) The role of the planning council in the approval process (sec. 109(e)(1));

(3) A description of the items required on the project applications including at least the following information (sec. 605(b)):

(i) Description of project;

(ii) Goals and objectives;

(iii) Number of persons to be served; and

(iv) Length of project.

**§ 676.11 Annual plan.**

(a) *General.* (1) The Annual Plan including its subparts shall be prepared pursuant to provisions in this section and §§ 676.41, 677.15, 677.33, 677.56, 678.6, 679.4, 680.5, 680.104, 680.207, and 680.304 as appropriate.

(2) In submitting the Annual Plan for RA approval, prime sponsors shall comply with the comment and publication procedures in § 676.12 and the planning process in § 676.6. The Annual Plan shall consist of an Application for Federal Assistance (SF–424), Narrative Description and Program Planning Summaries, Budget Information Summaries and other forms as appropriate.

(b) *Application for Federal Assistance.* The Application for Federal Assistance (SF–424) shall identify the total amount of funds requested for programs under Parts 677, 678, 679, and 680.

(c) *Narrative Description.* The narrative description shall include:

(1) A summary of any evaluation conducted of the program(s) in the previous year and current year to date and a description of the use made of such evaluation (sec. 103(b)(14)).

(2) A detailed summary of the expenditures made during the preceding year, and of results achieved and changes made in the Annual Plan for the program year (sec. 103(b)(5)).

(3) A summary of the extent to which special needs of the handicapped have been met during the previous year, including the number served, type of training provided and the number placed in unsubsidized employment (sec. 103(b)(15)).

(4) A list of the specific training subgrants and agreements from the current year, including the rate of positive termination for program completers (sec. 103(b)(13)).

(5) Approach.

(i) A description of specific programs or services, including apprenticeship programs, if any, designed specifically for those segments of the population who are experiencing severe handicaps in obtaining employment, including individuals who lack credentials, require basic and remedial skills development, have limited English-language proficiency, are handicapped, are disabled or Vietnam-era veterans, are offenders, are displaced homemakers, are public assistance recipients, are persons 55 years of age or older, are youth, are single parents, are women or other individuals having particular disadvantages in the labor market (sec. 103(b)(3); sec. 214; sec. 215; and sec. 216).

(ii) A statement of any intention to apply for and utilize funds provided under the Act which are not allocated by formula (sec. 103(b)(9)).

(iii) A description of the efforts to be undertaken to increase the participation of qualified disabled and Vietnam-era veterans in accordance with § 676.30a(a) (sec. 121(b)(2)(A)).

(iv) A description of the plans and methods to be used to provide opportunities for minority-owned businesses and small businesses (including those owned by women), to compete for procurement contracts such as the use of set-asides where appropriate (sec. 121(k)).

(v) A description of how program activities will contribute to occupational development, upward mobility, development of new careers and overcoming of sex stereotyping, including procedures which will lead to skill development and job opportunities for participants in occupations traditionally limited to individuals of the opposite sex (secs. 103(a)(5)(C) and 121(f)(1)).

(vi) A description of any outstationing of PSE participants in accordance with § 675.25 concerning employment and training activities and the reasons why such outstationing is necessary.

(vii) A description of provisions to safeguard programs from political activities.

(viii) A description of the plans and methods to be used in providing special consideration in filling public service jobs to qualified public assistance recipients (or persons who would be eligible to receive public assistance according to established criteria if they would apply for such assistance) and special disabled and Vietnam-era veterans with special emphasis on those who served in the Indo-China theater on or after August 15, 1964 and on or before May 7, 1975 (sec. 122(b)).

(6) Annual Plan Subparts for each program to be operated under the Act as required by §§ 677.15, 677.33, 677.56, 678.6, 679.4, 680.5, 680.104, 680.207, and 680.304.

**§ 676.12 Comment and Publication Procedures Relating to Submission of the CETP.**

(a) Prime sponsors shall make public the provisions of the Plan prior to submission to the RA through such means as public hearings, public notice in newspapers, bulletins, or other media, including publications that primarily serve significant segments of the eligible population (sec. 104(a)(3)).

(b)(1) Each prime sponsor shall publish at a minimum in one issue of a newspaper or newspapers of general circulation in the prime sponsor's area (including minority newspapers, where applicable) a statement indicating the following information:

(i) The source of funds;

(ii) The amount requested;

(iii) A brief summary of the purpose of the proposed program and activities; and

(iv) The location and hours when the CETP and a comparison of performance against the prior year's plan through the most recent quarter, can be reviewed and the address and phone number where questions and comments may be directed.

(2) The prime sponsor shall publish the statement at least 45 days prior to the submission of the CETP to the RA in order to allow at least 30 days of review and comment. In addition, a copy of the newspaper article shall be transmitted to the RA (sec. 104(a)(3)).

(3)(i) The prime sponsor may include a statement indicating that subsequent modifications to the CETP will not be subject to these publication requirements: *Provided,* That the notice states that interested groups, organizations, or individuals may notify the prime sponsor of their desire to review any subsequent modification during the grant year.

(ii) The prime sponsor shall maintain a list of such notifications and provide these parties with copies of modifications 30 days prior to submission to the RA.

(c)(1) Each prime sponsor shall, at least 45 days before submitting its CETP to the RA, allow at least 30 days for review and comment by providing the complete Plan, to the Governor, the State employment and training council, the prime sponsor planning council, appropriate labor organizations, and the private industry council, with notice of the opportunity to review the plan going to appropriate units of general local government in its area, and appropriate native American recipients (sec. 104(a)(1)).

(2)(i) Copies of the comments and recommendations of the Governor, the State employment and training council, and the prime sponsor planning council shall be transmitted to the RA with submission of the Plan, or if the comments are received after the submission of the Plan, they may be sent separately to the RA (sec. 104(b)).

(ii) The prime sponsor shall provide an explanation for the rejection of recommendations made by the planning council, including minority reports, which were not included in the Plan (sec. 103(a)(18)).

(d) At the same time, each prime sponsor shall provide written notification of the availability of the Plan to each House of the State Legislature for appropriate referral, to appropriate community-based organizations of demonstrated effectiveness including appropriate women's organizations, veterans organizations, and appropriate educational and apprenticeship agencies and institutions (sec. 104(a)). Prime sponsors shall allow at least 30 days for review and comment.

(e) If a State or areawide clearinghouse notifies a prime sponsor that it wishes to review the complete Plan, the applicant shall also provide a copy of such to the clearinghouse(s) 45 days prior to its submission to the RA.

(f) When the PSE occupational summary has not been finalized at the time the Plan is made available for public comment, the prime sponsor shall make the PSE occupational summary available for a 30-day comment period at the time of submission to the RA as described in paragraph (c)(1) of this section

(g) A prime sponsor shall acknowledge all written comments and shall inform in writing any party submitting a substantive written comment of whether any Plan revision will be made in response to the comment, and the reasons for the prime sponsor's determination. The prime sponsor shall provide, upon request, copies of all written comments to the planning council and the Governor (sec. 104(b)).

(h) If no comments are received from an A–95 Clearinghouse, or if the Clearinghouse has not requested to review the CETP, the prime sponsor applicant shall so note this on Standard Form 424.

### § 676.13 Submission of the CETP.

(a) Each designated prime sponsor shall simultaneously submit to the RA by a date set by the Secretary:

(1) An Annual Plan;

(2) A certification that the Master Plan remains the same or a modification reflecting any changes; and

(3) An Approval Request Letter.

(b) Newly designated prime sponsors shall submit and have the Master Plan approved by the RA prior to the approval of the Annual Plan. An Approval Request Letter shall accompany the submission.

### § 676.14 Review, Approval and Disapproval of the CETP.

(a) *Plan review.* The RA shall review each CETP to determine if:

(1) It is complete and meets the requirements of the Act and regulations (sec. 104(c)).

(2) Prime sponsor's performance and placement goals are adequate in light of performance standards which recognize that performance will vary with local conditions and the nature of employment barriers faced by the eligible population to be served (sec. 126(a)(2)).

(3) The Plan is adequately designed to carry out an effective and well-administered program, taking into account such factors as past program performance and the recommendations made by the Governor, the State employment and training council, and the prime sponsor planning council (sec. 104(c)(1)).

(b) If a clearinghouse has recommended against approval of a Plan because it conflicts with or duplicates another Federal or federally-assisted project, the RA shall consult with the agency assisting the reference projects prior to taking action on the Plan.

(c) *Plan Approval and Disapproval.* (1) The RA shall notify a prime sponsor applicant, the Governor, and the A–95 clearinghouse within 7 days after approving, disapproving, partially or conditionally approving the CETP on the Standard Form 424. In addition, a letter shall be sent to the prime sponsor and Governor. If any party commenting to the RA pursuant to the A–95 clearinghouse review process has made recommendations, and if the RA, after review of the recommendations, makes a determination contrary to the recommendations, the RA shall inform the party making the comment of the reasons for the determination on the Standard Form 424.

(2) With respect to approved plans, the Department shall issue a Notice of Funding Availability to provide funding authority. When funds are obligated incrementally, a new Notice of Funding Availability shall not require a revision of the Annual Plan, or publication, comment or A–95 clearance procedures.

(3) If the Plan is disapproved fully or partially or conditionally approved, the RA shall notify the prime sponsor and the Governor in the letter required by paragraph (c)(1) of this section:

(i) Of the reasons for disapproval;

(ii) Of corrective steps needed to remedy the defects within a specified time but not less than 30 days; and

(iii) That failure to comply with the corrective steps within the specified time will result in final disapproval, which shall be subject to the appeal procedures in Subpart F of this Part.

(4) The approval of the Plan shall not preclude DOL from a subsequent determination that the prime sponsor is in violation of the Act or regulations.

### § 676.15 Use of Alternative Prime Sponsors; Services by the Secretary.

If a Plan is not filed or is disapproved, or if a Plan is terminated in whole or in part, which results in services not being provided in the area:

(a) The Secretary may allocate the funds to service the area to another prime sponsor or, if this is inappropriate, to the Governor; or

(b) The Secretary may make financial assistance directly to public agencies or private nonprofit organizations as if the Secretary were the prime sponsor for that area (sec. 102).

### § 676.16 Modifications.

(a) The RA may require modification of the CETP only once each fiscal quarter, with the exception of changes in the funding allocation level or to ensure compliance with the Act and regulations total amount of funds requested for program under Parts 677, 678, 679, and (108)).

(b) Modifications of the Master Plan.

(1) The Assurances and Certifications may only be modified by the RA.

(2) Prime sponsors shall obtain prior RA approval of a modification initiated by a prime sponsor which proposes to make a significant change in the Narrative Description.

(3) Modification requests from prime sponsors shall consist of the following:

(i) Approval Request Letter;

(ii) Revised Narrative Description or revised Assurances and Certifications, if appropriate; and

(iii) A copy of the newspaper announcement required in paragraph (d) of this section, for significant changes to the narrative description.

(c) Modifications to the Annual Plan.

(1) Prior RA approval is required to modify:

(i) The duration of the Annual Plan or Subparts of the Annual Plan.

(ii) The Annual Plan allocation;

(iii) An increase or decrease of 15% or more in the cumulative number of individuals to be served, planned enrollment levels for program activities, planned placements, terminations or individuals to be served within significant segments;

(iv) For Annual Plan Subparts of $100,000 or less, a cumulative transfer of $15,000 among program activities or cost categories;

(v) For Annual Plan Subparts of over $100,000, the cumulative transfer among program activities or cost categories of $50,000 or more or 15 percent of the total plan budget, whichever is greater; or

(vi) Significant changes in program design.

(2) Prime sponsors may not modify their Annual Plan solely to adjust planned performance to meet actual performance.

(3) Modifications to the Annual Plan requested by prime sponsors shall consist of:

(i) Approval Request Letter;

(ii) Revised Form SF 424 (if required);

(iii) Revised Program Planning Summary and Budget Information Summary for current and future quarters only;

(iv) Description of any conforming changes made in the Narrative Descriptions;

(v) Revised Occupational Summary and other forms, if appropriate.

(4)(i) Modification of the Annual Plan pursuant to paragraph (c)(1) of this section must be made within 30 days from the beginning of the quarter in which changes are effective.

(iii) A prime sponsor may make any change, consistent with the regulations, in its Program Planning Summary, Budget Information Summary, or Narrative Description which is not set out in paragraph (c)(1) of this section without prior RA approval, but must notify the RA of any such change within 30 days from the beginning of the quarter in which the changes are effective.

(d) Publication and comment procedures specified in § 676.12 shall apply to modifications for which prior RA approval is necesary except that:

(1) Each prime sponsor shall comply with the comment and publication requirements at least 30 days prior to submission of its modification to the RA.

(2)(i) The required newspaper announcement shall include a notice of the prime sponsor's intent to modify, a brief summary of the nature and purpose of the proposed modification, the location where and hours when the complete modification can be reviewed, and the telephone number to which questions may be directed.

(ii) This publication requirement may be waived by the prime sponsor if the notification process under § 676.12(b)(3)(i) and (ii) has been met.

(3)(i) The prime sponsor shall clear modifications through the A–95 clearinghouse only if:

(A) There is a cumulative increase or decrease in funds equal to or more than 15 percent of the allocation for any Annual Plan Subpart for the current program year; or

(B) The Annual Plan, or any Subpart, is extended for a period of more than 3 calendar months.

(ii) When A–95 clearance is required, the notice from the prime sponsor to the clearinghouse shall consist of a revised SF 424 and a brief description of the anticipated modification. If within 15 days of the notice, the prime sponsor receives no notice from the A–95 clearinghouses that it wishes to review the modification, the prime sponsor may submit the modification to the RA without A–95 clearance.

(e) The RA shall approve or disapprove proposed modifications fully or partially within 30 days of receipt, and, within 7 days of such action, notify the prime sponsor and the Governor in writing of the decisions. The procedures in § 676.14 (b) and (c)(1) concerning review, approval and disapproval shall apply to modifications.

## Subpart B—Program Design and Management

### § 676.21 General responsibilities of CETA recipients.

This Subpart sets out program operation requirements for CETA recipients, including: program management, linkages, coordination and consultation, allowable activities, participant benefits, and duration of participation provisions.

### § 676.22 Program management systems.

(a) All recipients shall establish management systems to assess all programs. Recipients shall take necessary corrective action to remedy deficient performance under their grant and to plan for more effective programs.

(b) Prime sponsors shall institute and maintain effective systems for the overall management of their programs, including but not limited to:

(1) Program monitoring systems as described in § 676.75–2;

(2) Eligibility verification systems as described in § 676.75–3;

(3) Complaint and Hearing Procedures as described in § 676.83;

(4) Mechanisms for taking immediate corrective action where problems have been identified.

(c) All recipients shall establish and maintain financial management and participant tracking systems in accordance with § 676.34. Such systems shall be designed to enable the recipient to effectively manage its program and to provide information necessary to design program activities and delivery mechanisms best suited to resolve employment and training problems (Sec. 104(c)(3)).

(d) Each recipient shall establish and use procedures for the systematic assessment on a quarterly basis of program performance in relation to the goals contained in its grant. Recipients shall:

(1) Establish written quantified goals for each activity and service and for each subrecipient based on the specific program purposes of the service, activity or subgrant;

(2) Establish and use procedures for collecting performance information (including information on the status of individuals subsequent to entering unsubsidized employment) and for assessing such information in terms of the goals contained in its grant;

(3) Establish and use procedures for identifying performance problems and for developing and implementing appropriate remedial actions (sec. 103(a)(4)(A)).

(e) Recipients shall establish and use procedures whereby the information collected and assessments conducted shall be considered in subsequent program planning and in the selection of deliverers. Prime sponsors shall provide program assessments to their Planning Council and, as appropriate, to their Youth and Private Industry Councils.

### § 676.23 Program Linkages and Selection of Deliverers.

(a) Prime sponsors shall follow the procedures in this section regarding the selection of deliverers of service.

(b) Prime sponsors shall compile and maintain a publicly available inventory of potential service deliverers which have expressed in writing an interest in being on the inventory (sec. 103(a)(3)(B)).

(c) In selecting service deliverers, prime sponsors shall give special consideration to community based organizations with programs of demonstrated effectiveness in the delivery of employment and training services (sec. 123(l)). Such special consideration shall consist of the following:

(1) Community based organizations shall be actively involved in the prime sponsor's planning process, as described in § 676.6, § 676.7, § 676.10–4, and § 676.12.

(2) Prime sponsors shall establish a mechanism for providing special consideration, including at least the following steps:

(i) Written or other public notification which ensures that appropriate CBO's are notified of the availability of funds with a request that all potential deliverers of employment and training

services who wish to be placed on the inventory submit to the prime sponsor the following information:

(A) The name of the organization interested in receiving funds;

(B) The types of service and activities the organization is interested in providing; and

(C) The types of services and activities the organization has provided in the past, the number and types of people served, and documentation regarding the effectiveness of these services.

(ii) Using specific objective criteria, the prime sponsor shall determine which of the potential service deliverers on the inventory described in paragraph (b) have operated programs of demonstrated effectiveness, as defined in § 675.4.

(iii) The prime sponsor shall provide individual notice to each CBO, determined to be of demonstrated effectiveness, of the planned activities and services so that it may apply.

(iv) In the selection of service deliverers, the prime sponsor shall give special consideration to CBO's of demonstrated effectiveness in the delivery of employment and training services. For example, in competitive procurement procedures, the prime sponsor may afford special consideration through additional points in a rating system.

(v) If the prime sponsor, after considering a CBO of demonstrated effectiveness as a service deliverer does not select such CBO, it shall, upon request, provide the reasons for non-selection in relation to its criteria for selection to the affected CBO and the RA.

(d) Consideration shall be given to making use of appropriate services currently available in the community, with or without reimbursement, which the prime sponsor has determined to be effective. Agencies which typically provide such services include, but are not limited to: the State Employment Security Agency, State Vocational Education and Rehabilitation agencies, State public assistance agencies, area skill centers established under Sec. 231 of the Manpower Development and Training Act of 1962, local education institutions, community based organizations, and other public agencies. The purpose of this consideration shall be to avoid duplication and to obtain such services at a cost saving over establishing another such service or activity (Sec. 103(a)(7) and 121(g)).

(e) Nothing in paragraphs (a) through (d) of this section shall be construed as prohibiting the prime sponsor from utilizing the services and facilities of public or private agencies, institutions or organizations, such as private business, labor organizations and private educational and vocational institutions which the prime sponsor reasonably believes can provide substantially equivalent or better services or facilities, on the basis of such factors as quality of service or cost effectiveness (sec. 103(a)(7)).

(f) In order to maximize the level of coordination and minimize duplication, each prime sponsor shall enter into a written cooperative agreement with the State Employment Security Agency which delineates the responsibilities of each and covers, at a minimum:

(1) Coordination of the employment and training services under the prime sponsor's plan with those funded under the Wagner-Peyser Act, 29 U.S.C. 49 *et seq.*

(2) A description of arrangements for coordination of employer contacts and other activities involving employers;

(3) Allowance payment systems;

(4) Arrangements to undertake and coordinate activities, including income determination, referral, and publicity functions under the Targeted Jobs Tax Credit program established by the Revenue Act of 1978, Pub. L. 95-600; and

(5) Arrangements to provide the SESA with information on available public service employment positions in order that such information may be provided to unemployment insurance recipients and other applicants for services from the State Employment Security Agency (sec. 122(1)).

(g) A copy of the agreement described in paragraph (f) of this section shall be made available to the RA upon request.

(h) If a prime sponsor plans to provide a service which is available from the SESA at no cost, the prime sponsor shall justify such non-use in its Annual Plan.

(i) Each prime sponsor shall to the maximum extent feasible:

(1) Coordinate the employment and training services provided under its plan with those available under other programs funded through the Department of Labor and with self-employment training programs (sec. 103(a)(8));

(2) Coordinate services to veterans provided under this Act with those activities authorized by Chapter 41 of Title 38, United States Code (relating to counseling and employment services to veterans provided by SESA's) and with other similar activities carried out by other public agencies and organizations. Coordinate services with the appropriate Veterans Administration facilities in utilizing the apprenticeship and other on-the-job training activities available under Section 1787 of Title 38 U.S. Code (sec. 121(b) and sec. 103(a)(8)).

(3) Consult with the appropriate apprenticeship agency concerning any training activities in apprenticeable occupations.

(j) When a prime sponsor plans to conduct training in an apprenticeable occupation, such training should be designed in conjunction with an appropriate registered apprenticeship program.

(k) Prime sponsors shall coordinate services to AFDC recipients with public assistance agencies and the local sponsor, if any, of the Work Incentive Program (WIN).

(l) In designing employment and training programs, the prime sponsor shall consider activities such as:

(1) Weatherization and winterization projects for the near poor, which are families having incomes which do not exceed 125 percent of the poverty level as determined by the Director of the Office of Management and Budget, and projects approved by the Community Service Administration pursuant to Section 222(a)(5) of the Economic Opportunity Act of 1964, 42 U.S.C. 2809, or by the Department of Energy pursuant to Title IV of the Energy Conservation and Production Act of 1976, 42 U.S.C. 6851.

(2) Housing rehabilitation as part of community betterment and improvement including code enforcement, upgrading of senior citizens housing, removal of physical barriers for handicapped residents, homesteading activities and other provided the dwellings where work is performed on low-income housing.

(3) Energy conservation projects for low-income housing, especially those that reduce nonrenewable resource consumption.

(4) Community and economic development activities such as beautification, recreation, organization, resource planning, park improvement and activities funded through Federal Agencies such as Department of Health, Education and Welfare, the Department of Energy, the Community Service Administration, and the Department of Commerce.

(m) Where activities in § 676.23(l)(1) are involved, the prime sponsor shall ensure that such activities are supervised by an adequate number of supervisory personnel who are adequately trained in the skills needed to carry out such activities and to instruct participants in the skills needed to perform the work involved.

**§ 676.24 Labor organization consultation and/or concurrence.**

(a) To ensure the most effective development of employment and training opportunities, prime sponsors are to provide for the participation of organized labor in the planning and design of programs and activities, and coordination in the subsequent operation of such programs (sec. 103(a)(9)).

(b) In addition to involving labor organizations in the planning process as specified in paragraph (a) of this section, prime sponsors and subrecipients as appropriate shall:

(1) Consult with appropriate labor organizations (as defined in § 675.4) in the planning, design and content of the training, work experience, public service employment, Vocational Exploration Program (VEP), OJT, and other appropriate activities with respect to job descriptions, wage rates, training standards and arrangements, and occupations planned;

(2) Obtain written concurrence from the appropriate bargaining agent where a collective bargaining agreement exists with the participating employer covering occupations in which training or subsidized employment is proposed. Such concurrence shall apply to the elements of the proposed activity which affect the bargaining agreement, such as wages and benefits. If no response is received within 30 days after written notification to the collective bargaining agent, the program may proceed. Such written notification shall include a deadline date for response (sec. 103(a)(18)).

(3) Maintain evidence of the results of such consultation or concurrence.

**§ 676.25 Employment and training activities.**

Recipients and subrecipients may conduct the following activities:

**§ 676.25-1 Classroom training.**

(a) This program activity is any training of the type normally conducted in an institutional setting, including vocational education, and it is designed to provide individuals with the technical skills and information required to perform a specific job or group of jobs. It may also include training designed to enhance the employability of individuals by upgrading basic skills, through the provision of courses such as remedial education, training in the primary language of persons with limited English language proficiency, or English-as-a-second-language training.

(b) In designing and operating training programs recipients and subrecipients shall:

(1) Refer a person for occupational training only after determining that there is a reasonable expectation of employment in the occupation in which such person would be trained (sec. 121(f)(4)).

(2) Not refer a person to an occupation which requires less then two weeks of preemployment training unless there are immediate employment opportunities for that person available in that occupation (sec. 121(f)(2)).

(3) Not train persons for jobs which are in industries with lower wages than those in comparable industries in the area. Notwithstanding the above, training is permissible for such jobs when there exists a training program of a specified length of time designed to teach specific skills, and when the rate of labor turnover does not exceed substantially the rates of labor turnover for all jobs in the same area. Training for the position of sewing machine operator in the apparel industry must be approved by the Assistant Secretary for ETA before being initiated.

(i) Prime sponsors who wish to undertake sewing machine operator training shall submit a training plan to the RA which includes the wages and fringe benefits during the training and at completion, a description of the training, the length of the training, and the prospects for placement. The training plan shall document the fact that the rate of turnover for the occupation shall not exceed by more than 30% the rate of labor turnover in other industries in the same area. It shall also include the following information on the employer:

(A) A list of products;

(B) The straight-time average hourly wage rate of its sewing machine operators;

(C) The fringe benefits of its sewing machine operators;

(D) The ratio of non-mandatory fringe benefit costs to gross payroll;

(E) Number of production workers;

(F) Previous experience with formal training programs.

(G) Number of employees in each job title for which training is proposed and straight-time average hourly rates for such job title;

(H) Evidence that job titles are not newly created to secure approval under this section; and

(I) Level of employment over the preceding three years.

(ii) The Assistant Secretary for ETA will consider applications for approval on the basis of general criteria such as suitability of wages and fringe benefits, stability of the firm, potential for placement and appropriate length of training (Sec. 123(a)).

**§ 676.25-2 On-the-job training.**

(a) *General.* (1) This section applies to private and public sector on-the-job training (OJT) alike, except that public sector OJT agreements entered into prior to April 1, 1979, may be honored as originally executed.

(2) On-the-job training (OJT) is training in the private or public sector given to a participant, who has been hired first by the employer, and which occurs while the participant is engaged in productive work which provides knowledge or skills essential to the full and adequate performance of the job. This does not preclude a participant who has been hired by, and received OJT from, one employer from being ultimately placed with another employer.

(3) OJT may be coupled with other CETA employment and training activities as specified in § 676.25-7 and § 676.26-3. OJT participants may receive any of the employment and training services or supportive services specified in § 676.25-5 through the CETA system, through community resources, or through employer resources.

(b) *Participation.* All OJT participants must meet the eligibility requirements described in § 675.5. Recipients shall establish procedures for the referral of participants to OJT. Such procedures should use the information available through the system for Intake and Assessment (see § 675.6). These procedures shall insure that, to the maximum extent feasible, those most in need are served in accordance with the following guidelines:

(1) Primarily, OJT opportunities should be offered to those most in need, who lack the related education, training, or work experience for the job for which training is offered.

(2) Recipients may also refer persons to OJT who have related education, training or work experience when no other suitable opportunities exist for such individuals, either in unsubsidized employment or within the CETA system.

(c) *Selection.* From among those referred for OJT opportunities, the employer may make the final selection of participants based on suitability for the training opportunity.

(d) *Length of Training.* The length of time for which payments from CETA funds may be made shall not exceed that period of time generally required for acquisition of skills needed for the position within a particular occupation (sec. 121(1)). Recipients shall develop standardized methods for determining the length of training for OJT occupations, and shall describe or identify such methods in the Annual Plan. The Dictionary of Occupational

Titles' Specific Vocational Preparation (S.V.P.) codes, or other equivalent standardized tools should be used to fulfill this requirement.

(e) *Eligible Jobs.* The training limitations of § 676.25–1(b) (1), (2) and (3) shall apply to OJT. In the selection of jobs for which training will be offered, recipients shall consider those which provide opportunities not otherwise available, lead to economic self-sufficiency, and provide upward mobility.

(f) *Reimbursement.* Costs incurred by employers are to be reimbursed in accordance with §§ 676.41–1 (a), (d) and (e) and 676.41–3(b).

(1) Based upon past experience, DOL has determined that a fixed unit cost method of reimbursement for OJT training costs based on 50 percent of the participant's wages (but not fringe benefits) represents the difference between the costs of recruiting and training and the costs of lower productivity associated with employing CETA participants to perform the job and the costs for others similarly employed.

(2) To maximize limited available resources, recipients may negotiate lower reimbursement levels with employers.

(3)(i) Should an employer or recipient believe that special circumstances, as discussed in paragraph (f)(3)(iii) of this section warrant a reimbursement level for OJT training costs higher than the 50 percent limitation, each circumstance, along with the specified level and its rationale, shall be presented in the recipient's Annual Plan. Recipients may then negotiate OJT agreements under these circumstances at the reimbursement level approved in the plan without any further DOL approval. The circumstances and the reimbursement level in such cases should also be documented in each OJT agreement.

(ii) If a circumstance not covered in the Annual Plan arises which the recipient believes warrants reimbursement for OJT training costs at higher than the 50 percent level, an Annual Plan modification request shall be submitted to the RA in accordance with § 676.16 (c)(1) and (c)(3). No publication or comment procedures will be required. Once the modification is approved, the recipient may sign the OJT agreement, documenting the approved circumstances and the reimbursement level in the OJT agreement.

(iii) Special circumstances are envisioned as those where the characteristics of the participant indicate greater obstacles to employment than those of the normal CETA participant or where the training would provide the participant with unusually high skills. Examples include the following, among others: Handicapped or mentally retarded participants; disabled veterans; exoffenders; and exceptionally costly programs providing an above-average intensity of training.

(4) Recipients may provide OJT reimbursement on a scheduled declining ratio to wages over the period of training, as long as the planned average reimbursement does not exceed the specified reimbursement level for the planned period of training. Recipients shall monitor the declining reimbursement provisions of OJT agreements closely. Should abuse occur (e.g., significant numbers of participants leaving after the "high end of the scale" reimbursement period), this reimbursement procedure shall be immediately altered or curtailed.

(5)(i) In addition to the reimbursement for OJT training costs allowed by paragraphs (f) (1) through (4) of this section, the actual costs incurred by an employer for classroom training or for employment and training services and supportive services for OJT participants, as defined in § 676.25–5 (b) and (c), may be reimbursed. As indicated in § 676.25–7(b), an employer may also be reimbursed for the costs of participant wages paid by the employer for any time spent during working hours by an employee in such activities. All costs incurred as a result of the provisions of this paragraph must be documented by the employer.

(ii) Any reimbursement made pursuant to paragraph (f)(5)(i) of this section may only be for classroom training, employment and training services and supportive services which are different than or above the level of such training or services normally provided by the employer to regular employees.

(g) *OJT Agreements.* Employers will be held responsible with respect to CETA costs only in accordance with the provisions of their OJT agreement. The OJT agreement shall contain at a minimum the elements listed below. Recipients may place additional provisions in the OJT agreement only after a careful assessment is made of the additional burdens imposed on participating employers. Agreements may only be entered into with employers which have not been seriously deficient in their conduct of or participation in any DOL program described in § 676.38(b). The minimum elements are (sec. 121(o)):

(1) A brief training outline, including the length of training and the nature of the training;

(2) The method and maximum amount of reimbursement for OJT training; justification if the reimbursement amount exceeds 50 percent of the participant's wages;

(3) The number of participants to be trained;

(4) A job description and specification of participant wage rates;

(5) Reporting requirements;

(6) A requirement that employers are to keep track of participant attendance, and a description of the payroll records, time and attendance records, and job duties statements that the employer will be required to maintain;

(7) Specification of any costs to be reimbursed above the OJT training costs (i.e., classroom training costs, employment and training services, and supportive services costs), as indicated in paragraph (f)(5) of this section, and the documentation the employer will be required to maintain on such costs;

(8) A termination clause for nonperformance; and

(9) An assurance that the employer will comply with the Act and regulations.

**§ 676.25–3 Public Service Employment.**

(a) Public service employment (PSE) is subsidized employment with public and private nonprofit employers who provide public services.

(b) PSE jobs shall be provided, to the extent feasible, in occupational fields which are most likely to expand within the public or private sector (Sec. 122(m)).

(c)(1)(i) PSE participants may not be outstationed to worksites, except if the prime sponor demonstrates in its annual plan that:

(A) The worksite lacks the administrative capability to perform the personnel, recordkeeping, reporting or other required functions for these additional employees; or

(B) Requiring the worksite to be the employing agency would create a significant administrative or programmatic impediment to accomplishing the purposes of the Act such as requiring subagreements with an excessive number of worksites with a small number of participants; or

(C) The wages, benefits and working conditions for those similarly employed at the employing agency are the same or substantially equivalent to those similarly employed at the worksite.

(ii) Administrative arms of consortia, which are also units of general local government, may outstation participants under the conditions specified in

paragraphs (c)(1)(i) of this section. For all other administrative arms of consortia, outstationing may take place under the following conditions:

(A) When the wages and benefits of the participants are the same as those of the similarly employed regular employees at the worksite;

(B) When the specific concurrence of the bargaining agent at the worksite is obtained; and

(C) When the worksite is other than a State or a unit of general local government of 50,000 population or greater.

(iii) Nothing in the preceding paragraphs shall limit outstationing to a federal agency.

(2) No PSE participants shall be outstationed for the purpose of denying or reducing the wages or benefits to which the participant would otherwise be entitled. No PSE participant shall be outstationed to a worksite where the employees of that worksite performing the same or substantially similar job duties are paid at a rate less than the highest of that established under Section 6(a)(1) of the Fair Labor Standards Act or the applicable State or local minimum wage.

(3) PSE participants who were outstationed as of March 31, 1979 may continue to be outstationed to the same worksite until transferred to a different worksite or terminated from PSE.

(4) When filling teaching positions in schools under local educational agencies under Title VI, prime sponsors shall not outstation but shall subgrant with the appropriate local educational agencies (Sec. 603(b).)

(5) Outstationed participants are to be considered employees of the employing agency and shall have the same working conditions, wages, and benefits as those received by other similarly employed employees of the employing agency except where the participant is outstationed pursuant to § 676.25–3(c)(1)(i)(C). However, maximum efforts should be made by the employing agency to accommodate the outstationed worksite by coordinating work hours and holidays.

(d) PSE participants shall not be employed in building and highway construction work (except that which is normally performed by the recipient or subrecipient) or in any work which primarily benefits a private-for-profit organization.

(e) Except for Title VI projects under Part 678, PSE jobs shall be entry level (sec. 232(a)(1) and sec. 605(a)).

(f) To the extent feasible, the public services provided by the jobs should be designed to benefit the residents of the area (sec. 122(a)).

(g) Recipients shall take into account household obligations and give special consideration to providing alternative working arrangements such as flexible hours of work, work-sharing and part-time jobs, particularly for older workers, and parents of young children (sec. 121(d)(3)).

### § 676.25–4 Work experience.

(a)(1) Work experience is a short-term or part-time work assignment with an employing agency. It is prohibited in the private-for-profit sector. It shall be designed to enhance employability of individuals through the development of good work habits and basic work skills.

(2) Work experience shall be limited to persons who need assistance in becoming accustomed to basic work requirements including basic work skills, in order to be able to compete successfully in the labor market. It is for persons who have either never worked or who have not been working for an extended period of time, such as students, youth in transition from school to employment, youth with no definite employment goals, chronically unemployed, retired persons, handicapped individuals, residents of institutions, and older workers in such programs as Operation Mainstream, who have no alternative job opportunities (sec. 121(i)).

(3) Persons who do not satisfy the conditions of paragraph (a)(2) of this section may be placed in work experience for no more than 30 days while an appropriate classroom training, OJT, PSE or unsubsidized job is being developed for them (sec. 211(6)).

(4) Work experience shall not be used as a substitute for PSE. Recipients shall distinguish between the work experience and PSE activities in their programs as specified in § 677.15 on the Title II Annual Plan Subpart. The activities shall be distinguished on the basis of the types of individuals employed, the level of supervision required, and the level of proficiency or performance required.

(5) Participation in work experience shall be for a reasonable length of time based on the needs of the participant, and subject to the restrictions on duration set forth in § 676.30.

(6) The provisions of § 676.25–3(g) regarding household obligations and alternative working arrangements apply to work experience.

(b) At least every 60 days, recipients shall review and document the progress of each work experience participant to determine whether transfer to another activity or placement in unsubsidized employment is more appropriate than remaining in work experience, based on whether the work experience has achieved its purpose. However, this shall not apply to a participant in the summer Youth Employment Program.

(c)(1) A supported work program is a specialized type of work experience in which the primary goal is to transition participants into the regular work force after a specified term of program employment. The work experience provided by the program shall include the following programmatic techniques: (i) Crew work; (ii) intensive supervision at worksites; (iii) progressive levels of difficulty; (iv) a system of wage increases and bonuses tied to participant performance and (v) a system of regularized performance evaluation.

(2) Supported work programs shall be designed to provide job readiness training and job placement assistance to participants when their program performance indicates readiness for transition to unsubsidized employment. Referrals to this program shall be primarily those individuals who have worked no more than three months in one regular job during the six months prior to program enrollment, and who have a verifiable personal history which tends to limit their employment prospects (e.g., drug or alcohol addiction, incarceration, long-term receipt of welfare payments). Participation limitations for individuals enrolled in this program may be extended based on the waiver provisions for work experience found in § 676.30(g).

### § 676.25–5 Services.

This program activity includes services to applicants, employment and training services, supportive services, and post-termination services. Such services are designed to lead to maximum employment opportunities and retention of employment or to facilitate participation in other employment and training program activities funded under this Act or in another Act, leading to eventual placement in unsubsidized employment.

(a) *Services to applicants.* Such services include:

(1) Outreach; and

(2) Intake: This includes screening for eligibility; the initial determination as to whether the program can benefit the individual; the determination of the employment and training activities and services which would be appropriate for the applicant; the determination of the availability of an appropriate employment and training activity; a decision on selection; and dissemination of information on the program.

(b) *Employment and training services.* Such services include but are not limited to:

(1) Orientation to the world of work;

(2) Counseling. This includes employment related counseling, and testing;

(3) Employability assessment (other than that involved during intake);

(4) Job development;

(5) Job search assistance. This includes transition services, such as job seeking skills instruction, individualized job search plan, labor market information, and other special activities for transition to unsubsidized employment;

(6) Job referral and placement;

(7) Targeted Jobs Tax Credit eligibility determination and referrals; and

(8) Vocational exploration program (VEP). A recipient may conduct a VEP program to expose participants to jobs available in the private sector through observation of such jobs, instruction, and, if appropriate, limited practical experience (sec. 432).

(i) A detailed curriculum shall be developed prior to enrollment in VEP.

(ii) Organizations which participate in VEP through an agreement with a recipient may be reimbursed for the costs incurred in the conduct of the program except that private-for-profit organizations may be reimbursed only for costs of training which is over and above that normally provided by the organization.

(iii) An individual may not be involved in any activity that contributes, or could be expected to contribute, to additional sales or profit, or results in the subsidization of wages, of a private-for-profit organization.

(iv) Where a vocational exploration program funded directly by DOL operates in a recipient's area, the recipient shall enter into an agreement with the local representative of the program which contains arrangements for recruitment, selection, referral and eligibility certification.

(c) *Supportive services.* Such services include but are not limited to:

(1) Health care and medical services;

(2) Child care. Child care programs shall comply with applicable State and local standards including State licensing requirements;

(3) Transportation;

(4) Temporary shelter;

(5) Assistance in securing bonds;

(6) Family planning services. These shall be made available to a participant only on a voluntary basis and shall not be a prerequisite for participation in, or receipt of, any services or benefits from the program;

(7) Legal services; and

(8) Financial counseling and assistance.

(d) *Post-termination services.* For 90 days following termination from the program, employment and training services and supportive services, as described in §§ 676.25–5 (b) and (c) of this subsection, may be provided to participants who have obtained unsubsidized employment to enable them to retain employment.

**§ 676.25–6 Other activities.**

Recipients may conduct activities not described in §§ 676.25–1 through 676.25–5. The approved grant application shall describe the basic design of activities undertaken as "other activities" and their objectives. These activities may include but are not limited to:

(a) Removal of artificial barriers to employment;

(b) Job restructuring;

(c) Revision or establishment of merit systems; and

(d) Development and implementation of affirmative action plans.

**§ 676.25–7 Combined activities.**

(a) A participant may be simultaneously or sequentially enrolled in two or more activities.

(b)(1) Reimbursement may be up to 100 percent to employers, including private-for-profit employers, for expenditures for the costs of classroom training, employment and training services or supportive services for participants in combined activities including the costs of participant wages paid by the employer for time spent in these activities during working hours.

(2) Reimbursement may be made on a cost reimbursement or fixed cost basis and shall be supported by business receipts, payroll, or other records normally kept by the employer.

(3) Nothing in this paragraph shall allow reimbursement to private-for-profit employers for the costs of on-the-job training in excess of the amounts allowable in § 676.25–2.

**§ 676.26 Payments to participants.**

**§ 676.26–1 Payment of wages.**

*General.* Except as authorized under § 676.26–3, each participant in on-the-job training, work experience, and public service employment shall be paid wages.

(a) *Wages for on-the-job training.* Participants in OJT shall be compensated by the employer at such rates, including periodic increases, as are reasonable considering such factors as industry, geographic region, and the participant's skill. In no event shall the wage rate be less than the highest of the following (sec. 124(c)):

(1) The minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act;

(2) The minimum wage rate prescribed by applicable State or local law (sec. 124(c));

(3) The prevailing wage rate for persons similarly employed;

(4) The minimum entrance wage rate for inexperienced workers in the same occupation in the establishment or, if the occupation is new to the establishment, the prevailing entrance wage rate for the occupation in other establishments in the area;

(5) The wage rate required by an applicable collective bargaining agreement; or

(6) The prevailing wage rate established by the Secretary in accordance with the Davis-Bacon Act, when required by § 676.26–1(d).

(b) *Wages for work experience.* Participants in work experience shall be paid at a wage rate not less than the highest of (sec. 124(d)):

(1) The minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act;

(2) The minimum wage rate prescribed by applicable State or local law; or

(3) The prevailing wage rate established by the Secretary in accordance with the Davis-Bacon Act, when required by § 676.26–1(d); or

(4) The wage rate required by an applicable collective bargaining agreement.

(c) *Wages for Public Service Employment*—(1) *Minimum wage rates.* A participant in PSE shall be paid wages not less than the highest of the rates specified in (a) (1) through (6) (sec. 124(b)).

(2) *Maximum wage rates payable with CETA funds.* (i) The wages (including those received for overtime work and leave taken during the period of employment) paid to any PSE participant from funds under the Act shall be limited to a full-time rate of $10,000 per year (or the hourly, weekly, or monthly rate which, if full-time and annualized, would equal a rate of $10,000 per year), unless the Secretary adjusts this maximum upward by the area wage adjustment index. In areas where the maximum wage rate for a fiscal year is decreased from the rate for the previous fiscal year, participants hired in the previous fiscal year may receive the maximum rate from that previous year in the current fiscal year. For school employees whose work is done only during the school year, that school year shall be considered a full year for wage rate annualization purposes.

(ii) Fringe benefits payable from funds under the Act to any PSE participants may not exceed those regularly afforded to similarly employed non-CETA workers, and shall never exceed those afforded to non-CETA workers earning an amount equal to the maximum wage.

(3) *Average wage rates payable with CETA funds.* The average annual wage rate for PSE participants hired on or after April 1, 1979, shall not exceed $7,200, as adjusted upward or downward by the Secretary on an area basis by the area wage adjustment index. In no case shall this wage be adjusted downward to a level that is less than 10 percent above the annualized Federal minimum wage rate. The total average of federally supported payments per month, including such payment to those engaged full-time in a combination of PSE and training who spend at least 50% of their time in PSE and who are compensated for training at the minimum wage, shall not exceed the pro rata monthly share of the annual average wage. Where PSE participants are in a part-time (less than a normal full time schedule for the occupation) PSE position, the average annual wage rate for these participants shall be computed by converting to full time rates and annualizing the PSE wages. For fiscal year 1980 and each subsequent fiscal year, the average annual wage rate shall be further adjusted by a percentage equal to the change in the average wage rate in employment not supported under the Act (sec. 122(i)).

(4) *Area wage adjustment index.* (i) The Secretary shall publish annually a wage adjustment index for each appropriate area. For each area, the index shall equal the ratio of the annual average wage rate in regular public and private employment in such area to the average wage rate for all such areas.

(ii) The area wage adjustment index shall be used as a basis for adjusting the average and maximum wage rates for areas. With respect to maximum wage rates, the $10,000 shall not be adjusted upward by more than 20 percent, except that this limitation shall not apply to Alaska.

(5) *Supplementation of wages from non-CETA funds.* (i) Except as provided for Title VI PSE participants in § 678.7 and in paragraphs (c)(5) (ii) and (iii) of this section, no PSE participant may be paid wages for any public service employment job from sources other than the Act. For participants hired after September 30, 1978 this applies even if a participant is entitled to a promotion, a general salary increase or overtime pay. Where the participant is eligible for such an increase which would mean a salary in excess of the area's maximum wage rate, the participant would be entitled to it if other employees similarly employed would receive such benefits. However, because public service employment wages may not be supplemented from sources other than the Act, in such cases participants must be transferred to other positions or be terminated (sec. 122(i)(4)(A)).

(ii) Any PSE participant on September 30, 1978, receiving wages from non-CETA sources may continue to receive such wages and may receive any subsequent increase which is either a bona fide cost of living increase or a scheduled raise, so long as the participant remains in the same position or a PSE position with the same or lower wage rate. However, the non-CETA portion shall not be reduced if the maximum wage rate has been adjusted upward above $10,000 until the incumbent participant leaves this position, or a PSE position with the same or lower wage rate or until the next employing agency budgetary cycle, whichever comes earlier (sec. 122(i)(4)(B)).

(iii) Any PSE participant who was receiving only CETA wages on September 30, 1978, at a wage rate less than $10,000 per year may have such wages supplemented above $10,000 from non-CETA sources after September 30, 1978, if such increase is a bona fide cost of living increase or a scheduled raise, and the person remains in the same position.

(d) *Davis-Bacon wages.* (1) Contractors with the Department shall insure that prevailing wages, as determined by the Secretary pursuant to the Davis-Bacon Act, are paid by themselves and their subcontractors to laborers and mechanics including participants employed in construction (including alteration, repair, painting, decorating, etc.) which is federally assisted under the Act.

(2) Recipients and subrecipients shall insure that prevailing wages, as determined by the Secretary pursuant to the Davis-Bacon Act, are paid:

(i) By their contractors and subcontractors to laborers and mechanics, including participants, employed in construction (including alteration, repair, painting, decorating, etc.) which is federally assisted under the Act and related to a facility or building which is used primarily for programs under the Act; and

(ii) To laborers and mechanics, including participants who are employed in construction (including alteration, repair, painting, decorating, etc.) or any project which is funded wholly or partially under a Federal statute, other than CETA, which requires the payment of prevailing wage rates determined in accordance with the Davis-Bacon Act.

**§ 676.26-2 Payment of allowances.**

(a) *General.* (1) Except for persons receiving incentive allowances, a basic hourly allowance shall be paid to participants for time spent in classroom training. In addition, allowances may be paid to a participant enrolled in *Services* and *Other Activities* when such services or activities are combined with another activity or are provided on a regularly scheduled basis.

(2) No participant shall receive compensation for classroom training for more than 104 weeks in a 5-year period, beginning October 1, 1978, or the subsequent date of the participant's initial enrollment in CETA. Participants who have exhausted the 104-week limitation on receipt of compensation may continue to be enrolled in classroom training without payments: *Provided,* That they have not exhausted the 30-month limitation on total CETA participation described in § 676.30. (sec. 121(c)(1)).

(b) *The allowance payment system.* A standard system for payment of allowances shall be maintained by every recipient to ensure prompt and efficient payment to all participants (sec. 124(a)). The standard payment system shall consist of a uniform set of procedures, but may be operated by one or more service deliverers. It shall include:

(1) Determination of entitlement and computation of amount to be paid;

(2) Maintenance of a system for requesting payment of training allowances, including the certification, issuance and distribution of payments;

(3) Maintenance of payment records and preparation of required statistical and fiscal reports;

(4) Maintenance of a system to detect and collect overpayment;

(5) Issuance of written notification to participants when allowances are reduced, denied or overpaid; and

(6) Arrangements with other agencies to obtain information to minimize unauthorized payments, including arrangements with:

(i) The State Employment Security Agency for the initial and periodic verification of a participant's receipt of unemployment compensation (sec. 124(a));

(ii) Appropriate agencies for verification of public assistance payments (e.g., local welfare agencies); and

(iii) Training facilities for submittal of payment requests and certifications of attendance.

(c) *Selection of service deliverer.* The recipient shall provide a standard allowance payment system either directly or through an organization or organizations it considers appropriate for its particular circumstances. The recipient, in selecting the service deliverer for the payment of allowances, shall give first consideration to the use of the unemployment insurance component in the SESA before using other agencies that may have experience in operating an allowance payment system (sec. 103(a)(7)).

(d) *Basic allowances.* (1) A basic hourly allowance shall, except as provided in paragraphs (h) and (j) of this section, equal the higher of:

(i) The minimum hourly wage prescribed by State or local law for most employment in the recipient's area, multiplied by the number of hours during which the participant attends or is absent for good cause; or

(ii) The minimum hourly wage specified in Section 6(a)(1) of the Fair Labor Standards Act, multiplied by the number of hours during which the participant attends or is absent for good cause.

(2) For participants who are institutionalized, including prisoners, all or part of the allowances, as determined by the recipient and the head of the institution, may be held in reserve by the institution and delivered upon the participant's release from the institution. The institution shall not retain any portion of these funds, or interest earned on these funds, while held in reserve. In addition, dependent allowances may not be held in reserve.

(e) *Dependent allowances.* (1) Participants receiving basic allowances or who would be receiving full basic allowances were it not for adjustments under paragraph (h) of this section shall receive dependent allowances of $5 per week for each dependent in excess of two dependents, up to a maximum of $20 for six or more dependents (sec. 124(a)(1)).

(2) Dependent allowances shall be reduced prorata for absence without good cause. The methodology for making the reduction shall be described in the recipient's CETP (sec. 124(a)).

(f) *Incentive allowances for persons receiving public assistance.* (1) Incentive allowances in the amount of $30 per week, in lieu of basic allowances, shall be paid to participants, including youths participating in summer youth programs under Subpart C of Part 680, who are receiving public assistance, or whose needs or income are taken into account in determining public assistance payments to others. Youths participating in programs under Subparts A, B, and D of Part 680 shall be paid basic allowances, if applicable, regardless of their public assistance status (sec. 124(a)(3)).

(2) Incentive allowances shall be reduced prorata for absences without good cause. The methodology (e.g., daily or hourly proration) for making the reduction shall be described in the recipient's CETP.

(3) Incentive allowances may be adjusted downward, provided that the adjustment shall not result in an incentive allowance payment at a rate less than the higher of the Federal, State, or local minimum wage multiplied by the number of hours of participation or absences with good cause. Such procedures shall be described in the CETP.

(4) Incentive allowances shall be disregarded in determining the amount of public assistance payments individuals are entitled to receive under Federal or federally assisted public assistance programs (sec. 124(a)(3)).

(g) *Additional allowances.* Additional reasonable allowances, such as allowances for transportation or subsistence, may be paid to participants to cover extraordinary costs associated with participation in an activity. The circumstances in which additional allowances will be paid shall be described in the recipients' CETP (sec. 124(a)).

(h) *Adjustments in basic allowances.* (1) The basic allowance shall be reduced on a weekly basis by the amount of any unemployment compensation received by the participant for the same week. The basic allowance shall not be reduced because of any unemployment compensation that is payable for a week(s) prior to the participant's enrollment in an activity where allowances are paid. If unemployment compensation is paid on a biweekly basis, it shall be prorated over the two weeks before the allowance is reduced. Where eligible, participants should be encouraged to apply for and claim unemployment compensation if they are not already receiving such benefits (sec. 124(a)).

(2) The basic allowance may be adjusted upward if conditions for such increases are described in the CETP.

(3) Periodic increases to the basic allowances may be provided as an incentive to participation when such increases are described in the CETP.

(4)(i) The basic hourly allowance for a participant may be reduced, at the option of the recipient, on a weekly basis, by the total amount of any Basic Education Opportunity Grant (BEOG) during the period in which the participant is enrolled in the classroom training; or

(ii) The recipient may make arrangements with training institution to apply BEOG payment to tuition, books and related training costs normally funded by the recipient. The recipient should then pay the training institution the difference, if any, between the actual training costs and the BEOG.

(5) The basic allowance may be reduced by the amount of wages received by classroom training participants who are also enrolled full-time during the same payment period in work experience, PSE or OJT. The determination of whether the activity is full-time shall be based on the number of hours that constitute full-time employment for employees similarly employed.

(i) *Rounding of amount of allowance payable.* Allowance payments under this section, if rounded, may only be rounded to the next higher multiple of a dollar.

(j) *Waivers of allowances.* (1) The payment of all or part of the basic allowance may be waived only in accordance with paragraphs (j) (2) or (3) of this section under the conditions described in the CETP or grant. When all or part of the basic allowance is waived, the recipient shall maintain documentation that the waiver accomplishes the goals established by the recipient when requesting the waiver. However, when participants, who had received either basic or incentive allowances, continue to participate in classroom training without compensation after their 104 weeks of receipt of allowances, these waiver provisions do not apply, since these participants have exhausted their eligibility for allowances and are not waiving them (sec. 1239a)).

(2) Waivers of basic allowances shall be allowable only when the following conditions have been met and documented:

(i) That the waiver will be applied to the total enrollment in a course and will not be imposed on an individual basis, except as provided in paragraph (j)(3) of this section; and

(ii) That the waiver will not have the effect of denying participation to individuals who could not participate without receipt of allowances; and

(iii) That the waiver will increase the number of participants served or the level of services provided; and

(iv) That the waiver will otherwise promote the purposes of the Act; and

(v) That all participants for whom allowances are waived will be so notified in writing; and

(vi) That documentation of the participant's notification of the waiver will be made a part of the participant's record.

(3) In exceptional circumstances, individual waivers, when described in the CETP or grant may be granted under the following conditions:

(i) The waiver is at the written agreement of the participant; and

(ii) All of the funds allocated in the Budget Information Summary for allowances have been obligated and training opportunities are still unfilled and available.

(4) The dependent allowances may not be waived, except in cases where the entire basic allowance is waived.

(5) Allowance payments shall not be waived solely because a participant receives benefits through the Vietnam Era Veteran's Readjustment Assistance Act, as amended.

(6) Incentive allowances shall not be waived.

(k) *Repayments.* Recipients shall require participants to repay the amount of any overpayment of allowances under this Part, except if the overpayment was made in the absence of fault on the part of the participant. Where the recipient does not require repayment, the recipient shall maintain written documentation of the overpayment specifying the absence of fault on the part of the participant. Where the recipient requires repayment, any overpayment not repaid may be set off against any future allowance or other payments under the Act to which the participant may become entitled, but in no case shall the wage be reduced below the applicable minimum wage.

**§ 676.26-3 Combined activities.**

(a) *Primary activity.* A primary activity is one in which a participant is enrolled for more than 50 percent of scheduled time. Participants enrolled in a primary activity for which wages are payable and simultaneously or sequentially in an activity for which allowances are payable may, at the recipient's option, be paid wages for all hours of participation. A participant enrolled in a primary activity for which allowances are payable may, at the recipient's option, be paid allowances for all hours of participation, except when OJT is the non-primary component. However, in the latter case, before placing an individual in such an activity, the recipient shall request a determination from the Internal Revenue Service as to whether income from the non-primary component is taxable. Nothing in this subsection shall authorize compensation at rates less than those required by §§ 676.26-1 (a), (b) and (c).

(b) *Employed Participants.* Wages may be paid to a participant enrolled in OJT by the participant's employer for hours spent in classroom training, whether or not such hours constitute a primary activity. For upgrading or retraining participants whose only activity is classroom training, wages may be paid in lieu of allowances.

**§ 676.27 Benefits and working conditions for participants.**

(a) *General.* (1) Each participant in OJT, PSE, or work experience shall be assured of workers' compensation including medical, accident, and income maintenance insurance at the same level and to the same extent as others similarly employed who are covered by a workers' compensation statute or system (sec. 121(d)(5)).

(2) Each participant who is employed in OJT, PSE or work experience where others similiarly employed are not covered by an applicable workers' compensation statute shall be provided with medical and accident insurance benefits. Such benefits shall be adequate and comparable to the medical and accident insurance provided under the applicable State workers' compensation statute. Recipients are not required to provide these participants with income maintenance coverage (sec. 121(d)(5)).

(3) Each participant enrolled in other than OJT, PSE or work experience shall be provided with adequate on-site medical and accident insurance.

(b)(1) Each participant in an on-the-job training or public service employment program shall also be provided health insurance, collective bargaining agreement coverage, and other benefits and working conditions at the same level and to the same extent as other employees similarly employed (sec. 122(k)).

(2) All classifications with respect to employment status (e.g., full time, permanent, or temporary) in which CETA participants are placed shall be reasonable and shall include nonfederally financed employees (sec. 122(k)). Where only federally subsidized employees work for an employer, classifications may be limited to them.

(3) Classifications shall not be established exclusively for CETA participants nor shall participants be placed in existing or new classifications in order to reduce or deny benefits to which they are entitled.

(4) CETA participants who prior to April 1, 1979, are in classifications which include only federally financed employees may remain in such classifications for the duration of their participation. After April 1, 1979, no CETA participant shall be so classified.

(5) Within a single classification, a distinction may be made between CETA, PSE and work experience participants and other employees with respect to retirement systems or plans which provide benefits based on age or service or both pursuant to § 676.28 (sec. 122(k)).

(c)(1) PSE and OJT participants who are paid wages and who perform services that are the same or similar to other employees of the employer who have unemployment compensation coverage shall be provided unemployment compensation coverage by election if such coverage is not otherwise required by the applicable State unemployment compensation law.

(2) Unemployment compensation coverage is not provided to work experience participants unless otherwise required under State unemployment compensation law. Most States do not provide unemployment compensation coverage for work experience participants.

(3) In order to ensure unemployment compensation coverage of appropriate CETA participants, prime sponsors must ensure that employers submit quarterly contribution and wage reports or their equivalent required by the SESAs for PSE and OJT participants, and for work experience participants where they are covered by State unemployment compensation provisions.

(d) Conditions of employment and training shall be appropriate and reasonable, in light of such factors as the type of work, geographical region, and proficiency of the participant (sec. 121(d)(1)).

(e) Every participant, prior to entering employment or training, shall be informed of his or her rights and benefits in connection with such employment or training including the information that family planning services are voluntary. Participants shall be informed of the name of their employer and the complaint and hearing procedure applicable to them pursuant to Subpart F (sec. 121(a)(3)).

(f) No participant will be required or permitted to work, be trained, or receive services in buildings or surroundings or under working conditions which are unsanitary, hazardous or dangerous to the participant's health or safety. Participants employed or trained for inherently dangerous occupations, e.g., fire or police jobs, shall be assigned to work in accordance with reasonable safety practices (sec. 121(d)(2)).

**§ 676.28 Retirement benefits for program participants.**

**§ 676.28-1 General Rules.**

(a) *Exclusion.* CETA participants may be excluded from retirement systems or plans which provide benefits based on age or service or both which cover similarly employed, non-CETA employees (sec. 122(k)).

(b) *Use of CETA Funds—General.* Where, however, the CETA participants are included in a retirement system or plan, CETA funds may not, except as provided in paragraph (c) of this section, be used for a contribution to such system or plan on behalf of a participant unless such contribution bears a reasonable relationship to the cost of providing benefits to that participant (sec. 121(j)).

(c)(1) *Use of CETA Funds—Grandfather.* CETA funds may be used for contributions to retirement systems or plans on behalf of participants (for the duration of their participation):

(i) Who are enrolled in PSE or work experience on June 30, 1979; and

(ii) Who are enrolled in a retirement system or plan on June 30, 1979.

(2) For those recipients and subrecipients which are in compliance with the provisions of paragraph (b) of this section on the effective date of this regulation (April 1, 1979), and for those which come into compliance before July 1, 1979, the date of compliance shall be substituted for June 30, 1979 in paragraph (c)(1) of this section.

(d) *Description of Method Adopted.* When a recipient intends to use CETA funds for retirement contributions on behalf of participants, the method for doing so shall be described in the CETP or grant.

**§ 676.28-2 Allowable cost.**

(a) *Definitions.* For purposes of this section:

(1) *"Employer"* shall include any employer whose employees are covered by a retirement system or plan under which periods of CETA participation are creditable towards benefit entitlements.

(2) *"Unsubsidized Employment"* means employment for which wages are not paid from CETA funds.

(b) *Reasonable Relationship.* A contribution by an employer to a retirement system or plan shall be considered to bear a reasonable relationship to the cost of providing benefits to CETA participants if the requirements of one of the methods authorized in paragraphs (c), (d), (e), or (f), of this section are met. These methods are the following:

(1) Vesting Method;

(2) Actuarial Methods;

(3) Reserve Account/Buy-Back Methods.

(4) Alternative Methods;

(c) *Vesting Methods.* This method is available only with respect to retirement systems or plans of other than the "defined benefit" type. An employer may use CETA funds to make a contribution to a retirement system or plan only to the extent that the contribution is allocated to the CETA participant and only to the extent that the contribution is vested at the time it is made. A contribution by an employer to a retirement system or plan shall be deemed to be "vested" to the extent that, at the time when the contribution is made, the portion of the participants account balance in the retirement system or plan derived from employer contributions is not subject to forfeiture.

(d) *Actuarial Method.* This method is available only with respect to retirement systems or plans of the "defined benefit" type (a system or plan under which a specified benefit is promised to employees at retirement). Under this method an employer may use CETA funds to make a contribution to a retirement system or plan only on the basis of a separate actuarial determination that there is a reasonable likelihood that CETA participants will actually receive benefits as a result of the contribution and then only in an amount sufficient to fund benefits for this group of participants. The amount of employer contributions shall be determined on the basis of reasonable actuarial assumptions which take into account the unique characteristics of CETA participants, including the short-term nature of CETA participation. The calculation shall be revised at least annually to reflect the actual experience of CETA participants. The basic rule under this method is that CETA funds expended for an employer contribution to a retirement system or plan may not exceed the present value, determined as of the date the contribution is made, of the benefits which CETA participants accrue in that year, reduced by any contributions made by CETA participants during that year.

(e) *Reserve Account/Buy Back Method.* (1) This method is available for both defined benefit and other types of retirement systems or plans. This method can only be used for CETA participants who were excluded from coverage in the retirement system or plan while they were CETA participants. Under this method, the employer may make a contribution for the previous service using funds from the current CETA grant in an amount described in paragraph (e)(3) of this section if:

(i) A former CETA participant obtains unsubsidized employment with the employer (within a time specified in paragraph (e)(2) of this section), and

(ii) The former CETA participant is granted credit under the retirement system or plan for the period of CETA participation, and

(iii) Where employee contributions are required, the employee elects to participate in the retirement system or plan by making contributions under the reserve account or buy-back systems described in paragraph (e)(2) of this section.

(2)(i) *Buy Back.* A former CETA participant who, within 90 days after termination of the period of CETA participation, obtains unsubsidized employment with the employer in a position which entitles the individual to earn credit for the period of CETA participation under the system or plan shall be given an opportunity to make a contribution or contributions to the retirement system or plan within 18 months after obtaining unsubsidized employment. The amount of the contribution shall be no greater than the sum of:

(A) The contributions which such individual would have been required to make during the individual's period of CETA participation, in order to obtain credits for that period under the plan or system, and

(B) Interest on the amounts described in paragraph (e)(2)(i)(A) of this section equal to the return the system or plan would have earned on the contributions.

(ii) *Reserve Account.* Any individual who is a CETA participant, and who might be eligible to receive credit under the employer's retirement system or plan for CETA service in the event that such individual obtains unsubsidized employment with the employer upon leaving CETA shall be permitted to authorize deductions to be made from salary or wages during CETA participation in amounts equal to the contributions to the retirement system or plan which the individual would be required to make if the individual were not excluded from participation in the retirement system or plan during CETA participation. Any such deductions shall be credited to a reserve account and such account shall be credited with interest in amounts equal to the return the system or plan would have earned on the deductions. If the individual obtains unsubsidized employment with the employer in a position which entitles the individual to earn credit under the retirement system or plan immediately after termination of the period of CETA participation, and so elects, the balance in the reserve account shall be

transferred to the retirement system or plan; otherwise the balance shall be distributed in full to the individual. The employer may not use CETA funds to maintain a reserve account for the employer's share of the contribution. This share can only be paid from current CETA funds as specified in paragraph (a) of this section.

(3) CETA funds may be expanded for an employer contribution to the retirement system or plan under this method only to the following extent: (i) In the case of a plan other than one of the "defined benefit" type, the amount of the contribution may be no greater than the amount by which the former CETA participant's account balance in the retirement system or plan would have increased during CETA participation as a result of employer contributions if they had been made during that period.

(ii) In the case of a plan of the "defined benefit" type, the amount of the contribution can be no greater than the present value of the additional accrued benefits which the former CETA participant accrues as a result of the credit granted for CETA participation. Present value shall be determined on the basis of reasonable actuarial assumptions, but such assumptions need not take into account the unique characteristics of former CETA participants.

(f) *Alternative Methods.* Upon the written approval of the Assistant Secretary, CETA funds may be used in accordance with methods which are combinations of the methods described in paragraphs (c), (d) and (e) of this section, or in accordance with any alternative method which assures that the employer's contribution to a retirement system or plan bears a reasonable relationship to the cost of providing benefits to the CETA participants.

**§ 676.28-3 Packages of benefits.**

(a) Where non-CETA, similarly employed employees are covered under a benefits package which includes retirement, CETA participants shall receive the non-retirement benefits (e.g., health, death, and disability benefit coverage), at the same level and to the same extent as other employees. CETA funds may be used to pay for those benefits in accordance with § 676.27(b) (sec. 122(k)).

(b) CETA funds may be used to purchase a package of benefits including retirement, provided the retirement portion of the package can be factored out of the package and adjusted according to the methods described in § 676.28.

**§ 676.28-4 FICA.**

(a) Expenditures may be made from CETA funds for taxes under the Federal Insurance Contribution Act (FICA), 26 USC 3101, *et seq.*

(b) In States and units of general local government where exclusion of CETA participants from retirement systems or plans would automatically result in exclusion of such participants from coverage under FICA, pursuant to requirements of the Social Security Administration (SSA), FICA coverage is not mandated for such participants. This does not apply to jurisdictions in which CETA participants remain covered by FICA, notwithstanding exclusion from a retirement system or plan. Recipients are encouraged to work out appropriate arrangements with the SSA for FICA coverage on behalf of CETA participants who have been automatically excluded from FICA due to exclusion from a retirement system or plan.

**§ 676.29 Non-Federal status of participants.**

Except where specifically provided to the contrary, participants in a program under the Act shall not be deemed Federal employees and shall not be subject to the provisions of law relating to Federal employment, including those related to hours of work, rates of compensation, leave, unemployment compensation, and Federal employment benefits.

**§ 676.30 Termination conditions; participant limitations.**

(a) (1) When a job offer or offer of referral to a suitable job is made to and rejected by a participant, the recipient may terminate the participant regardless of how long the individual has been in the program. Suitable job shall mean a job which: (i) Is comparable to the participant's CETA job in terms of working conditions and benefits; and (ii) is commensurate with the participant's skill level; and (iii) is located within a commuting distance of the participant's home comparable to the distance normally travelled by others in the area; and (iv) is not vacant due to a strike or lockout, and (v) does not require that an employee resign from a union.

(2) Except as provided in paragraph (a)(1) of this section, participants may be terminated only in accordance with procedures and legal protections afforded similarly employed non-CETA workers.

(b) A recipient or subrecipient which has not successfully placed a participant in unsubsidized employment or training within the established time limits for participation set forth in paragraphs (c) through (f) of this section shall provide the participant with written notice of the impending termination from their particular program activities or from the total CETA program and a contact person for questions and further information at least two (2) weeks prior to the effective date. A dated copy of the notice shall be maintained in the participant's file.

(c) Except as provided under paragraph (g) of this section and for participants in programs that have other statutory limits, e.g., YCCIP and Job Corps, participation in work experience shall be limited to a maximum of: 1000 hours during any one year period; and 2000 hours during the five year period beginning October 1, 1978, or the subsequent date of the participant's initial enrollment in CETA.

(d) Except as provided in paragraph (h) of this section no participant may receive compensation for public service employment for more than 78 weeks during a five year period beginning October 1, 1978, or the subsequent date of the participant's initial enrollment in CETA. In computing this 78 weeks, recipients shall include any PSE participation from April 1, 1978, to October 1, 1978. The time spent by a PSE participant in classroom training shall be counted toward the 78 weeks if such training is counted toward the percentage requirements for programs under Subpart E of Part 677 and Part 678. (sec. 122(h)(2)).

(e) No participant may receive compensation for classroom training for more than 104 weeks in a five year period beginning October 1, 1978, or the subsequent date of the participant's initial enrollment in CETA (sec. 121(c)(1)).

(f) Except as otherwise provided in paragraph (g) of this section, recipients shall limit participation in CETA by any person to a maximum of 30 months during a five year period beginning October 1, 1978, or the subsequent date of the participant's initial enrollment in CETA.

(g) The limitation on work experience participation in CETA set forth in paragraph (c) of this section:

(1) Shall not apply to time spent by in-school youth enrolled in a work experience program under the Act, including time spent in a combined activity where work experience is the primary activity, nor shall such time be included when determining if an individual has reached such limitation or the limitation on total participation in CETA specified in paragraph (f) of this section. (secs. 121(c)(2), 121(i) and 212(b)); and

(2) May be waived for each fiscal year by the RA with respect to other persons

enrolled in a work experience program under the Act based on the inclusion in the Annual Plan or grant application, or subsequent modification to that document, of satisfactory evidence that, due to the lack of alternative job opportunities in the area, this limitation is impractical. Depending on the circumstances in the recipient's area the waiver may be granted for all work experience participants or for one or more subgroups, such as older workers. Waivers shall not be granted for individual participants. Those individuals granted such waivers may continue to participate beyond the 30-month limitation as specified in paragraph (f) of this section if they continue in a work experience activity. Any waiver of the 1,000 hour limitation shall extend the period of time an individual may participate in work experience during a year and shall also extend the 2,000 hour limitation in five years (secs. 121(i) and 212(b)).

(h) A temporary waiver of the 78 week limitation may be granted by the Department to a prime sponsor for PSE participants hired on or after October 1, 1978, if at the time of the waiver request, the prime sponsor or a unit of general local government (as defined in § 675.4) within its jurisdiction:

(1) Has an average BLS official unemployment rate or hold harmless supplemental unemployment rate of at least 7 percent for the most recent three months for which data are available; and

(2) Has faced unusually severe hardship in its efforts to transition PSE participants into regular public or private employment not supported under the Act (sec. 122(h)(4)(B)).

(i) A temporary waiver of the 78 week limitation does not extend the 30 month limitation for total CETA participation except for participants hired prior to October 1, 1978, in which event the 30 month limitation shall be considered as waived as long as the PSE participant is in the same PSE position or another position with the same or lower wage rate.

(j) The Department will provide waivers, conditioned on transition plans and other requirements as specified in these regulations, to prime sponsors only for the purpose of affording additional time to transition, transfer, or otherwise terminate a limited number of the individuals who reach the limit of their PSE participation. As the waiver is provided to the prime sponsor for a specified number of participants, no specific individual shall be entitled to a waiver, or to a waiver of a specific period of time.

(k) A prime sponsor desiring a waiver of the 78 week limitation on PSE participation for itself or for any unit of general local government within its jurisdiction shall submit a written waiver request to the RA not more than 90, nor less than 60, days prior to the first day of the quarter during which the participants' 78 week limit occurs. Waiver requests must be submitted separately for each quarter in which a prime sponsor seeks a waiver. Every waiver request shall include:

(1) A description of the unusually severe hardships experienced by the prime sponsor in transitioning PSE participants;

(2) Local hiring patterns in the last 12 months of the employing and worksite agencies where PSE participants are working;

(3) A description of transition efforts which have already been undertaken;

(4) A description of the immediate efforts to be made to transition as many participants as possible prior to the beginning of the waiver period;

(5) A transition plan which specifies by quarter the number and groups of participants who will leave the PSE program through transition, transfer, or termination.

(i) Except for waivers described in paragraph (o) of this section, the plan shall not extend beyond 4 quarters following the quarter in which the participants' 78 week limit occurs. Prime sponsors shall take into account local circumstances in determining the number of quarters necessary to transition, transfer or otherwise terminate participants, i.e., in some areas prime sponsors may only need one or two quarters, while conditions in other areas may necessitate a three or four quarter plan.

(ii) Regardless of the number of quarters covered, plans must not show any participants remaining at the end of the last quarter of the plan and plans of more than one quarter must show some portion of individuals leaving the PSE program at the end of each quarter. Except where a subsequent waiver pursuant to paragraph (o) is granted, prime sponsors will be responsible for ensuring that no participant remains in the program more than one year after the date he/she reaches the 78 week limit.

(iii) Plans that cover four quarters must show no more than 35 percent of all participants covered by the waiver remaining at the end of the third quarter except as provided in paragraphs (k)(5)(iv) and (v) of this section.

(iv) Plans must show no more than 50% of the participants covered by the waiver remaining at the end of the third quarter if:

(A) The average BLS official unemployment rate or the hold harmless supplemental unemployment rate for the area for the most recent three months for which data are available is at least 9%;

(B) The employment growth rate for the area is generally lower than the national average; and the prime sponsor can demonstrate as part of its plan that:

(C) Projected economic conditions indicate a stagnant or worsening situation during the next 12 months;

(D) There are exceptional circumstances and employment barriers which impede in transitioning groups of participants covered by the waiver;

(E) There has been a good faith and full effort to transition participants; and

(F) Any other factors indicating extraordinarily severe transition difficulties.

(v) Plans must show no more than 80% of the participants covered by the waiver remaining at the end of the third quarter if the average BLS official unemployment rate or the hold harmless supplemental unemployment rate for the area for the most recent three months for which data are available is at least 12%, the employment growth rate for the area is generally lower than the national average, and the prime sponsor can demonstrate as part of its plan that it meets the conditions of paragraph (k)(5)(iv)(C–F) of this section.

(vi) In order to develop the plan, the prime sponsor shall group participants based on occupational or other categories determined on the basis of the difficulty of transitioning those groups of participants into unsubsidized employment. The prime sponsor shall then determine the length of time (e.g., number of quarters) necessary to transition each group. Prime sponsors are not, however, required to show all group members leaving the PSE program in any one quarter. Further, for the purpose of meeting its numerical goal, prime sponsors may count persons in other groups who are transitioned, transferred, or who otherwise leave the program.

(vii) The plan shall also describe the continuing efforts that will be taken to transition all the participants covered by the waiver as soon as possible.

(8) A description of consultation with appropriate labor organizations, as required in § 676.30(1)(2).

(l) *Comment and Publication.* (1) Ten days prior to submission of the waiver request to the RA the prime sponsor shall submit the waiver request to its planning council for review and comment. Simultaneously, the prime

sponsor, at a minimum, shall publish in a newspaper or newspapers of general circulation in the prime sponsor's area (including minority newspapers, where appropriate) a statement indicating the following information:

(i) The number of participants to be covered by the waiver;

(ii) The schedule for transitioning participants covered by the waiver;

(iii) The reason(s) for the waiver request;

(iv) The groups of participants to be covered by the waiver; and

(v) The location and hours where the complete waiver request can be reviewed and the address and phone number to which questions and comments may be directed.

(2) Prior to submission of the waiver request to the RA, the prime sponsor shall consult with appropriate labor organizations and obtain their comments and recommendations.

(3) Copies of the comments and recommendations of the planning council and appropriate labor organizations shall be submitted to the RA along with the waiver request, or, if the comments are received after the submission of the request, they may be sent separately to the RA.

(m)(1) The Department will approve or disapprove the waiver request based on a review of:

(i) The information required in paragraph (k) of this section;

(ii) The average BLS official unemployment rate or the hold harmless supplemental unemployment rate for the area for the most recent three months for which data are available; and

(iii) The employment growth rate for the most recent 12 months for which data is available.

(2) The RA, within 30 days of receipt of the waiver request, or the effective date of these regulations (August 10, 1979, 44 FR 47260), whichever is later, will notify the prime sponsor in writing of the Department's approval or disapproval and specific reasons for any disapproval. Any waiver approval will include a written condition that the prime sponsor is subject to disallowance of costs under its grant for noncompliance with terms of its approved waiver. All waiver approvals will also state that the prime sponsor must make continuing transition efforts on behalf of all participants. All waiver approvals shall be incorporated into the Annual Plan as a modification to the Annual Plan. No waiver request will be approved for the total number of PSE participants whose 78 week limit occurs in a quarter.

(3) If a waiver pursuant to § 676.30(i) is provided to a prime sponsor on behalf of a unit of general local government within its jurisdiction, only persons residing in that smaller area shall be eligible for a waiver.

(n)(1) Prime sponsors shall maintain as of the beginning of the period covered by the transition plan:

(i) A list of the names of the PSE participants covered by the waiver, and the original termination date of each such participant; and

(ii) A breakdown by significant segments of both the participants covered by the waiver and those that were terminated without a waiver.

(2) As an addendum to the Quarterly Program Status Summary, the prime sponsor shall furnish the total number of all waived participants who are transitioned, transferred, or otherwise terminated at the end of each quarter, and in the case of terminations, the group(s) of which the terminees were members.

(3) Prime sponsors shall maintain a list of the names of waived participants transitioned, transferred, or otherwise terminated during each quarter of the waiver period and the date that each left the PSE program.

(4) If the prime sponsor is unable to meet its numerical quarterly goal through transition and transfer efforts and normal attrition, then it will have to terminate participants. In undertaking terminations to meet its quarterly goal, the prime sponsor shall only terminate persons from those groups specified in the plan for that quarter.

(o) *Subsequent waivers.*

(1) Where waivers were initially approved for the four quarter period, the Department will consider granting subsequent waivers of up to 6 months beyond the approved waiver period only if:

(i) The waiver covers only PSE participants hired prior to October 1, 1978; and

(ii) The average unemployment rate for the area for each of the most recent 3 months for which data are available is significantly above the average national unemployment rate for the same period; and

(iii) The employment growth rate is significantly lower than the national average; and

(iv) The prime sponsor demonstrates extraordinarily difficult transition problems in its request for a subsequent waiver, based on consideration of criteria such as the following:

(A) The projected economic conditions and transition circumstances indicate a stagnant or worsening situation during the next 12 months;

(B) There is extreme difficulty in transitioning groups of participants being considered for subsequent waiver;

(C) There has been a good faith and full effort to transition participants;

(D) Only the allowable percentage of participants remain with the balance of participants having been transitioned, transferred or otherwise terminated by the end of the third quarter, and

(E) Any other factors indicating extraordinarily severe transition difficulties.

(2) The subsequent waiver request shall be submitted (i) for participants whose initial extension is through September 30, 1980, not more than 90 nor less than 60 days prior to September 30, 1980; and

(ii) for participants whose initial extension ends after September 30, 1980, not more than 90 nor less than 60 days prior to the beginning of the quarter in which their initial extension ends.

(3) The Department shall not grant a subsequent waiver for more than a limited number of the participants covered by the initial waiver request.

(4) The subsequent waiver request shall include the information required in paragraph (k) and paragraph (o)(1)(iv) of this section. The comment and publication procedures of paragraph (1) and the requirements of paragraph (n) shall also be applicable.

**§ 676.30a Procedures for serving specific target groups.**

(a) *General.* Recipients shall take appropriate steps to provide for the increased participation of qualified special disabled and Vietnam-era veterans with special emphasis on qualified veterans who served in the Indo-China theater on or after August 5, 1964, and on or before May 7, 1975, through assuring adequate training and employment opportunities for such veterans in their programs. Such steps shall include:

(1) Cooperative arrangements and programs with other agencies or programs (such as veterans' service organizations; VETS projects of the National League of Cities; veterans' cost of instruction programs; national and local organizations of business and labor community and mental health centers; the Veterans Administration and community-based veterans organizations) to provide comprehensive education, employment, training, outreach, job development, veterans' benefits counseling, and personal adjustment counseling.

(2) Creation, development, maintenance, or expansion of private sector veterans employment and training programs, such as special OJT

efforts for veterans, and cooperative programs using supplemental funding for eligible persons pursuing on-the-job training under Chapters 31 and 34, of Title 38, United States Code.

(3) Programs to facilitate effective placement of, and entry by, veterans into readjustment or employment programs.

(4) Programs or initiatives, such as split-work experience programs, claims presentation and discharge upgrading necessary to serve veterans (sec. 121(b)(2)).

(5) Prime sponsors shall make special efforts to acquaint veterans and veterans organizations with the employment and training opportunities available under CETA, and to coordinate efforts on behalf of veterans with those activities authorized under Chapter 31 of Title 38, U.S. Code (relating to job counseling and employment services to veterans), and other similar activities carried out by public agencies or organizations (sec. 121(b)(2)(B)).

(b) *Public service employment programs.* (1) Within a PSE program preference in enrollment shall be given to those who are the most severely disadvantaged in terms of length of unemployment and their prospects for finding unsubsidized employment (sec. 122(b)(1)).

(2)(i)(A) Recipients shall give special consideration in filling public service jobs to qualified public assistance recipients (or persons who would be eligible to receive public assistance according to established criteria if they would apply for such assistance).

(B ) Recipients shall give special consideration in filling public service jobs to special disabled and Vietnam-era veterans with special emphasis on those who served in the Indo-China theater on or after August 5, 1964, and on or before May 7, 1975 (sec. 122(b)). Special emphasis shall be given to the development of jobs which utilize the skills veterans acquired with their military service and training.

(ii) Special consideration shall at a minimum consist of the following:

(A) Outreach mechanisms;

(B) Special referral and selection mechanisms, which may include point systems for weighing applications; and

(C) Specific local goals for participation of target groups.

(iii) In providing special consideration, the prime sponsor shall take advantage of community resources to identify and reach specific target groups. The Master Plan shall specify the mechanism for providing special consideration and shall specify the involvement of SESA's and organizations representing the target groups in the design and implementation of these procedures.

(3)(i) Recipients shall provide special emphasis to eligible persons who are offenders, persons of limited English language proficiency, handicapped individuals, women, single parents, displaced homemakers, youth, older workers, and individuals who lack educational credentials (sec. 122(b)).

(ii) Such special emphasis shall include, but not be limited to, taking into consideration the needs of these groups when developing program services and activities, establishing outreach procedures to facilitate the participation of such groups and other steps as the recipient determines to be appropriate.

(iii) Special efforts (e.g., newspaper notices) shall be made to acquaint these groups with the services and activities available under the Act and to coordinate those efforts with other programs serving such persons (sec. 122(b)(3)(B)).

## Subpart C—Administrative Standards and Procedures

### § 676.31 General.

(a) This section describes Federal requirements relating to the administration of grants by recipients under CETA. Administrative requirements found in this subpart apply to all programs under the Act unless stated to the contrary for any specific program.

(b) As referenced in this subpart, the requirements set forth in 41 CFR Part 29–70, "Administrative Requirements Governing All Grants and Agreements by which Department of Labor Agencies award funds to State and local governments, Indian and Native American Entities, Public and Private Institutions of Higher Education and Hospitals, and other Quasi-Public and Private Nonprofit Organizations," shall apply to grants under CETA.

(1) The requirements in 41 CFR 29–70.1 set forth the policies which apply to all basic grants and agreements.

(2) The requirements in 41 CFR 29–70.2 implement OMB Circular Nos. A–102 and A–110, and apply to all CETA grants and agreements.

### § 676.32 Methods of payment to recipients of CETA funds.

Payments will be made to all recipients according to provisions in 41 CFR 29–70.210, "Grant or Agreement Payment Requirements."

### § 676.33 Depositories for CETA funds.

The standards covering the use of banks and other institutions as depositories for CETA funds are found at 41 CFR 29–70.201, "Cash Depositories."

### § 676.34 Management information systems.

(a) All recipients shall establish and maintain a financial management system which meets the standards set forth in 41 CFR 29–70.207, "Standards for Grantee Financial Management Systems." These systems will include audit procedures in conformance with the "Audit Requirements and Responsibilities" in 41 CFR 29–70.207.4 (sec. 103(a)(11), (sec. 133)).

(b)(1) *Audit Provisions.* The Secretary of Labor, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of recipients, subrecipients and contractors which are pertinent to a specific grant program under the Act for the purpose of making surveys, audits, examinations, excerpts, and transcripts (sec. 133).

(2) *Unified Audit.* Recipients may be required to participate in a unified audit. When the Secretary arranges for a unified audit to provide for the audit of both recipients and their respective subrecipients and contractors the following conditions will apply (sec. 106(j)):

(i) DOL staff or one audit agency, organization, or public accounting firm will be responsible for the audit of each recipient, its subrecipients and contractors.

(ii) A common audit cutoff date through the end of a Federal fiscal year will be used for the recipient and all subrecipients and contractors of that recipient.

(iii) Sufficient audits will be made of the subrecipients and contractors as well as the recipient to allow the audit entity to render an opinion on the CETA financial reports of the recipient and on its compliance with regulations. Audits of subrecipients and contractors shall be conducted on a sample basis.

(iv) If the DOL has notified the recipient that it has arranged for a unified audit three months before the end of the earliest fiscal year to be audited, the recipient shall pay out of CETA administrative funds for that portion of the audit costs allocable to its subrecipients and contractors. The method of allocation used will be decided on an individual basis by mutual agreement between the Office of the Inspector General (OIG) and the recipient.

(c) All recipients shall establish and maintain a client tracking system consisting of records on applicants, participants and terminees which will

allow for the audit and monitoring of the recipient's programs, particularly with respect to the eligibility of participants and the propriety of participant selection procedures and practices (sec. 103(a)(11)).

(d) Procedures for establishing additional management controls are specified in § 676.22 (Program Management Systems) and § 676.75 (Fraud and Program Abuse).

**§ 676.35 Retention of records.**

(a) All records, reports, documents and files required under these regulations shall be the responsibility of the recipient. Retention of and access to those records, reports, documents and files shall be as provided for at 41 CFR 29–70.203, "Retention of and Custodial Requirements for Records" (sec. 133(a)(1)).

(b) Notwithstanding paragraph (a) of this section, the recipient shall maintain a record of each participant's participation in a CETA program, including dates of entry and termination in each activity; and shall retain such records for each participant for a period of five years from the date of enrollment into the program.

(c) Financial records relating to public service employment programs and records of the names, addresses, positions and salaries of all persons employed in public service jobs shall be maintained and made available to the public (sec. 122(g)).

**§ 676.36 Program income.**

(a) Except as provided in paragraph (b) of this section, all income realized in CETA activities shall be subject to 41 CFR 29–70.205, "Program Income and Interest Earned."

(b) A recipient or subrecipient, during the grant or agreement period and for the periods specified in paragraphs (c) and (d) of this section shall apply any income generated under a Youth Community Conservation and Improvement Project (YCCIP) to costs of the project. However, if, at the end of the grant or agreement period the project is not continued, the recipient or subrecipient may use program income for any approved activity under its CETA grant pursuant to paragraphs (c) and (d) of this section.

(c) The recipient may use program income generated in an approved activity under CETA grants or agreements other than YCCIP during the grant or agreement period and for 2 years thereafter to carry out any CETA activity authorized under the former grant or agreement. The grant officer may require the recipient to account for the expenditure of such income for a period not to exceed 2 years from the expiration date of the Annual Plan (or grant, agreement, subgrant, or subagreement, as appropriate). After the 2-year period, the recipient shall return the balance of any unexpended program income to DOL (sec. 123(h)).

(d) A subrecipient may use program income generated in an approved activity under CETA grants or agreements other than YCCIP during the grant or agreement period and for one year thereafter to carry out any CETA activity authorized under the former grant or agreement. Recipients shall require subrecipients to report the expenditures of such income. Any income still unexpended by any subrecipient one year from the expiration of financial assistance to the subrecipient shall be returned to the recipient to continue any CETA activity (sec. 123(h)).

**§ 676.37 Recipient contracts and subgrants.**

(a) *Recipient responsibility.* (1) The recipient is responsible for development, approval and operation of all contracts and subgrants and shall require that its contractors and subrecipients adhere to the requirements of the Act, regulations promulgated under the Act, and other applicable laws.

(2) The recipient shall require contractors and subrecipients to maintain effective control and accountability over all funds, property and other assets covered by the contract or subgrant.

(3) The recipient shall ensure that contractors and subrecipients maintain and make available for review by the recipient and the Department of Labor all records pertaining to the operations of programs under such contracts and subgrants, consistent with the maintenance and retention of record requirements.

(4) Subrecipients are entitled to funding for administrative costs. The amount of such funding will be determined during the development of subgrants.

(5) Recipients shall comply with the procurement systems and procedures found in 41 CFR 29–70.216, "Procurement Standards."

(b) In the event an agreement or subgrant is cancelled, in whole or in part, the recipient shall develop procedures for ensuring continuity of service to participants.

(c) Recipients are authorized to enter into contracts or subgrants which extend past the expiration date of the Annual Plan, but such extension shall not exceed 1 year. In such cases, the recipient shall continue to be responsible for the administration of such contracts and subgrants.

(d) Small and minority-owned businesses, including small businesses owned by women, within the jurisdiction of the prime sponsor and to the extent necessary to those in other parts of the labor market area, shall be provided maximum reasonable opportunity to compete for contracts for supplies and services. One means to provide for this is the use of set-asides (sec. 121(k)).

(e) Prime sponsors shall maintain an inventory of potentially available deliverers of services, including their names, addresses and types of services offered, which have expressed an interest in writing, and use this inventory to select such deliverers of services. This inventory shall be available for public review (sec. 103(a)(3)(B)).

(f) Selection of deliverers shall be in accordance with § 676.23.

**§ 676.38 Requirements for contracts with nongovernmental organizations.**

(a) No funds will be paid to any nongovernmental organization for the conduct of programs (other than under Title VII or on-the-job training) under the Act unless:

(1) It has submitted an acceptable proposal;

(2) Selection is performed on a merit basis after thorough review by the prime sponsor, or Secretary as appropriate;

(3) It has not been seriously deficient in its conduct of, or participation in, any Department of Labor program in the past, or is not a successor organization to one that was seriously deficient in the past, unless the Secretary certifies after a clear, convincing and detailed showing that the deficiencies will be eliminated and performance substantially improved;

(4) A comprehensive monitoring system operated in accordance with § 676.75–2 is in effect;

(5) It has the administrative capability to perform effectively (sec. 121(o)).

(b) No funds will be paid to any nongovernmental organization for the conduct of on-the-job training and Title VII programs under the Act unless:

(1) Payment is supported by a written agreement which has been evaluated and found acceptable against standards established by the recipient;

(2) It has not been seriously deficient in its conduct of, or participation in, any Department of Labor program in the past, or is not a successor organization to one that was seriously deficient in the past, unless the Secretary certifies after a clear, convincing and detailed showing that the deficiencies will be

eliminated and performance substantially improved.

**§ 676.39 Property management standards.**

Recipients shall comply with the property management standards set forth in 41 CFR 29-70.215.

**§ 676.40 Allowable costs.**

(a) *General.* To be allowable, a cost must be necessary and reasonable for proper and efficient administration of the program, be allocable thereto under these principles, and, except as specifically provided herein, not be a general expense required to carry out the overall responsibilities of the recipient.

(b) *Direct costs.* Direct costs are those that can be identified specifically with a particular cost objective. These costs may be charged directly to grants, contracts or to other programs against which costs are finally lodged. Direct costs may also be charged to cost objectives used for the accumulation of costs pending distribution in due course to grants and other ultimate cost objectives.

(c) *Indirect costs.* (1) Indirect costs are those:

(i) Incurred for a common or joint purpose benefitting more than one cost objective; and

(ii) Not readily assignable to the cost objectives specifically benefited, without effort disproportionate to the results achieved. The term "indirect costs," as used herein, applies to costs of this type originating in the recipient entity, as well as those incurred by other entities in supplying goods, services, and facilities, to the recipient.

(2) Only the indirect cost rate approved by the cognizant Federal agency may be used by the recipient in determining indirect costs properly chargeable to CETA. The cognizant Federal agency is the Federal agency designated to determine the indirect cost rate or rates on behalf of all Federal agencies which award financial assistance to the recipient. These rates are negotiated on the basis of equity, reasonableness, allocability and allowability of costs.

(d) *Restrictions on use of funds.* (1) The amount of funds available for any specific cost category or activity shall be limited as specified in the regulations for the specific programs.

(2) Funds made available through one grant or Annual Plan subpart may not be used to support costs properly chargeable to another grant or Annual Plan subpart with the exception that funds available for administration shall be pooled under a separate subpart and used to cover all allowable administrative costs incurred under the Annual Plan (sec. 123(f)).

**§ 676.40-1 Allowable CETA costs.**

(a) Except as modified by these regulations, the cost principles to be used in determining allowable CETA costs are referenced in 41 CFR 29-70.103 "Cost Principles."

(b) CETA funds may be used to satisfy cost sharing or matching requirements where authorized by Federal law, other than CETA, when seeking other Federal funds and shall be subject to the provisions of 41 CFR 29-70.206, "Matching Share."

(c) Funds may be used for construction activities only to:

(1) Pay wages and fringe benefits for participants employed by public or private non-profit agencies;

(2) Purchase equipment, materials, and supplies for use by participants while on the job and for use in the training of such participants;

(3) Cover costs of a training program in a construction occupation, including costs such as instructors' salaries, training tools, books, and allowances and wages (sec. 123(c));

(4) Cover costs of materials and supplies, in Titles II D and VI projects, weatherization activities and Youth Community Conservation and Improvement Projects, which become part of the construction. Such costs shall be charged to the Administration cost category.

(d) Costs associated with building repairs, maintenance, and capital improvements of existing facilities used primarily for programs under the Act are allowable.

(e) The costs of home repair, weatherization and rehabilitation are allowable when:

(1)(i) The work is performed on dwellings of individuals whose family income is at or below 125 percent of the poverty level and which are privately owned and owner occupied, privately owned by a nonprofit organization or are units of public housing; or

(ii) The work is performed in weatherization projects funded by the Community Services Administration pursuant to section 222(a)(5) of the Economic Opportunity Act of 1964, 42 U.S.C. section 2809, or the Department of Energy pursuant to Title IV of the Energy Conservation and Production Act of 1976, 42 U.S.C. section 6850; or

(iii) The work is performed in rehabilitation projects of housing for lower income families as defined in section 8(f)(1) of the United States Housing Act of 1937 as part of community revitalization or stabilization projects (sec. 123(c)(4)); and

(2) Such activities are supervised by an adequate number of supervisory personnel who are adequately trained in the skills needed to carry out such activities and to instruct participants in the skills needed to perform in the work involved (sec. 123(c)).

(f) Recipients shall not use funds under the Act to assist an establishment in relocating from one area to another, or locating new branches, subsidiaries, or affiliates, including participants in such establishment, nor shall they use funds under the Act in training programs in an establishment which has relocated within the past one year, when such relocation or location has resulted in an increase in unemployment in the area of original location or any other area (sec. 121(e)(4)).

(g) Unemployment compensation costs are allowable for administrative staff hired in accordance with the administrative provisions of the regulations, and for participants required by § 676.27(c) to be covered for unemployment compensation purposes; except that such costs shall not be allowable for PSE participants to the extent that unemployment compensation paid to them is reimbursable under Part B of Title II of the Emergency Jobs and Unemployment Assistance Act of 1974 (Pub. L. 93-567, as amended by sec. 6 of Pub. L. 94-444, 26 U.S.C. section 3304 note).

(h) CETA funds may be used to pay the cost of incorporating a private-nonprofit PIC or consortium administrative unit for the purpose of carrying out programs under the Act. These costs shall be charged to administration.

**§ 676.40-2 Administration and travel costs.**

(a) The administrative cost contribution shall not exceed 20 percent of the total allocation for each Annual Plan Subpart other than Title II D, Title VI, the Youth Community Conservation and Improvement Projects and the Special Governor's Grant unless the Program Narrative Description set forth an explanation of how all administrative costs have been determined and a detailed documentation to support that amount. The restriction on the contribution of funds to the Administrative Annual Plan Subpart for Title II D and Title VI programs is set forth in § 677.58(a) and §678.8(b)(1)(iii). The restriction on the contribution of administrative funds in the Youth Community Conservation and Improvement Projects is set forth in Part 680. Administrative cost contribution limitations for Title VII programs are found in Part 679 and for Special

Governor's Grant programs in Part 677 Subpart D.

(b) No funds made available for administrative costs under any Title of the Act may be used by a prime sponsor for legal or other associated services from contractors unless the prime sponsor certifies in writing that:

(1) The payments are not unreasonable in relation to the fees charged by other contractors providing similar services; and

(2) The services could not be competently provided through employees of the prime sponsor or other available State or local governmental employees (sec. 123(f)(2)).

(c) The cost of participant travel and staff travel necessary for the operation or administration of programs under the Act is allowed as provided herein:

(1) Travel costs of governmental officials not part of the Office of the Governor of a State or the Chief executive of a political subdivision are allowable if costs specifically relate to programs under the Act. Travel costs of the Governor of a State or chief executive of a political subdivision (and their immediate staff who do not have continuing CETA programmatic responsibilities), are allowable only if travel specifically relates to programs or activities under the Act, and is approved in advance by the RA. These costs shall be charged to administration.

(2) Travel costs for CETA administrative staff including participants in administrative positions, are allowable when the travel is specifically related to the operation of programs under the Act.

(3) Travel costs for participants using their personal automobiles in the performance of their jobs are allowable if the employing agency normally reimburses its other employees in this manner. Such costs shall be charged to fringe benefits.

(4) Travel costs to enable participants to participate in programs under the Act are allowable. Such travel shall be restricted to the recipient's jurisdiction or within daily commuting distance, except:

(i) To pay for transportation costs at the beginning and end of a training course which is more than daily commuting distance but within the State in which the recipient is located;

(ii) As permitted for good cause by the RA, on a case-by-case basis, within the U.S.

**§ 676.41 CETA cost allocation.**

Allowable costs shall be charged against the following cost categories: Administration; wages; training; fringe benefits; allowances; and services.

(a) Costs are allocable to a particular cost category to the extent that benefits are received by such category.

(b) All recipients are required to plan, control, and report expenditures against the aforementioned cost categories.

(c) All recipients are responsible for ensuring that subrecipients and contractors plan, control, and report expenditures against the aforementioned cost categories.

**§ 676.41-1 Classification of costs by category.**

(a) Participants' wages shall be charged to wages. All wages paid to participants in public service employment, work experience, classroom training, employment and training services, or supportive services shall be reported as wages. Cost-of-living increases are considered wages.

(b) Participants' fringe benefits shall be charged to fringe benefits. Fringe benefits costs for participants include, but are not limited to, the following: provisions for annual, sick, court and military leave pursuant to an approved leave system; employees' life and health insurance plans, unemployment insurance, workers' compensation insurance and retirement benefits; and, under public service employment programs, uniforms, tools, or other equipment ordinarily provided by the employer to its regular employees, provided these are for the benefit and ownership of the participants.

(c) Allowances shall be charged to allowances.

(d) Training costs consisting of goods and services which directly and immediately affect program participants in either a work environment or classroom setting including classroom training in conjunction with Vocational Exploration programs shall be charged to training. Training costs include, but are not limited to, the following: Salaries; fringe benefits; equipment and supplies of personnel engaged in providing training; books and other teaching aids; equipment and materials used in providing training to participants; classroom space and utility costs; and that part of tuition and entrance fees which represent instructional costs which have a direct and immediate impact on participants. The compensation of individuals who both instruct and supervise other instructors must be prorated among the training and administration cost categories on the basis of time records or other equitable means. Similarly, tuition fees, and the costs of supplies used in the course of both participant instruction and other activities should be prorated among the benefiting uses.

(e) Supportive, and employment and training service costs, which consist of goods and services which affect program participants, shall be charged to services. Services costs include, but are not limited to, salaries and fringe benefits; space, utility, equipment and travel costs, when an integral part of the individual's job is in providing services to participants; and that part of single unit charges for child care, health care and other services which represent only the costs of services directly beneficial to participants. Transportation of participants, as provided in § 676.40-2(c)(4), is properly chargeable to services.

(f) Administrative costs shall consist of all direct and indirect costs associated with the management of the program. These costs shall include the administrative costs, both direct and indirect, of subrecipients and contractors. Administrative costs shall be limited to those necessary to effectively operate the program:

(1) Indirect administrative costs represent the general management and support functions of an organization as well as secondary management and support functions at the bureau or division level. Included are salaries and fringe benefits of personnel engaged in executive, fiscal, personnel, legal, audit, procurement, data processing, communications, maintenance, and similar function; related materials, supplies, equipment, office space costs, and staff training.

(2) Direct administrative costs are comprised of goods and services which neither contribute to the general management and support functions of an organization, nor directly and immediately affect participants (e.g. training costs). Included are salaries and fringe benefits of direct program administrative positions such as supervisors, program analysts, labor market analysts, and project directors. Additionally, all cost of clerical personnel, materials, supplies, equipment, space, utilities, and travel which are identifiable with these program administration positions shall be charged to administration. Some examples of administrative costs are: The salary of a clerical assistant to a supervisor; that part of an instructor's salary representing time spent supervising other instructors; desk top supplies used by supervisors; and, in general, office administration, rent, depreciation or maintenance of nonclassroom space; staff training; consultant services under contract not involving direct training or services to participants; costs incurred in the

establishment and maintenance of a planning or advisory council under CETA, or in publishing a grant application; and costs of monitoring and providing technical assistance to contractors and subrecipients.

(3) Services normally chargeable to administration shall be charged to wages or fringe benefits, as appropriate, when performed by program participants.

**§ 676.41-2 Allocation of fixed unit charge.**

(a) When contractors or subrecipients bill the recipient with a single unit charge containing costs which are chargeable to more than one cost category, the recipient will charge these costs to the cost categories in § 676.41 (CETA Cost Allocation). For unit charges such as tuition fees for which the necessary detail cannot be provided, a reasonable estimate of the breakdown of the single unit charge among cost categories in § 676.41 will be sufficient, including for audit purposes. When such unit charges are normally billed as a single charge and the cumulative amount of such charges does not exceed $25,000 within the Annual Plan year, proration will not be required. These costs may be charged to the category receiving the most benefit.

(b) Costs which are billed as a single unit charge do not have to be allocated or prorated among the several cost categories but may be charged entirely to training when the agreement:

(1) Is for classroom training;

(2) Is fixed unit price; and

(3) Stipulates that full payment for the full unit price will be made only upon completion of training by a participant and placement of the participant into unsubsidized employment in the occupation trained for and at not less than the wage specified in the agreement.

(c) The provisions of this section shall not apply to vendors selling or leasing equipment and attendant services at a commercially established rate to recipients or subrecipients.

(d) In the case of multiuse equipment there must be a proration of costs or, if there is a predominant usage relating to one cost category, a charge shall be made to that category.

(e) Any single cost, such as staff salaries or fringe benefits, which is properly chargeable to more than one cost category shall be prorated among the affected categories.

(f) Any profit or loss may be prorated among all affected cost categories.

**§ 676.41-3 Cost categories assignable to program activities.**

(a) Classroom training. Cost categories are: training; allowances; services; wages when paid to participants during classroom training; and fringe benefits (medical and accident insurance for participants only).

(b) On-the-job training. Cost categories are: training and services.

(c) Public service employment. Cost categories are: wages; fringe benefits; services; allowances; and training.

(d) Work experience. Cost categories are: training; services; wages; and fringe benefits.

(e) Services to participants (not part of another program activity). Cost categories are: allowances; fringe benefits (medical and accident insurance for participants only); training (when provided under VEP); and services.

(f) Other activities. Cost categories are: training; allowances; and services.

**§ 676.42 Administrative annual plan subpart.**

(a) All administrative funds from all Annual Plan subparts shall be contained in a separate Administrative Annual Plan Subpart unless specifically exempted by regulations or grant agreement. The amount each subpart contributes to the Administrative Subpart shall not exceed the limits set in §§ 676.40-2(a), 677.58 (a) and (b), 678.8(b)(1)(iii), and 680 (sec. 123(f)(1)).

(b) The Administrative Annual Plan Subpart shall consist of the following:

(1) Budget Information Summary (BIS). Provide on the BIS the proposed administrative costs for the program year. This shall include the sum of the contributions from all subparts under the Annual Plan.

(2) Budget Information Summary Backup. List separately on this attachment to the BIS each Annual Plan Subpart and the amount it contributed to the administration pool.

(c) When the Administrative Annual Plan Subpart is approved, the funds may be expended for allowable administrative costs. There is no requirement that administrative costs be allocated back to title or program activity.

(d) The Administrative Annual Plan Subpart may be modified during the program year. The amount of funds in the subpart may be decreased with the funds going back to the program subparts provided that no program subpart receives back more than it contributed to the Administrative Subpart. The Administrative Subpart may also be increased up to the percent allowed by the regulations for each program. All modifications to the Administrative Subpart must be submitted to the RA for prior approval.

(e) At the end of a program year unexpended administrative funds may be carried over into the subpart for the subsequent program year or they may be returned to the program subparts. In the new program year the amount of new funds which will go into the Administrative Annual Plan Subpart will be determined by using only the new allocation.

**§ 676.43 Administrative staff and personnel standards.**

(a) *Basic Personnel Standards.* (1) Methods of personnel administration will be established and maintained in public agencies administering a program under the Act in conformity with the Standards for a Merit System of Personnel Administration, which incorporate the Intergovernmental Personnel Act Merit Principles prescribed by the Office of Personnel Management in 5 CFR, Part 900, Subpart F.

(2)(i) Except as provided in paragraph (a)(3) of this section, any prime sponsor whose administrative staff is not covered under a personnel system that meets 5 CFR, Part 900, Subpart F shall develop a plan outlining corrective actions to be taken and reasonable dates for implementing those steps within the grant year. The Office of Personnel Management will advise the RA as to the acceptability of the plan.

(ii) Recipients whose personnel systems have been accepted by the U.S. Office of Personnel Management as being in conformity with the Standards for a Merit System of Personnel Administration, 5 CFR Part 900, Subpart F, shall be deemed to be in compliance with this section.

(3) The following are not subject to the requirements of paragraphs (a)(1) and (2) of this section:

(i) Any subrecipient or nongovernmental recipient;

(ii) A consortium administrative unit which is not a unit of government;

(iii) Employees of the recipient not engaged in the administration or operation of programs under the Act.

(4) Units whose staff are exempt under paragraph (a)(3) of this section shall ensure equal employment opportunity based on objective personnel policies and practices for recruitment, selection, promotion, classification, compensation, performance evaluation, and employee-management relations. Such units may be asked to demonstrate adherence to the objectives of this paragraph by

submittal of a personnel action plan similar to that outlined in 5 CFR, Part 900, Subpart F. These plans may be requested at the discretion of the RA.

(b) *Bonding.* Every officer, director, agent or employee of a recipient or subrecipient of CETA funds on a cash advance basis, who is authorized to act on behalf of a recipient or subrecipient for the purpose of receiving or depositing funds into program accounts or issuing financial documents, checks or other instruments of payment for program costs, shall be bonded to provide protection against loss. The provisions of the bonding arrangements shall be included in the description of the administrative systems in the Master Plan or grant application. The amount of coverage shall be the lower of the following:

(1) $100,000; or

(2) The highest advance received through check or drawdown during the preceding grant year, or for new recipients, the highest advance through check or drawdown planned for the present grant year (sec. 134).

**§ 676.44 Reporting requirements for prime sponsors.**

(a) Each prime sponsor shall submit five periodic reports which will be used by the Secretary to assess its performance in carrying out the objectives of the Act. Reports 1, 2 and 3 of this section shall be prepared to coincide with the ending dates of Federal fiscal year quarters. These five reports are:

(1) The Program Status Summary (sec. 127(d)(1);

(2) The Financial Status Report (sec. 127(d)(3);

(3) The Quarterly Summary of Participant Characteristics (sec. 127(d)(2));

(4) Annual CETA Program Activity Summary (sec. 127(d)); and

(5) Annual Report of Detailed Characteristics (sec. 127(d)).

Prime sponsors may from time to time be required to prepare and submit additional reports requested by DOL and other Federal agencies for the performance of the legal responsibilities of these agencies. Detailed descriptions of the five reports are in the *Forms Preparation Handbook.*

(b) The Periodic reports shall be sent by the prime sponsor to be received by the RA no later than 30 days after the end of the reporting period. The annual reports shall be sent to arrive no later than 60 days after the end of the fiscal year.

(c) Separate reports will be required for each Annual Plan Subpart.

**§ 676.45 Annual plan subpart settlement procedures; termination of master plan.**

(a) The settlement of an Annual Plan Subpart is the process by which the Department of Labor determines that all applicable administrative actions and all required work of the Annual Plan Subpart have been completed by the prime sponsor and DOL.

(b) The RA shall determine, from the best information available, for each expiring Annual Plan Subpart:

(1) Total fund availability;

(2) Estimated accrued expenditures;

(3) Estimated carryout.

(c) The RA shall issue a Notice of Fund Availability to transfer estimated carryout from the previous Annual Plan Subpart. A second Notice of Fund Availability shall be issued by the RA to transfer the carryout into the new Annual Plan Subpart.

(d) By a date specified by the RA, each recipient shall submit a final Financial Status Report for each of the previous year's Annual Plan Subparts.

(e) If the final reports are acceptable, the RA shall effect a preliminary settlement by transferring remaining funds into the current year's Annual Plan Subpart. Final settlement of expired Annual Plan Subparts shall not be complete until an audit has been performed, audit findings have been resolved, and final reports have been submitted.

(f) End of the Master Plan. The Master Plan shall terminate only if:

(1) All activity under the Annual Plan has been completed or the Annual Plan has been terminated and final settlement of the Annual Plan, including an inventory settlement, has been reached; or

(2) The Master Plan is a multiparty agreement and one or more signatory parties has legally withdrawn from or been added to the agreement and an inventory settlement under the Master Plan has been reached.

**§ 676.46 Secretary's responsibilities.**

(a) As used in this section, the term "assessment" refers to the Federal review of the performance of individual recipients and the term "evaluation" refers to the Federal study of overall effectiveness and impact of programs and activities under the Act.

(b) The Secretary shall provide for the continuing assessment and evaluation of all programs, activities, and research and demonstration projects including their cost effectiveness in achieving the purposes of the Act, their impact on communities and participants, their implication for related programs, the extent to which they meet the needs of persons by age, sex. race, and national origin, and the adequacy of the mechanism for the delivery of services. In conducting evaluations the Secretary shall compare the effectiveness of programs conducted by prime sponsors of the same class and of different classes, and shall compare the effectiveness of programs conducted by prime sponsors with similar programs carried out by the Secretary under the Act. The Secretary shall also arrange for obtaining the opinions of participants about the strengths and weaknesses of the programs (sec. 313(a)).

(c) To carry out these responsibilities, special reports may be requested from recipients, as deemed necessary and appropriate by the Secretary (sec. 133(a)(1)).

**§ 676.47 Reallocation of funds based on nonutilization.**

(a) The RA may reallocate any amount of any allocation under the Act to the extent that it is determined that a recipient will not be able to use such amount within a reasonable period of time.

(b) When the Department reallocates funds, the Department shall not consider as nonutilization a carryover into the next fiscal year by a prime sponsor of up to 10 percent of its annual allocation for each Annual Plan Subpart.

(c) When the RA determines that a reallocation from a prime sponsor is appropriate, the prime sponsor, the general public, and the appropriate Governor shall be given a notice of proposed action to remove funds from the grant. Such notice shall include specific reasons for the action being taken and shall invite the prime sponsor, the appropriate Governor, and general public to submit comments on the proposed reallocation of funds. These comments shall be submitted to the RA within 30 days from the date of the notice. After considering any comments timely submitted, the RA shall notify the Governor and affected prime sponsors on any decision to reallocate funds and shall have any such decision published in the Federal Register (sec. 108(b)(1) and (2)).

(d) The procedures set out in this section are in lieu of any other procedures which might otherwise be applicable under the Complaints and Sanctions provisions in Subpart F.

(e) In reallocating funds from the prime sponsor, priority shall be given first to other prime sponsors within the same State and second to prime sponsors within other States. In determining where to reallocate funds, consideration should be given the number of unemployed individuals in the area as well as the ability of the

prime sponsor to effectively utilize any reallocated funds (sec. 108(b)(3)).

## Subpart D—Nondiscrimination; Equal Opportunity; Equitable Service and Affirmative Action

### § 676.51 General.

This subpart sets out the Department of Labor's regulations for insuring that discrimination prohibited by section 132 of the Act does not occur in any CETA programs. The subpart also implements various equal opportunity and equitable provision of service requirements in the Act and sets forth affirmative action provisions which implement these requirements.

### § 676.52 Nondiscrimination and equal opportunity.

(a) No person shall, on the ground of race, color, religion, sex, national origin, age, handicap, or political affiliation or belief, be discriminated against, or denied employment as a participant, administrator, or staff person, in connection with any program under the Act. No participant under the Act shall be discriminated against by reason of citizenship. Participation shall be open to citizens and nationals of the United States, lawfully admitted resident aliens, and lawfully admitted refugees and parolees. Such discrimination is covered by this Subpart and the procedures for handling discrimination complaints in § 676.86(f)(9) (sec. 132(e)). Recipients shall also comply with the Department of Labor's nondiscrimination requirements at 29 CFR Part 31 and subsequent amendments thereto. The 29 CFR Part 31 regulations are currently being revised to implement section 132 of the Act, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, as amended, the Age Discrimination Act of 1975, as amended and Title IX of the Education Amendments of 1972, as amended. The Department's proposed regulations under Section 504 of the rehabilitation Act, published for comment on January 4, 1980 (45 FR 1392), will be incorporated into the revised 29 CFR Part 31.

(b) All programs, to the maximum extent feasible, shall contribute to the elimination of sex stereotyping. Prime sponsors, in planning their program activities, shall:

(1) Recruit for, and encourage, female entry, through such means as training, into occupations with skill shortages where women represent less than 25 percent of the labor force; and

(2) Recruit for, and encourage, male entry, through such means as training, into occupations with skill shortages where men represent less than 25 percent of the labor force.

(c) All programs shall contribute to the maximum extent feasible to the elimination of architectural barriers (sec. 121(a)(4) and (5)).

(d)(1) No person shall be denied training or employment in any program because of artificial barriers to employment.

(2) Prime sponsors shall analyze and reevaluate job descriptions and qualification requirements at all levels of employment, including civil service requirements and practices relating thereto, with a view toward removing artificial barriers to public service employment, as defined in § 675.4 (sec. 122(f)).

(3) Where tests or selection procedures have an adverse impact on any race, sex, or national origin group in the selection of participants or staff, such tests or selection procedures shall be validated in accordance with the Uniform Guidelines on Employee Selection Procedures (41 CFR Part 60–3). Tests or selection procedures which have been validated shall not be considered to be artificial barriers to employment.

(e) Prime sponsors shall establish procedures to ensure against discrimination and foster equal opportunity.

(f) Each prime sponsor shall assign equal opportunity (EO) responsibilities on a full-time basis to an individual or staff, or if this is not practicable, explain why in the Master Plan.

(g) Members of the eligible population shall be provided maximum feasible opportunities for employment in the administration of programs, including staff positions in which they will have opportunities for occupational training and career advancement.

### § 676.53 Equitable provision of services to significant segments of the eligible population.

(a) CETA recipients shall provide employment and training opportunities on an equitable basis to significant segments of the eligible population (age, race, sex, or national origin group) (sec. 121(b)(1)).

(b) When planning and developing employment and training opportunities, prime sponsors shall first set planned service levels, taking into consideration the age, race, sex, and national origin composition of the eligible population. Whenever giving affirmative action to handicapped individuals, or members of other groups, or giving special consideration to Vietnam-Era and special disabled veterans and public assistance recipients, giving special emphasis to groups such as the target groups set forth in the Act, or otherwise serving those most in need will result in service to a significant segment at a level more or less than the incidence of persons in that significant segment in the total eligible population, the prime sponsor's Annual Plan shall provide adequate justification, including an explanation of how the make-up of the target groups by age, race, sex, and national origin will impact on the overall service levels by age, race, sex, and national origin. Prime sponsors may design program and services to assist specific target groups.

(c) The recipient shall take positive steps, such as active recruitment and other affirmative action efforts as described in § 676.54, ensure that the planned levels of participation are realized. If service levels by prime sponsors to a significant segment (age, race, sex, or national origin group) differ by more than 15 percent from the levels set forth in the approved CETP, the RA shall require corrective action of any prime sponsor which is not able to adequately justify the variance.

### § 676.54 Affirmative action.

(a) Each recipient shall take affirmative action to recruit and hire qualified staff who will reflect the significant segments of the population residing in the area by age, race, sex and national origin (sec. 121(b)(1)(B)). See generally the EEOC's Affirmative Action Guidelines 44 FR 4426, January 19, 1979.

(b) Each recipient shall establish an affirmative action plan for outreach to, and training, placement, and advancement of, handicapped individuals in employment and training programs under the Act. Such an affirmative action plan shall be described in the Annual Plan or grant application (sec. 103(b)(15)). In identifying and removing architectural barriers, recipients shall be guided by the standards of American National Standards Institute (ANSI).

(c) Any recipient, which has been determined by DOL or another Federal, State or local government agency to have discriminated in its CETA program, shall take affirmative action to overcome the effects of that discrimination. Other recipients are also encouraged to undertake affirmative action in order to increase the participation of previously underrepresented groups, to ensure that planned levels of participation are realized or as one of the mechanisms described in the Master Plan to ensure nondiscrimination and foster equal opportunity and equitable provision of

services (676.10(c) and (h)). As one recommended means of ensuring nondiscrimination and equal opportunity, prime sponsors may require subrecipients and contractors to prepare affirmative action plans for CETA participants and CETA administrative staff.

(d) The affirmative action plans referred to in paragraphs (a), (b) and (c) of this section shall include as a minimum:

(1) The development and implementation of specific steps, including the assignment of management responsibility, to achieve objectives within specific timeframes, e.g., special recruitment efforts, test validation, job analysis, display of EEO posters, identification of artificial barriers to employment and development of upward mobility programs.

(2) The establishment of monitoring and evaluation procedures to measure progress in meeting the goals of the affirmative action plan within the projected timeframes;

(3) Internal dissemination of an affirmative action policy statement to all CETA management officials, staff, and participants, and external dissemination of the statement to community groups, community-based organizations, minority and women's organizations, and the general public;

(4) Written documentation that subgrantees and contractors are aware of the affirmative action plan including the specific staffing and service goals; and

(5) Placement of advertisements regarding programs in minority owned or operated newspapers and magazines.

## Subpart E—Prevention of Fraud and Program Abuse

### § 676.61 General.

(a) To ensure the integrity of the CETA programs, special efforts are necessary to prevent fraud and other program abuses. Fraud includes deceitful practices and intentional misconduct, such as willful misrepresentation in accounting for the use of program funds. "Abuse" is a general term which encompasses improper conduct which may or may not be fraudulent in nature. While any violation of the Act or regulations may constitute fraud or program abuse, this Subpart E identifies and addresses those specific program problems which were of most concern to the Congress during the reauthorization of CETA.

(b) This Subpart sets forth specific responsibilities of recipients and subrecipients and of the Secretary to prevent fraud and program abuse in CETA programs.

### § 676.62 Conflict of interest.

(a) No member of any council under the Act shall cast a vote on any matter which has a direct bearing on services to be provided by that member or any organization which such member directly represents or on any matter which would financially benefit such member or any organization such member represents (sec. 121(h)(2)). However, members of the PIC may vote on the title VII Annual Plan subpart even if that subpart provides funds to the PIC.

(b) Each recipient and subrecipient shall avoid organizational conflict of interest, and their personnel shall avoid personal conflict of interest and appearance of conflict of interest in awarding financial assistance, and in the conduct of procurement activities involving funds under the Act, in accordance with the code of conduct requirements for financial assistance programs set forth in 41 CFR 29–70.216–4 (sec. 123(g)).

(c) Neither the Secretary nor any recipient or subrecipient shall pay funds under the Act to any nongovernmental individual, institution or organization to conduct an evaluation of any program under the Act if such individual, institution or organization is associated with that program as a consultant or technical advisor (sec. 121(h)(1)).

### § 676.63 Kickbacks.

No officer, employee or agent of any recipient or subrecipient shall solicit or accept gratuities, favors or anything of monetary value from any actual or potential subrecipient or contractor (sec. 123(g) and 41 CFR 29–70.216–4).

### § 676.64 Commingling of funds.

Recipients shall comply with the applicable requirements of 41 CFR 29–70.201–2, regarding separate bank accounts (sec. 123(g)).

### § 676.65 Charging of fees.

(a) No funds under this Act shall be used for the payment of a fee charged to an individual for the placement of that individual in a training or employment program under the Act.

(b) No person or organization, including private placement agencies, may charge a fee to any individual for the placement or referral of the individual in any CETA program. Any contract requiring the individual to pay such fees therefore shall not render the individual liable for such fees (sec. 123(j)).

(c) Nothing in this section shall be interpreted as prohibiting the recipient or subrecipient from entering into an agreement for the purpose of obtaining outreach, recruitment and/or intake services, and placement of participants into unsubsidized jobs as part of its approved plan, provided the individuals served are not charged a fee.

### § 676.66 Nepotism.

(a) Restriction. No recipient, subrecipient, or employing agency may hire a person in an administrative capacity, staff position, public service employment position, or on-the-job training position funded under the Act if a member of that person's immediate family is engaged in an administrative capacity for that recipient, subrecipient, or employing agency.

(b) No subrecipient or employing agency may hire a person in an administrative capacity, staff position, public service employment position or on-the-job training position funded under the Act, if a member of that person's immediate family is engaged in an administrative capacity for the recipient or program agent from which that subrecipient or employing agency obtains its funds. To the extent that an applicable State or local legal requirement regarding nepotism is more restrictive than this provision, such State or local requirement shall be followed (sec. 123(g)).

(c) For purposes of this section: (1) The term "immediate family" means wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, and stepchild.

(2) The term "person in an administrative capacity" includes those persons who have overall administrative responsibility for a program, including all elected and appointed officials who have any responsibility for the obtaining of and/or approval of any grant funded under the Act, as well as other officials who have influence or control over the administration of the program, such as the project director, deputy director and unit chiefs, and persons who have selection, hiring, placement or supervisory responsibilities for public service employment or OJT participants. Persons who are economically disadvantaged and serving on the prime sponsor's planning council, youth council, PIC, or State employment and training council shall not be considered persons in an administrative capacity.

(3) The term staff position includes all CETA staff positions funded under the

Act, such as instructors, counselors and other staff involved in administrative, training or service activities.

(d) The nepotism provisions at 20 CFR 688.120 shall apply to Indian and Native American subgrantees, contractors or employing agencies which receive funds under the Act from prime sponsors for the operation of programs for Indians and Native Americans.

### § 676.67 Child labor.

All recipients and subrecipients shall comply with applicable Federal, State, and local child labor laws.

### § 676.68 Political patronage.

(a) No recipient or subrecipient may select, reflect, or promote a participant based on that individual's political affiliation or beliefs. The selection or advancement of employees as a reward for political services or as a form of political patronage whether or not the political service or patronage is partisan in nature, is prohibited.

(b) There shall be no selection of subrecipients of contractors based on political patronage or affiliation (sec. 123(g)).

### § 676.69 Political activities.

(a) No program under the Act may involve political activities (sec. 131(a)).

(1) No participant may engage in partisan or nonpartisan political activities during hours for which the participant is paid with CETA funds.

(2) No participant may, at any time, engage in partisan or nonpartisan political activities in which such participant represents himself/herself as a spokesperson of the CETA program.

(3) No participant may be employed or outstationed in the Office of a member of Congress or a State or local legislator or on any staff of a legislative committee.

(4) No participant may be employed or outstationed in the immediate office of any chief-elected executive official (or officials, if the office of chief executive is shared by more than one person) of a State or unit of general local government, except that:

(i) Prime sponsors or units of local government in rural areas may employ participants in such positions provided that documentation is presented to and approved by the RA which makes clear that such positions are nonpolitical; and

(ii) Where positions are technically in such office, but are actually program activities not in any way involved in political functions documentation attesting to the nonpolitical nature of the positions is to be provided to the Secretary for approval prior to enrollment of participants in such positions.

(5) No participant may be employed or outstationed in positions involving political activities in the offices of other elected executive officials. However, since under the responsibility of such elected officials are non-political activities, placement of participants in such nonpolitical positions is permissible. Prime sponsors shall develop safeguards to ensure that participants placed in these positions are not involved in political activities. These safeguards shall be described in the Annual Plan and will be subject to review and monitoring.

(b) Persons governed by Chapter 15 of Title 5, United States Code, the Hatch Act, shall comply with its provisions as interpreted by the United States Office of Personnel Management. These provisions apply:

(1) To persons (including participants) employed by States and local government in the administration of the CETA program; and

(2) Generally to any participant whose principal employment is in connection with an activity financed by other Federal grants or loans (sec. 131(b)).

### § 676.70 Lobbying activities.

No funds provided under the Act may be used in any way:

(a) To attempt to influence in any manner a member of Congress to favor or oppose any legislation or appropriation by Congress (sec. 123(g) and 18 U.S.C. 1913); or

(b) To attempt to influence in any manner State or local legislators to favor or oppose any legislation or appropriation by such legislators. Communications and consultation with State and local legislators for purposes of providing information such as on matters necessary to provide compliance with the Act shall not be considered lobbying (sec. 123(g)).

### § 676.71 Sectarian activities.

(a) No funds under the Act may be used to support any religious or antireligious activity. However, this does not preclude religious organizations from administering or operating CETA programs or from the use of the facilities of religious organizations for the operation of such programs within the limits set forth in the Act or other applicable law.

(b) Section 121(a)(2) of the Act (29 U.S.C. 823(a)(2)) provides that:

> Participants shall not be employed on the construction, operation, or maintenance of so much of any facility as is used or will be used for sectarian instruction or as a place of religious worship.

Section 123(g) of the Act (29 U.S.C. 825(g)) provides that the Secretary, by regulation, shall establish such standards and procedures for recipients of funds under the Act as are necessary to assure against program abuses including, but not limited to, the use of funds for religious or antireligious activities. Pursuant to these statutory provisions, a participant may not be employed by a religiously affiliated elementary or secondary school to perform the functions of a teacher, librarian, guidance counselor, janitor or maintenance worker, clercial worker, or teacher aide, unless the participant is performing functions or working in programs such as those described in paragraphs (c) and (d) of this section. In applying this prohibition, it is the function actually to be performed by the participant that is to be regarded as controlling, rather than the technical job title given the participant. For example, it would be permissible for a participant (whatever the participant's title) to be employed as an escort to bring students safely to and from school.

(c) Religiously affiliated elementary or secondary schools, may, subject to supervision by the prime sponsor, employ participants in programs such as adult education, or summer or other programs providing custodial child care or recreational activities which do not involve educational components such as those commonly included in the educational curriculum of elementary and secondary schools (including remedial tutorial activities), provided that such programs are not offered during regular school hours, are not a part of the regular school curriculum (including summer school), are open to the community at large, and in which the community is encouraged to participate, and provided further that such programs do not involve religious activities.

(d) Participants may be employed by a religiously affiliated elementary or secondary school in the following capacities, or performing functions characteristic of these capacities.

(1) Cafeteria work or other work directly related to the provision of food services to students including clerical, custodial or maintenance work related to such services.

(2) Diagnostic or therapeutic speech and hearing services including clerical work related to such services.

(3) Nursing or health services or any other activities relating to the health or safety of students (*e.g.*, assisting on school buses or in escorting children to and from school, acting as attendance clerks or school crossing guards, removing asbestos hazards or performing other similar emergency

service relating to the health or safety of students), including clerical work related to such services.

(4) Any functions (including secretarial or clerical activities) where such activities are limited to providing support services for the administration of federally funded or regulated programs made applicable to religious institutions.

(5) Functions performed with respect to the administration and grading of State-prepared examinations.

(6) Custodial child care after school hours provided the participant is not providing educational services.

(e) The Secretary may consider, on a case-by-case basis, applications for participation in programs other than those set forth in paragraphs (c) and (d) of this section and may approve those applications for programs that are not inconsistent with the requirements of this section.

**§ 676.72 Unionization and antiunionization activities/work stoppages.**

(a) No funds under the Act shall be used in any way to either promote or oppose unionization (sec. 123(g)).

(b) No individual shall be required to join a union as a condition for enrollment in a program in which only institutional training is provided, unless such institutional training involves individuals employed under a collective bargaining agreement which contains a union security provision (sec. 121(n)(2)).

(c) No participant in work experience, vocational exploration or public service employment may be placed into, or remain working in, any position which is affected by labor disputes involving a work stoppage. If such a work stoppage occurs during the grant period, participants in affected positions must (1) be relocated to positions not affected by the dispute; (2) be suspended through administrative leave; or (3) where participants belong to the labor union involved in the work stoppage, be treated in the same manner as any other union member except such members must not remain working in the effected position. The grantee shall make every effort to relocate participants, who wish to remain working, into suitable positions unaffected by the work stoppage.

(d) No person shall be referred to or placed in an on-the-job training position affected by a labor dispute involving a work stoppage and no payments may be made to employers for the training and employment of participants in on-the-job training during the periods of work stoppage.

(e) Nothing in this section shall prevent an employer from checking off union dues or service fees pursuant to applicable collective bargaining agreements or State law.

**§ 676.73 Maintenance of effort.**

(a) Recipients and subrecipients shall ensure that all programs under the Act:

(1) Result in an increase in employment and training opportunities over those which would otherwise be available (sec. 121(e)(1));

(2) Do not result in the displacement of currently employed workers, including partial displacement, such as reduction in hours of nonovertime work, wages, or employment benefits (sec. 121(e)(2));

(3) Do not impair existing contracts for services or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed (sec. 121 (e)(3) and (g)(1)), including services normally provided by temporary, part-time or seasonal workers or through contracting such services out; and

(4) Result in the creation of jobs that are in addition to those that would be funded in the absence of assistance under the Act (sec. 121(g)(1)(B)).

(b) Funds under this Act shall supplement, and not supplant, the level of funds that would otherwise be made available from non-Federal sources for the planning and administration of programs (sec. 121(g)(1)(c)).

(c) No participant shall be hired into, or remain working in, any position when the same or substantially equivalent position is vacant due to a hiring freeze, unless the recipient can demonstrate that the freeze resulted from a lack of funds to sustain staff and was not established in anticipation of the availability of funds under the Act.

(d) No participant in OJT, PSE or work experience shall be hired into or remain working in any position when any other person not supported under the Act:

(1) Is on lay-off from the same or substantially equivalent job within the same organizational unit. A layoff is in effect:

(A) Until the expiration of the period required by a recall list; or

(B) If no recall list or reemployment rights exist, for a period of one year from the last layoff or until the next operating year of the department or agency, whichever occurs later.

(2) Is on layoff or has been bumped and has recall or bumping rights to that position, per a personnel code or practice or a collective bargaining agreement.

(e) When termination of CETA participants is imminent due to conditions noted in paragraph (c) and (d) of this section, the prime sponsor shall make every feasible attempt to place such participants into other nonaffected positions or otherwise attempt placement into unsubsidized jobs or into another CETA program or activity.

(f) In addition to the other requirements of paragraph (a) through (e) of this section, for public service employment programs funded under this Act:

(1) Recipients and subrecipients shall insure that such public service employment positions shall not

(i) Substitute for existing federally assisted jobs (sec. 122(e)); and

(ii) Be created in any promotional line that will infringe in any way upon promotional opportunities of persons currently in jobs not funded under the Act (sec. 122(d)).

(2) Whenever a promotional freeze affects non-CETA funded employees it shall apply to CETA participants similarly employed.

(3) No former employees laid off or terminated in anticipation of CETA funding of a position may be rehired under CETA into such a position.

(4) A recipient or subrecipient shall not use CETA funds in any manner which results in a reduction of the customary level of public service provided by itself or another public entity in the area, by allowing PSE participants to be placed with or outstationed to private nonprofit organizations.

(g) Prime sponsors shall notify the RA in writing of any layoff or hiring freeze and of any recall rights of employees on lay off, in a department or agency where public service employment participants are employed. Prime sponsors shall, at the direction of the RA, submit documentation and budgetary expenditure records, revenue statements, and other available information relevant to a determination under this section. RA's shall not approve any plan unless prime sponsors have submitted, when directed by the RA, conclusive evidence that the proposed use of funds fully meets the requirements of this Section.

**§ 676.74 Theft or embezzlement from employment and training funds; improper inducement; obstruction of investigations and other criminal provisions.**

The criminal provision of 18 U.S.C. 665 states that:

(a) Whoever, being an officer, director, agent or employee of, or connected in any capacity with, any agency receiving financial assistance under the Comprehensive Employment and Training Act knowingly hires an ineligible individual or individuals;

embezzles, willfully misapplies, steals, or obtains by fraud any of the moneys, funds, assets, or property which are the subject of a grant or contract of assistance pursuant to such Act shall be fined not more than $10,000 or imprisoned for not more than 2 years, or both; but if the amount so embezzled, misapplied, stolen, or obtained by fraud does not exceed $100, such person shall be fined not more than $1,000 or imprisoned not more than 1 year, or both.

(b) Whoever, by threat of procuring dismissal of any person from employment, or of refusal to renew a contract of employment in connection with a grant or contract of assistance under the Comprehensive Employment and Training Act, induces any persons to give up any money or thing of any value to any person (including such grantee agency) shall be fined not more than $1,000, or imprisoned for not more than 1 year, or both.

(c) Whoever willfully obstructs or impedes, or endeavors to obstruct or impede, an investigation or inquiry under the Comprehensive Employment and Training Act or the regulations thereunder, shall be punished by a fine of not more than $5,000, or by imprisonment for not more than 1 year, or by both such fine and imprisonment.

(d) In addition to the criminal provisions set forth in paragraph (a), (b) and (c) of this section, individuals may be held criminally liable under other Federal laws. For example, 18 USC sections 600 and 601 hold them liable if they:

(1) Directly or indirectly, promise any employment, position, compensation, contract, appointment, or other benefit, provided for or made possible in whole or in part by funds under the Act, or any special consideration in obtaining any such benefit, to any person as consideration, favor, or reward for any political activity or for the support of, or opposition to, any candidate or any political party in connection with any general or special election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office (18 USC 600); or

(2) Directly or indirectly, knowingly causes or attempts to cause any person to make a contribution of a thing of value (including services) for the benefit of any candidate or any political party, by means of the denial or deprivation, or the threat of the denial or deprivation, of any employment or benefits funded under the Act (18 USC 601).

### § 676.75 Responsibilities of recipients and subrecipients for preventing fraud and program abuse and for general program management.

#### § 676.75-1 General requirements.

(a) Each recipient and subrecipient shall establish and use internal program management procedures sufficient to prevent fraud and program abuse.

(b) Each recipient and subrecipient shall ensure the sufficient, auditable, and otherwise adequate records are maintained which support the expenditure of all funds under the Act. Such records shall be sufficient to allow the Secretary to audit and monitor the recipients' and subrecipients' programs and shall include the maintenance of a management information system in accordance with the requirements of § 676.34 (sec. 103(a)(1) and 123(g)).

#### § 676.75-2 Prime sponsor monitoring procedures.

(a)(1) Prime sponsors, as part of their internal program management procedures, shall establish a monitoring unit which shall be independent of, and not accountable to, any unit being monitored. This unit shall report to a level of management such as the CETA director or the chief-elected official, which will be high enough to ensure adequate monitoring coverage and appropriate action on findings and recommendations. The organizational location of this unit shall be positioned to maximize its objectivity, facilitate its access to information necessary to carry out its monitoring responsibilities and to minimize organizational conflict of interest.

(2) The independent monitoring unit shall periodically monitor and review through on-site visits, and program data, all progam activities and services and program administration and management practices supported with funds under the Act in order to ensure compliance with the Act, the regulations and the terms of any subagreements entered into under the prime sponsor's grant. Examples of areas of monitoring are:

(i) Reviewing all systems for controlling program administration, particularly systems for determining participant eligibility;

(ii) Reviewing pay records and attendance reports to insure controls are established for preventing unauthorized payments;

(iii) Interviewing participants to determine job-related problems;

(iv) Examining worksites and work conditions;

(v) Reviewing plans and procedures and subrecipient capability to carry out programs and activities;

(vi) Monitoring subrecipient maintenance of records on all expenditures of CETA funds;

(vii) Reviewing affirmative action plans as applicable.

(3) The independent monitoring unit shall:

(i) Make recommendations to the prime sponsor for corrective action whenever it identifies noncompliance with the Act, the CETP or these regulations;

(ii) Document its monitoring and review activities, the findings resulting therefrom, and any recommendation made for corrective action;

(iii) Maintain on file the prime sponsor's replies to its monitoring reports pursuant to paragraph (a)(5) of this section.

(4) The prime sponsor shall ensure that the monitoring unit is adequately staffed and trained to fulfill its responsibilities (sec. 121(q)).

(5) The prime sponsor shall review all monitoring reports submitted to it by the monitoring unit, acknowledge receipt thereto and respond to the monitoring unit with respect to the action taken or planned in response to the recommendations made.

(6) The prime sponsor shall further require each subrecipient to establish monitoring procedures, and may require, for those subrecipients which have the administrative capability, that they establish and maintain an independent monitoring unit to monitor their programs through review of data, observation of operations and examination of records related to their agreement in order to ensure compliance with:

(i) The Act and the regulations;

(ii) The provisions of its subagreement;

(iii) The provisions of subagreements awarded by it.

(b) Nothing in paragraph (a) of this section should be interpreted as prohibiting the monitoring or review and assessment of the recipients' or subrecipients' program activities and performance by designated CETA staff, in addition to the monitoring undertaken by the independent monitoring unit. When such efforts are undertaken, they shall be considered as distinct from those of the independent monitoring units.

#### § 676.75-3 Eligibility Determination and Verification.

(a) *General.* (1)(i) Each recipient and any subrecipient delegated responsibility for eligibility determination, shall establish procedures as described in paragraphs (b)(1), (2), and (3) of this section for the

establishment of an eligibility determination system.

(ii) The system is based on the attestation by the applicants that the full and complete information on the application form is true to the best of their knowledge. The recipient or subrecipient makes the determination of participant eligibility based on the information on the form. This determination is backed up by a complete review of the form as soon after enrollment as possible but no later than 30 days. This review is to check the completeness of the information on the form and accuracy of the determination as well as the consistency of the information presented. This review is followed by a quarterly verification of a sample of the applications of participants enrolled in the quarter. It is this sample where specific documentation will be examined to establish the accuracy of the elements presented on the application form. These three basic steps are described in paragraphs (b) (1), (2), and (3) of this section.

(2) The specific procedures for eligibility determination are included in the *Forms Preparation Handbook.*

(3) Each recipient shall be responsible for describing its eligibility determination system in its grant application and for the subsequent effective operation of such system. Liability for questioned costs relating to participant eligibility shall be based on the manner in which the recipient manages its system and the procedures included in § 676.88(b) regarding grant officer authority to allow questioned costs.

(b) *Elements of the determination system.* All recipients' and subrecipients' eligibility determination systems are to be based on the requirements at paragraphs (b) (1), (2), and (3) of this section.

(1) *The application.* A full and complete application must be taken on all applicants in order to establish participant eligibility.

(i) The application form must include each of the following elements:

(A) Name
(B) Social Security Number
(C) Birthdate and age
(D) Application date
(E) Citizenship Status
(F) Residential Address
(G) Family Status
(H) Number in family
(I) Institutionalized Status
(J) Handicapped Status
(K) Public Assistance Status
(L) Work History (list all jobs held in the past twenty-six weeks)
(M) Labor Force Status:
(*1*) Employed
(*2*) Unemployed
(*3*) In-school Youth
(*4*) Underemployed
(*5*) Others
(*6*) Unemployment Insurance Claimant
(N) Family Income
(O) Farm Residence
(P) Economic Status
(*1*) LLSI does not exceed 70%
(*2*) LLSI does not exceed 85%
(*3*) LLSI does not exceed 100%
(Q) Economically Disadvantaged
(R) Veteran's Status
(S) Record of prior CETA Participation
(T) Relatives in administrative capacity

(ii) *Signature of the applicant.* The signature of the applicant and the date of application shall be required on an application form attesting that the information on the application is true to the best of the applicant's knowledge and that there is no intent to defraud. It should also acknowledge that such information is subject to verification and that the participant shall be subject to termination subsequent to enrollment if found ineligible. In the case of an applicant who is a minor (except minors who are heads of households), the signature of the parent, responsible adult or guardian is also required.

(iii) *Signature of the intake officer.* The signature of the intake officer shall be included on the application.

(iv) If there is greater than a 45 day period between the time of application and enrollment, the original application form must be updated, re-signed, and re-dated.

(2) *30 Day Review. (i) There shall be a review of all applications as soon as possible after enrollment but not later than 30 days after the date of enrollment, by someone other than the intake officer, to determine that:*

(A) The application is complete;

(B) The determination based on the information contained on the application was correct; and

(C) The information on the application is internally consistent and in all other regards reasonable.

(ii) There shall be immediate verification of the eligibility of those participants whose applications are determined by the review in paragraph (b)(2)(i) above to be deficient or internally inconsistent.

(3) *Sample Verification and Documentation.* (i)(A) There shall be a verification of participant eligibility on a quarterly basis of a random sample of participants which is adequate to establish the credibility of the system and to determine whether it is reliable. The random sample should consist of participants enrolled during the preceding 3 months. The size of the sample shall be based on the total participants enrolled during the quarter in accordance with the percentage shown for that number in the *Forms Preparation Handbook.* In no case shall the required random sample exceed 10%.

(B) Specific sources for verifying each element of eligibility are identified in the *Forms Preparation Handbook.*

(C) Where the percentage of ineligibles identified through the quarterly verification exceeds 5% of the number verified, the recipient shall initiate the necessary action to identify and correct deficiencies in the system, and expand the sample taken in order to determine whether the percentage represents a consistent pattern. When the percentage of ineligibles identified through the quarterly verification exceeds 10% of the number verified, the recipient shall present a specific corrective action plan to the grant officer.

(ii) Adequate documentation shall be maintained to ensure the credibility of the eligibility determination. Such documentation shall at a minimum consist of the following:

(A) A completed application for participation;

(B) Documentation of the review conducted pursuant to paragraph (b)(2) of this section and the verification conducted pursuant to paragraphs (b)(2)(ii) and (b)(3)(i)(A) of this section including the numbers of applications taken, the number of ineligible participants identified, and the reasons for ineligibility; and

(C) Records of all actions taken to correct deficiencies identified in the eligibility determination procedures.

(d) *Other Responsibilities.*

(1) There shall be an immediate termination of any participant determined to be ineligible.

(2) Prime sponsors may delegate the responsibility for determination of eligibility, under reasonable safeguards which include, in addition to the requirements of paragraphs (a), (b), (c), and (d) of this section, provision for reimbursement of costs incurred as a result of erroneous determinations made deliberately or with insufficient care. Where funds cannot be recovered the prime sponsor is responsible for such liabilities (sec. 123(i)).

### § 676.76 Action required of the Secretary.

The Secretary shall annually assess the effectiveness of the monitoring units established in accordance with the requirements of § 676.75–2 of these regulations (sec. 121(g)).

Subpart F—Complaints, Investigations, and Sanctions

§ 676.81—§ 676.93 [Reserved.]

## PART 677—PROGRAMS UNDER TITLE II OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

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Authority: Sec. 126 of the Comprehensive Employment and Training Act (29 U.S.C. 801 et seq., Pub. L. 95-524, 92 Stat. 1907), unless otherwise noted.

### Subpart A—General Provisions

#### § 677.1 Purpose.

It is the purpose of this Part to provide employment and training to ease barriers to labor force participation encountered by economically disadvantaged persons, to enable such persons to secure and retain employment at their maximum capacity, and to increase their earned income.

#### § 677.2 Employability development plan.

(a) Prime sponsors shall assess each participant in accordance with § 675.6. Based on the assessment, the prime sponsor, in conjunction with each participant, shall develop an Employability Development Plan identifying the available services and activities for the participant.

(b) In establishing such a plan, the prime sponsor shall consider the participant's skills, interest and career objectives, and barriers to employment or occupational advancement faced by the participant (sec. 205(a)).

(c) The Employability Development Plan shall include, but need not be limited to, the following (sec. 205):

(1) Assessment data showing the participant's employability readiness;

(2) Barriers to employment faced by the participant;

(3) Specific employment and training needs;

(4) Specific services and activities to be developed and provided to meet those needs; and

(5) An individualized plan for transition from program activities to placement in unsubsidized employment.

(d) A copy of the plan shall be retained in the permanent record, and a copy given to the participant.

(e) The Employability Development Plan (EDP) shall be reviewed periodically throughout the duration of participation, and revised accordingly (sec. 205(b)). When developing EDPs for participants who receive assistance from other agents or programs which require similar assessments, such as WIN, the plan development should be coordinated with such programs.

#### § 677.3 Agreements with State or local educational agencies or institutions of higher education.

(a) The prime sponsor shall enter into nonfinancial or financial agreements with State or local educational agencies or institutions of higher education for the provision of employment and training programs. Such programs shall be designed to prepare individuals for employment. Local educational agencies and institutions of higher education in the area shall be notified by the prime sponsor of the opportunity to enter into such agreements. Specific arrangements for entering into such agreements shall be provided to those which express an interest, and the procedures in (e) shall apply to such agencies (sec. 203(a)).

(b) In the development of the agreement, the prime sponsor shall carefully examine educational resources, consider use of services available at no cost and, where appropriate, procedures for coordination with local educational agencies or institutions of higher education.

(c) Such programs may consist of:

(1) Vocational training;

(2) Instruction in basic cognitive skills;

(3) Employment of persons in schools controlled by such agencies or institutions of higher education; and

(4) Other employment and training activities (sec. 203(c)(1)).

(d) Each agreement shall contain provisions to assure that funds will not supplant State or local funds expended for the same purpose (sec. 203(c)(2)).

(e) If a prime sponsor is unable to reach an agreement with the local educational agencies or institutions of higher education, or if the agencies or institutions are dissatisfied with the utilization of their facilities proposed by the prime sponsor, they may request the RA to review such arrangements. The RA shall try to resolve the dispute by conciliation within 90 days but may not arbitrate the dispute without first offering the parties a hearing (sec. 203(c)(3)).

### Subpart B—Training Activites for the Economically Disadvantaged

#### § 677.11 Purpose.

This subpart contains the regulations for comprehensive employment and training programs and services authorized under Title II, Part B of the Act. These regulations also implement the administrative provisions found in sections 201 through 216 of the Act.

#### § 677.12 Participant eligibility.

Eligibility requirements governing this program may be found in § 675.5-2.

#### § 677.13 Activities and services.

(a) Activities and services which may be undertaken are:

(1) Those described in § 676.25, except PSE.

(2) Any programs or activities authorized by Part A of Title III, Title IV and Title VII of the Act with prior approval of the RA (sec. 211(14)).

(b) Examples of programs and activities which may be undertaken within the four categories of allowable activities and services (classroom training, OJT, work experience, other activities and services to participants), which may be appropriate for Title II B include:

(1) Job search assistance as described in § 676.25–5(b)(5) (sec. 211(1));

(2) Supported work programs as described in § 676.25–4(c) (sec. 211(3));

(3) Training leading to self-employment in small business (sec. 211(5));

(4) Development of labor market information;

(5) Activities such as job restructuring (sec. 211(1));

(6) Part-time, flexi-time, and other alternative work arrangements for individuals who, because of age, handicap, or other factors are unable to work full-time (sec. 211(1));

(7) Post-termination services to individuals to enable them to retain employment such as post-placement follow-up, counseling, and supportive services which shall not exceed 90 days (sec. 211(8)).

(c) *Youth.* (1) Activities and services for youth shall be designed to assist them in overcoming barriers to employment. Such barriers include: lack of basic educational or vocational skills; insufficient preparation for labor force participation; inability to find or successfully apply for employment; financial barriers to labor force participation; and lack of appropriate job opportunities including job opportunities offering alternative working arrangements (sec. 214(a)).

(2) Prime sponsors shall coordinate activities with those under Part A of Title IV of this Act, and have plans reviewed by the youth council. To the maximum extent feasible, programs similar to those authorized in Title IV, Part A, Subpart 3, except for public service employment will be utilized to serve youth under this Part (sec. 214(b)).

(3) Prime sponsors are not to reduce the level of services for youth under their Title II subpart. All Title II subparts must provide for a level and general mix of services to youth which continues without reduction the level of service to youth provided during the operation of their fiscal year 1977 Title I grant (secs. 421 and 431).

(d) *Older Workers.* (1) Activities and services for older workers shall be designed to assist them in overcoming the particular barriers to employment experienced by older workers, including: skills that are obsolete or no longer needed in the community; physical characteristics associated with aging; employer reluctance to hire older workers; financial barriers to labor force participation; and the lack of appropriate job opportunities, including job opportunities offering alternative working arrangements (sec. 215(a)).

(2) Prime sponsors shall use activities described in Section 308 of the Act (projects for Middle-Aged and Older Workers) and coordinate activities under this Part with programs and services provided by senior centers, area agencies on aging, and State agencies on aging (as designated under the Older Americans Act 42 U.S.C. 3001 note). (sec. 215(b)).

(e) *Public Assistance Recipients.* (1) Activities and services for public assistance recipients shall be designed to assist them in overcoming the particular barriers to employment experienced by such recipients, including: lack of basic education or vocational skills; insufficient preparation for adapting to labor force participation; inability to find or successfully apply for employment; inability to obtain satisfactory child care; and inability to obtain transportation to employment opportunities; inability to obtain proper needed services; and lack of appropriate job opportunities including job opportunities offering alternative work arrangements (sec. 216(a)).

(2) Prime sponsors shall coordinate services with other programs under the Act, Work Incentive Program (WIN), and services provided by State and local public assistance agencies (sec. 216(b)).

(3) Prime sponsors and WIN sponsors should particularly coordinate in the following areas: Overall planning; eligibility determination/intake; client employability planning; and mutual referral mechanisms.

### § 677.14 Allocation of funds.

Allocations shall be provided to States and prime sponsors pursuant to section 202 of the Act (section 202).

### § 677.15 Annual plan subpart.

(a) *General.* To receive financial assistance under Parts B and C of Title II, a prime sponsor shall submit the following information, which will become part of the Annual Plan described in § 676.11. This Subpart shall consist of a Narrative Description, Program Planning Summary, and Budget Information Summary specific to Parts B and C of Title II.

(b) The Narrative Description shall include: (1) *Objectives and needs for assistance.* (i) identify those groups that have been determined for priority of service and most in need.

(ii) A breakout of the eligible population by race, sex, national origin, and age, and the planned level of services to be provided for these significant segments in terms of the percent each group will constitute of those to be served (sec. 103(b)(2)). Where the planned level of service to any significant segment varies above or below the group's incidence in the eligible population, a justification must be provided.

(2) *Results and Benefits.* Provide a statement on:

(i) Specific quantified performance and placement goals, by program activity;

(ii) Any performance and placement goals, with respect to groups designated to be served (sec. 103(b)(4));

(iii) Explain any variation between the prime sponsor's performance and placement goals and the Secretary's performance standards (sec. 103(b)(4)); and

(iv) Any non-quantifiable goals or outcomes.

(3) *Approach.* (i) Program Activities and Services.

(A) A description of the program activities and services to be provided including a description of how the proposed work experience activities conform to the program requirements for work experience as distinct from PSE.

(B) A description of the circumstances that warrant a waiver of the work experience limitations set forth in § 676.30(g)(2), if appropriate.

(C) A description of upgrading or retraining activities including the prime sponsor's system for determining eligibility for participation, the criteria used for selection of occupations and employers, and the length of the training period (sec. 221(a) and (b)).

(ii) A description of arrangements to ensure that funds under Subparts 2 and 3 of Part A Title IV of the Act will not be used to replace opportunities available for eligible youth under Title II (secs. 421 and 431).

(iii) A list of the selected service deliverers (summary of recipients and contractors) and the services or facilities to be provided by each. (sec. 103(b)(7)).

(c) The prime sponsor shall attach a Program Planning Summary (PPS) which reflects the goals, objectives and activities for the program year.

(d)(1) The prime sponsor shall attach a Budget Information Summary (BIS) containing the proposed budget for programs under Parts A, B, and C of Title II.

(2) If any item of capital equipment which individually costs more than $1,000 is to be purchased, a list, including quantity and prices of items, must be provided.

(3) If administrative costs are planned to exceed 20% of the funds allocated, adequate justification must be provided.

### § 677.16 Administrative limitations.

(a) Prime sponsors shall not use funds allocated under Title II—B of the Act for public service employment (sec. 212(a)).

(b) Not more than 6.5 percent of each prime sponsor's allocation may be used for programs and activities under Subpart C (Upgrading and Retraining) of this Part (sec. 203(b)).

(c)(1) At least 80 percent of the funds allocated to a prime sponsor shall be expended for wages, fringe benefits, allowances, training, and services to participants enrolled under Subparts B and C of this Part.

(2) The remaining funds may be used for administrative costs incurred by the prime sponsor, and its subrecipients and contractors.

(3) The RA may waive the limitations on expenditures in paragraph (c) (1) and (2) of this section when adequate justification is provided in the Annual Plan Subpart.

## Subpart C—Upgrading and Retaining

### § 677.21 Purpose.

This part contains the regulations for upgrading and retraining services, under Title II, Part C of the Act. Upgrading and retraining programs offer additional opportunities to those groups, particularly minorities and women, who are frequently locked into low-paying, dead-end jobs.

### § 677.22 Participant eligibility.

Eligibility requirements governing these programs are found in § 675.5–3.

### § 677.23 Activities and services.

(a) Classroom training and on-the-job training are the only allowable program activities for upgrading and retraining programs. Supportive and employment and training services are the only allowable services to participants (sec. 221(a)). These activities and services are to be conducted in accordance with the requirements contained in § 676.25, except as noted in this Section.

(b)(1) Prime sponsors may conduct retraining programs directly or through public and private employers or other organizations and agencies.

(2) Prime sponsors may conduct upgrading programs for their own employees or through written agreements with public and private employers who in turn may conduct upgrading training through other organizations.

(c) Prime sponsors should coordinate upgrading and retraining programs with Private Industry Councils, particularly in developing and conducting upgrading and retraining programs.

(d) Upgrading Programs. (1) The positions for which participants are being upgraded shall be those:

(i) Which would not otherwise have been available to entry-level employees;

(ii) Which provide opportunities in highly skilled jobs or for upward mobility beyond the occupation for which training is provided; and

(iii) For which adequately trained personnel are not currently available within the employing organization (sec. 221(a)(1)).

(2) The education and skill content of upgrading programs shall provide participants with qualifications for positions of greater skill, responsibility, remuneration or career advancement in the employer's own enterprise (sec. 221(3)).

(3)(i) The upgrading program must clearly qualify trainees to work at a particular occupation, identified prior to the start of training.

(ii) The training period shall be consistent with periods customarily required for comparable training (sec. 221(a)(4)).

(4) The prime sponsor shall make every effort to ensure that participants receive, upon completion, placement in the occupation for which training was provided, and at not less than the prevailing wage rate for the occupation (sec. 221(a)(8)).

(5) Prime sponsors shall give first consideration to those employers who indicate that, for every employee to receive upgrading, at least one new individual is to be hired into unsubsidized employment at the entry level:

(i) Under this agreement, the filling of the unsubsidized, vacated or lower-level job should occur by or before the time the participant completes training; and

(ii) Employers shall hire from the prime sponsor's pool of eligible applicants or from those individuals currently enrolled in activities funded under any of the Titles.

(e) Retraining Programs. (1) Retraining programs must teach participants new skills distinct from those possessed upon entering the program, and shall be for those occupations in which skill shortages exist (sec. 221(b)(3)).

(2) The skill training shall be for those occupations which provide a reasonable expectation of continued employment (sec. 221(b)(3)).

(3)(i) Programs are to be operated only if there is a prior commitment from an employer to hire the participant into the position for which the participant has been retrained (sec. 221(b)(3)).

(ii) Where an individual's current employer expresses no interest in retraining programs, the individual may seek retraining services elsewhere in anticipation of securing employment with another employer.

### § 677.24 Agreements with employers.

Prime sponsors shall enter into a written agreement with any employer whose employees are to receive upgrading or with the providers of retraining services prior to the start of the program. This agreement shall suffice in fulfilling the requirements of § 676.25–2 with respect to OJT agreements. A separate OJT agreement need not be executed. The agreement shall include.

(a) Identification of parties and a signatory page;

(b) Identification of providers of classroom training or services to participants if to be provided by other than the employer;

(c) Training outline:

(1) Criteria for successful completion of the program;

(2) Occupation and wage rate of participant prior to training;

(3) Identified occupation and wage rate upon completion of training;

(4) Identified skills of participant prior to and completion of training;

(d) Methodology and maximum amount of reimbursement;

(e) Reporting requirements.

### § 677.25 Compensation and benefits to participants.

(a) Except as provided in paragraph (b), participants in OJT, classroom training, or combined activities and receiving other services, shall receive compensation in accordance with § 676.26, as appropriate.

(b) Participants in upgrading programs shall not be compensated at a rate lower than that received before entering the program.

### § 677.26 Reimbursement to employers.

(a) Reimbursement to employers shall be as provided in § 676.25, except as provided in paragraph (b) of this section.

(b) The reimbursement rate of OJT in upgrading programs shall not exceed 40 percent of the participant's wage for the portion of time spent in OJT, except when documented in the manner described in § 676.25–2(f)(3).

## Subpart D—Special Grants to Governors

### § 677.31 Purpose.

(a) This Subpart contains the regulations for programs to be operated under the Special Grant to Governors which are authorized in Section 202(b)(c)(d) and (e) of the Act. These programs address issues of employment and training which are generally beyond the scope of local prime sponsor programs. These regulations also implement the administrative provisions

found in sections 105, 110, and 204 of the Act. The regulations found in Part 676 and Subpart B and C of this part also apply to programs under the Special Grants To Governors except as indicated in this Subpart.

(b) It is the purpose of the programs under the Special Grant to:

(1) Provide supplemental vocational education assistance in areas served by prime sponsors;

(2) Encourage coordination and establish linkages between prime sponsors and appropriate educational agencies and institutions;

(3) Conduct Governors' coordination and special services within the State; and

(4) Provide support to State employment and training councils.

**§ 677.32 Allocation of funds.**

(a) An amount equal to 6 percent of the funds available for Parts A, B, and C of Title II shall be made available to Governors for supplemental vocational assistance in the State, as described in sec. 202(b) of the Act.

(b) An amount equal to 1 percent of the funds available for Parts A, B, and C of Title II shall be made available to Governors for costs of the State Employment and Training Council provided for in sec. 202(c) of the Act.

(c) An amount equal to 1 percent of the funds available for Parts A, B, C, and D of Title II shall be made available to Governors for coordination and establishment of linkages with educational agencies as provided in sec. 202(d) of the Act.

(d) An amount equal to 4 percent of the funds available for Parts A, B, and C of Title II shall be made available to Governors for coordination and special services as provided for in sec. 202(e) of the Act.

**§ 677.33 Grant application; annual plan.**

(a)(1) Upon notification by the Secretary of the amount of funds available for a special grant to the State, the Governor shall submit a Special Grant Annual Plan to the RA. Copies of all forms and instructions are contained in the *Forms Preparation Handbook.*

(2) The Governor shall comply with the comment and publication requirements specified in § 676.12(a), (b) and (d).

(3) In addition, the Governor shall 45 days prior to submission of the plan to the RA, provide (sec. 104(a)):

(i) A summary of the Special Grant Annual Plan to each prime sponsor in the State and to units of general local government within the Balance of State with a population of at least 25,000;

(ii) A summary of the Special Grant Annual Plan to appropriate Native American program sponsors and to appropriate labor organizations, and

(iii) A description of any programs to be funded within a prime sponsor's area with State coordination and special services funds to the prime sponsor in whose jurisdiction the program is to be funded.

(b) The Governor shall develop a separate Master Plan for the Special Grant as described in § 676.10, as applicable.

(c) The Special Grant Annual Plan shall contain the following: (1) Application for Federal Assistance, Standard Form 424.

(2) Special Grant Program Planning Summary specifying the number of participants to be served by vocational education projects and State Coordination and Special Services and educational linkages.

(3) Special Grant Budget Information Summary specifying funding of vocational education projects, State Employment and Training Councils, State Coordination and Special Services, activities or projects, and activities for establishing linkages and services between prime sponsors and educational agencies.

(4) Special Grant Program Narrative as set forth in (d) below.

(d) The Special Grant Program Narrative shall consist of:

(1) Vocational Education Services Program Narrative:

(i) A description of the manner in which the Governor will allocate funds to prime sponsor areas and the rationale for the method used;

(ii) A description of the arrangements for conducting the vocational education programs and activities through the State Board for Vocational Education, and for ensuring the accountability of the State Board to the Governor for these funds;

(iii) A description of the statewide activities, training or services that will be developed including, but not limited to:

(A) The utilization of funds under this Act and the Vocational Education Act, as amended, to enhance economic growth and development in the State (sec. 204(c)(2)(B));

(B) The extent to which information, curriculum materials, and technical assistance in curriculum and staff development will be provided to prime sponsors by State Vocational Education agencies (sec. 204(c)(2)(E)).

(iv) A description of the activities and services provided to, or with, prime sponsors for the prime sponsor areas, including:

(A) How such funds are to be used to coordinate programs under this Act with existing vocational education programs (sec. 204(c)(2)(A));

(B) How linkages between vocational education, education, and training programs under this Act and private sector employers will be developed (sec. 204(c)(2)(C));

(C) How technical assistance will be provided to local vocational education and educational institutions to aid them in making cooperative arrangements with prime sponsors (sec. 204(c)(2)(D)).

(v) An explanation of any nonfinancial agreements which have been negotiated between a prime sponsor and the State Vocational Education Board, including:

(A) The steps the Governor will use to ensure that agreement will be reached; and

(B) The process for mediating and resolving any disagreements over the provision of training or services under the nonfinancial agreements.

(2) *State Employment and Training Council Program Narrative.*

(i) A list of groups represented on the council;

(ii) A description of the Council's responsibilities pursuant to § 677.36(e).

(3) *State Coordination and Special Services Program Narrative.*

A description of arrangements or planned activities for carrying out each of the activities provided for in § 677.37.

(4) *State Coordination and Establishment of Linkages Between Prime Sponsor and Educational Agencies and Institutions Program Narrative.* A description of arrangements for carrying out each of the activities provided for in § 677.38.

**§ 677.34 Governor's distribution of vocational educational funds.**

Upon notification of the funds available to the State for vocational education, the Governor shall inform in writing the State Vocational Education Board and each prime sponsor of the amount of funds available to be spent in each prime sponsor's area and the methodology used to determine that amount. If a prime sponsor elects not to use all or part of the funds available for its area, it shall notify the Governor, who shall redistribute the funds among other eligible prime sponsors.

**§ 677.35 Nonfinancial agreement between prime sponsor and vocational education board.**

(a)(1) Upon notification of the funds available for its area, the prime sponsor shall develop a non-financial agreement in conjunction with the Vocational Education Board, consisting of a

statistical, and narrative plan for the expenditure of the funds from the Governor by the Vocational Education Board in the prime sponsor's area (sec. 204(a)(1)).

(2) Prior to making any agreement with a prime sponsor, the State Vocational Education Board shall consult with, and obtain, the written advice of the State agencies' committee involved in the formulation of the plan for vocational education required by Section 107(a)(1) of the Vocational Education Act, as amended (sec. 204(a)(2)).

(b) The nonfinancial agreement shall consist of: (1) Prime sponsor's vocational education nonfinancial agreement signature sheet;

(2) Part I of the Special Grant Annual Plan Program Planning Summary;

(3) Appropriate columns of the Special Grant Annual Plan's Budget Information Summary; and

(4) Vocational education program narrative, including the identification of the potential recipient(s) of the funds for program administration.

(c) After the agreement is signed, a copy shall be sent by the Vocational Education Board to the Governor for review and approval.

(d) The Governor shall develop procedures for modifying the nonfinancial agreement.

(e) The Governor shall ensure that the Vocational Education Board provides services consistent with the Governor's Special Grant plan for vocational education services and the nonfinancial agreements.

(f) If, within 90 days after the notification of available funds for the area, the prime sponsor and the Board are unable to reach an agreement, the Governor shall mediate the dispute, so that the local vocational needs of the prime sponsor's area are met. If mediation by the Governor does not result in a solution acceptable to both parties within 120 days after the notification of available funds, the RA shall arbitrate the dispute.

**§ 677.36 State Employment and Training Council.**

(a) The Governor shall establish a State Employment and Training Council (SETC) which except as provided by paragraph (g) of this section shall be in addition to the Balance of State planning council, and representative of the geographic area to be served. The SETC function is advisory and does not relieve the State of its final decisionmaking responsibilities under the Act.

(b) The Governor shall appoint Council members, as follows:

(1) At least one quarter of the membership of the Council shall be representatives of units or combinations of units of general local government, including those which are prime sponsors, who have been nominated by their chief executive officers (sec. 110(a)(3)(A)).

(2) One quarter of the membership of the council shall be representatives from organized labor, business and agricultural employers and workers (sec. 110(a)(3)(B)).

(3) One quarter of the council shall be representatives of the eligible population to be served under the Act and of the general public. At least one half of such representatives should be economically disadvantaged at the time of appointment (sec. 110(a)(3)(c)).

(4) Not more than one quarter of the council shall be representatives of service deliverers, including:

(i) One representative from each of the following: the State Public Employment Service; the State Advisory Council on Vocational Education; the State Board of Vocational Education; the State public assistance agency; any State agency which the Governor believes has an interest in employment and training and human resource utilization within the State.

(ii) Representatives of community-based organizations, veterans organizations, and organizations representative of handicapped individuals (sec. 110(a)(3)(d)).

(c) The Governor shall provide the Council with professional, technical, and clerical staff, and other necessary support services (sec. 110(a)(2)).

(d) The Governor shall appoint someone other than an elected official, appointed official or employee of the State as chairperson of the Council. The Council shall meet as it deems necessary, but not less than five times annually. All meetings shall be announced in advance, and shall be open and accessible to the general public (sec. 110(a)(2)(B)(4)).

(e) Funds not needed for the State Employment and Training Council may be used for State coordination and special services (sec. 202(c)).

(f) The Council shall: (1) Review continuously the operation of programs conducted by prime sponsors in the State and the availability, responsiveness, and adequacy of State services provided by all employment-related agencies. The reviews conducted by SETC's shall include an emphasis upon the following: statewide and inter-prime sponsor issues of utilization and coordination; employment and training resources of State agencies, and the coordination of plans and operations in contiguous areas. The review procedures must be publicized to all prime sponsors and affected State agencies prior to being implemented;

(2) Submit a public Annual Report to the Governor no later than February of each year, with copies to the State Advisory Council on Vocational Education and the RA, and issue such other studies, reports or documents to the Governor and prime sponsors as the SETC believes necessary to effectively carry out the Act. The Annual Report shall analyze the coordination of employment and training programs during the previous fiscal year, and recommend improvements. It shall also describe any special programs or linkages.

(3) Consult with the State Advisory Council on Vocational Education to identify employment, training, and vocational education needs of the State and to assess the extent of coordination among employment and training, vocational education, vocational rehabilitation, public assistance and other such programs.

(4) Comment at least once annually on the reports of the State Advisory Council on Vocational Education which shall incorporate such comments in the annual report it submits pursuant to Section 105 of the Vocational Education Act, as amended.

(5) Review proposed CETP and modifications of prime sponsors, and comment thereon, particularly with respect to non-utilization or duplication of existing services.

(6) Review plans of State agencies providing employment, training and related services. Provide comments and recommendations to the Governor, appropriate State agencies, prime sponsors, the general public and the appropriate Federal agencies on the relevancy and effectiveness of employment, training and related service delivery systems in the State and on means of improving effectiveness.

(7) Participate in the development of the Governor's coordination and special services plan.

(8) No later than May 15, to the maximum extent feasible, the council shall share with prime sponsors information on economic development, vocational rehabilitation, SESA activities, occupational demands and labor market demands.

(g) *Combined planning and services councils.* In any State where the State is the only prime sponsor, the prime sponsor planning council may also serve as the State Employment and Training Council. In such instances, the membership of the prime sponsor's

planning council shall reflect the membership requirements of the State Employment and Training Council, in addition to meeting the membership requirements of a prime sponsor planning council, except that paragraph (b)(1) of this section is not applicable.

**§ 677.37 Governor's coordination and special services.**

(a) Funds provided under § 677.32(d) of these regulations shall be used for the following activities (sec. 105(b)):

(1) Coordination of all employment, training, education and related services provided by the State, by prime sponsors, by State education agencies and other appropriate institutions of vocational and higher education, by State and local public assistance agencies, by apprenticeship programs and by other providers of such services (sec. 105(b)(1));

(2) Coordination of programs financed under the Wagner-Peyser Act, 29 U.S.C. § 49 *et seq.* and this Act, including assisting in the negotiation of any agreement (including partnership arrangements described in section 307) between prime sponsors and State employment security agencies (sec. 105(b)(2));

(3) Minimizing the duplication of services (sec. 105(b)(3));

(4) Assistance to the Secretary in enforcing the requirements for Federal contractors and subcontractors to list all suitable employment openings with local offices of the State employment service agencies and to take affirmative action, on behalf of veterans as required in Section 2012(a) of Title 38, United States Code (sec. 105(b)(4));

(5) Promotion of prime sponsor planning that takes into account conditions prevailing in labor market areas covering more than one prime sponsor area, as well as related activities such as community development, economic development, vocational education, vocational rehabilitation, and social services (sec. 105(b)(5));

(6) Exchange of information between States and prime sponsors with respect to State, interstate and regional planning for economic development, human resources development, education and other subjects relevant to employment and training planning (sec. 105(b)(6));

(7) Development and provision to prime sponsors of information on a State and local area basis regarding economic, industrial and labor market conditions (sec. 105(b)(7));

(8) Provision to prime sponsors, upon request, of appropriate information and technical assistance to assist them in developing and implementing their programs (sec. 105(b)(8));

(9) Conduct of special model training and employment programs and related services which may include programs for offenders (sec. 105(b)(9));

(10) Provision of financial assistance for special programs and services designed to meet the needs of rural areas outside major labor market areas (sec. 105(b)(11));

(11) Provision of labor market and occupational information to prime sponsors and appropriate educational agencies and institutions without reimbursement (sec. 105(b)(11));

(12) Facilitating and fostering the activities of the State Occupational Information Coordination Committee established with special emphasis on the systematic use of occupational information for prime sponsor planning as well as assisting and encouraging the development and use of career outlook information for individuals who are receiving rehabilitation services, students in local schools and individuals using the services of prime sponsors and local offices of State employment security agencies (sec. 105(b)(11));

(13) Assistance or support to State or local activities under the Targeted Jobs Tax Credit program.

(b) Funds may be used for additional support of the State Employment and Training Council, if explained in the Special Grant Annual Plan.

(c) When using funds provided under § 677.32(d) for employment and training activities the appropriate requirements of § 676.25 (Employment and Training Activities) apply.

(d) PSE may be funded with funds provided under § 677.32(d) only as a model or demonstration program with the approval of the RA.

**§ 677.38 Coordination and establishment of linkages with education agencies.**

(a) Funds provided under § 677.32(c) shall be available for encouraging coordination and establishing linkages between prime sponsors and appropriate educational agencies and institutions, and institutions providing training programs approved by the Secretary such as apprenticeship programs. Funds may be used for activities such as:

(1) Providing assistance to prime sponsors or education institutions in the development of agreements between prime sponsors and State Boards of Vocational Education and State or local educational agencies or institutions of higher education (sec. 203(c), sec. 433(d)(2), and sec. 436(c));

(2) Establishing mechanisms to increase information exchange between prime sponsors and educational agencies and institutions;

(3) Developing and disseminating models of linkages which can be shared with all prime sponsors in the State;

(4) Providing technical assistance to prime sponsors and educational agencies in the extension of educational offerings to prime sponsor jurisdictions which lack access to various education opportunities;

(5) Providing information, curriculum materials and technical assistance in curriculum development and staff development to prime sponsors;

(6) Providing assistance in development of systems for assessment and testing of the educational attainment of participants in prime sponsor programs;

(7) Providing assistance to eliminate barriers in the educational system which hamper employment and training activities, such as development of open entry/open exit courses and academic credit for CETA training.

(b) Funds for services to eligible participants shall be used for the purposes of encouraging and supporting training activities which are jointly delivered by employment and training agencies and appropriate educational agencies and institutions, including apprenticeship programs or hometown plans. Funds may be used to:

(1) Expand the size of jointly delivered programs;

(2) Enhance training and services available to participants in jointly delivered programs;

(3) Assist in the planning, development and evalution of jointly delivered programs.

**§ 677.39 Vocational education activities.**

(a) The Governor shall provide vocational education funds received by special grant to the State Vocational Education board as described in § 677.34 of this Subpart D and approve the plans for expenditure of those funds.

(b)(1) The State Vocational Education Board representatives will provide the training and services detailed in a nonfinancial agreement with the prime sponsor as described in § 677.35 of this Subpart D.

(2) If no Vocational Education Board exists within a State, the Governor may provide financial assistance to an alternate agency which serves the same purpose as a State Vocational Education Board. If the Vocational Education Board refuses to participate in this program the Governor shall make alternative arrangements to provide these services.

(c) Vocational education services which may be provided by a State

Vocational Education Board include, but are not limited to, basic or general education, educational programs conducted for offenders, institutional training, and supportive services. Vocational education funds may be used for the payment of allowances to participants in vocational education training and for administrative costs incurred for the vocational education programs funded under the Act.

(d) When funds for vocational education services are used for the payment of allowances to participants, the method of payment utilized must be that of the prime sponsor whose participants are receiving such allowances.

(1) Where the prime sponsor has an established delivery system for the payment of allowances pursuant to § 676.26 (Compensation for participants), the State Vocational Education Board shall utilize the agency or agencies administering that system.

(2) Where the prime sponsor has no allowances payment delivery system, the method of payments shall be developed between the prime sponsor and the State Vocational Education Board subject to the requirements of § 676.26.

(e) For funds for vocational education assistance, not less than 85 percent shall be used for providing vocational education services to prime sponsor's participants in programs under the Act.

(1) Of this amount, not more than 20 percent of the funds used for such education and services may be used for administration.

(2) At least fifty percent of the vocational education funds allocated to administration shall be made available to local prime sponsor areas unless adequate justification for not doing so is provided to the RA by the Governor.

(f) Subject to the limitations specified in § 676.40 (Allowable costs under CETA), and § 677.39(e)(1) above, the remaining funds may also be used by the Vocational Education Board for the following activities:

(1) To coordinate programs under this Act with existing vocational education programs;

(2) To coordinate the utilization of funds under this Act with the Vocational Education Act, as amended, to enhance economic growth and development in the State;

(3) To develop linkages between vocational education and training programs under this Act with private sector employers;

(4) To provide technical assistance to vocational education agencies to aid them in making cooperative arrangements with appropriate prime sponsors;

(5) To provide information, curriculum materials and technical assistance in curriculum development and staff development to prime sponsors.

(g) Of the total amount provided for vocational education assistance, the Governor may retain only the nominal amount of administrative funds necessary to carry out his or her responsibilities to provide for passing the funds through to the Vocational Education Board.

### § 677.40 Funding; grant administration.

(a) Funding. Special grants to Governors will be funded in the same way as grants to prime sponsors under this Part.

(b) Grant Administration. The requirements related to grant administration contained in Part 676 are applicable to special grants to Governors, except as provided in this Subpart. Requirements pursuant to § 676.75–2 do not apply. The overall 20 percent limitation on funds used for administration as set out in § 676.40 shall not apply to the special grant, except as specified in § 677.39 (e) and (f).

### § 677.41 Reporting.

(a) Financial and statistical reports, as described in the *Forms Preparation Handbook*, shall be submitted quarterly. In addition, an end of year narrative report will be submitted which describes achievement during the year.

(b) The following financial and statistical reports are required:

(1) A Special Grant Program Status Summary;

(2) A Special Grant Financial Status Report; and

(3) A Quarterly Summary of Participant Characteristics (QSPC). The QSPC shall be required only for participants where the State coordination and special services or educational linkages funds are utilized to fund training and employment opportunities. A QSPC shall not be required for vocational education services since all participants will be involved in a prime sponsor program and will be reported through regular quarterly reports.

(c) The Governor shall supply to each prime sponsor to which vocational education services are provided, a Special Grant Program Status Summary and a Special Grant Financial Status Report for funds expended in the prime sponsor's area and shall submit a summary, Special Grant Program Status Summary, and a Special Grant Financial Status Report to the RA.

(d) Each of the three reports in paragraph (b) of this section shall be submitted to the RA no later than 30 days after the end of the reporting period. The narrative report required under paragraph (a) shall be submitted no later than 30 days after the end of the fiscal year. Instructions for completion of these reports are in the *Forms Preparation Handbook*.

### § 677.42 Coordination with prime sponsor.

(a) The financial and statistical information from the approved Nonfinancial Agreement Program Planning Summary and Budget Information Summary shall be entered into the relevant columns of the Governor's Special Grant Program Planning Summary and Budget Information Summary. If the Governor's Special Grant Annual Plan has been signed prior to final approval of the Vocational Education Agreement, a modified Special Grant Program Summary and Budget Information Summary shall be submitted.

(b) The prime sponsor shall provide on a quarterly basis to the State Vocational Education Board a list of the participants enrolled in classroom training under the nonfinancial agreement. The list shall include names, social security numbers, date of birth and Title under which enrolled. The State Vocational Education Board shall prepare the Vocational Education Program Status Summary and submit the report to the Governor for submittal to the RA.

(c) The prime sponsor need not report the participant or financial information in the Program activity section on the Program Status Summary or their Financial Status Report unless prime sponsor funds are also expended.

## Subpart E—Transitional Employment Opportunities for the Economically Disadvantaged

### § 677.51 Purpose.

This Subpart contains the regulations governing prime sponsors for transitional employment opportunities for economically disadvantaged persons under Title II, Part D of the Act. This program provides public service employment only for unemployed, economically disadvantaged persons and provides related training and services to these individuals to enable them to move into employment or training not supported under the Act. This program targets resources to those structurally unemployed persons who lack the necessary skills and/or employment experience to enable them to successfully compete in the labor

market. The program combines public service employment with other employment and training activities including employability counseling and job search assistance (sec. 231).

**§ 677.52 Participant eligibility.**

Eligibility requirements applicable to this Subpart may be found in § 675.5–5.

**§ 677.53 Activities and services.**

(a) Subject to the cost provisions of § 677.58, prime sponsors shall use funds for entry-level public service employment, including projects, carried out by project applicants, or for activities authorized under § 677.13 (secs. 232(a)(1) and 234).

(b) Prime sponsors shall periodically assess each participant in relation to that participant's employability development plan to determine if the participant needs additional training or services (sec. 205(b)).

(c)(1) For those public service employment participants who are determined, on the basis of their employability development plans, to be in need of additional training and services, appropriate training and services shall be given such participants, when such training and services are available from the prime sponsor or other sources in the area (sec. 232(a)(2)).

(2) Training and services may be offered before, during, or after the public service employment to which they are related, in accordance with the participant's employability development plan.

(3)(i) For the purposes of meeting the requirements of § 677.58(a)(1)(ii), training shall be in the form of classroom training or individualized instruction as described in § 676.26–1 which:

(A) Provides technical skills and information required to perform a specific job or group of jobs;

(B) Is designed to enhance the employability of the participant in terms of upgrading basic skills (e.g., remedial education); or

(C) Provides skills in job-search techniques.

(ii) Training shall not be in the form of on-the-job training.

(d) Training and services conducted by program agents shall be coordinated with those conducted by the prime sponsor.

(e) Prime sponsors should work with the Bureau of Apprenticeship and Training to develop public sector apprenticeship programs that provide training applicable to the private sector.

(f) In carrying out PSE activities, the provisions of § 676.73, relating to maintenance of effort, shall apply.

(g)(1) Jobs shall be allocated among State and local public agencies and subdivisions thereof, such as educational agencies, within the prime sponsor's jurisdiction, taking into account the number of unemployed persons within each area, their needs and skill levels, the needs of the agencies and the ratio of jobs in the area at each governmental level. The prime sponsor has the ultimate responsibility for determining the equitable distribution and for the selection, job structure, participant benefits, and all other aspects of the jobs funded under this Subpart.

(2) Jobs may also be allocated to private non-profit agencies such as educational, social service, and health agencies, which provide public services, within a prime sponsor's jurisdiction. Jobs may be allocated to such agencies provided: they offer public services for the general public; and they are determined to best serve the eligible population based on the considerations stated in paragraph (g)(1) of this section.

(h) Where prime sponsors undertake public service employment in projects, the provisions of § 678.3(b), (c), and (d) shall apply.

**§ 677.54 Eligibility for funds.**

(a) Prime sponsors, designated under § 676.5, are eligible to receive funds under this Subpart.

(b)(1) A jurisdiction or a combination of jurisdictions desiring to become a program agent shall so notify the prime sponsor, in writing, no later than May 15, preceding the fiscal year in which such arrangement is to take effect. Prime sponsors shall subgrant to program agents those funds allocated to the prime sponsors for the use of those program agents (sec. 606(b)(1)).

(2) Program agents shall have administrative responsibility for developing, funding, overseeing, and monitoring programs within their areas, consistent with the comprehensive employment and training plan. The subgrant shall be jointly developed by the prime sponsor and the program agent (sec. 606(b)(2)).

(3) If a program agent fails to comply with paragraph (b)(2) of this section, the prime sponsor, after review and concurrence of the RA, shall ensure compliance by such action as reallocating funds to an alternative program agent to serve the area, or serving the area itself.

(4) When two or more units of general local government attempt to qualify as program agents with respect to the same area, the designation provisions in § 676.5(b)(2) shall apply (sec. 606(b)(3)).

**§ 677.55 Allocation of funds.**

Funds shall be allocated by the Secretary in accordance with Section 233 of the Act.

**§ 677.56 Annual plan subpart.**

(a) *General.* To receive financial assistance under Part D of Title II of the Act, a prime sponsor shall submit the following information as the Annual Plan Subpart which will become part of its Annual Plan:

Narrative Description.
Program Planning Summary.
Budget Information Summary.
Monthly Schedule, and
PSE Occupational Summary.

(b) *Narrative Description.* The narrative description shall include:

(1) *Objectives and Needs for Assistance.* A breakout of the eligible population by race, sex, national origin, and age, and the planned level of services to be provided these groups in terms of the percentage each group will constitute of those to be served (sec. 103(b)(2)). Where the planned level of service to any significant segment varies above or below the group's incidence in the eligible population, a justification must be provided.

(2) *Results and Benefits.* The results and benefits expected including:

(i) Specific quantifiable performance and placement goals by program activity:

(ii) Performance and placement goals with respect to groups designated to be served (sec. 103(b)(4));

(iii) The relationship between the prime sponsor's performance and placement goals and the Secretary's performance standards (sec. 103(b)(4)); and

(iv) Non-quantifiable goals which the prime sponsor intends to achieve.

(3) *Approach.* The approach to be used in producing the expected results and benefits, including:

(i) Program activities and services to be provided, including a description of the arrangements for the provision of training and services that will assist participants in obtaining unsubsidized employment;

(ii) How the prime sponsor will provide for an orderly transition from the number of jobs funded in the current fiscal year to the number of jobs that will be funded with the allocation for the next fiscal year (sec. 602(c));

(iii) The wages or salaries and fringe benefits for public service employment participants and a comparison of these with the wages or salaries and fringe benefits paid to persons in similar public

occupations by the same employer; levels of employment not supported under the Act; layoffs, and hiring and promotional freezes in each employing agency (sec. 103(b)(10));

(iv) The methods to be used to ensure that, at the end of the fiscal year, the annual average wage rate does not exceed the area's required annual average wage rate, as described in § 676.26–1(c)(3);

(v) The methods to be used to determine wage rates if wage rates for comparable jobs have not been established; and

(vi) How the public service employment program is integrated with other programs under the Act.

(4) *Service Deliverers.* A list of the selected service deliverers and the services or facilities to be provided by each (summary of subrecipients and contractors).

(c) *Program Planning Summary (PPS).* A PPS reflecting the goals and activities for the program year.

(d) *Budget Information Summary (BIS).* A BIS containing the proposed budget and a list specifying the quantity and price of each piece of capital equipment exceeding $1,000 to be purchased during the fiscal year.

(e) *Monthly Schedule.* A monthly schedule which contains an estimate of the total number of participants who will be enrolled in Title II, Part D programs at the end of each month and the total cumulative expenditures expected to have been incurred by the end of each month by the PSE and non-PSE programs.

(f) *Public Service Employment Occupational Summary.* A Public Service employment Occupational Summary which includes a listing, by employing agency, of proposed public service employment positions and wages and a comparison of such wages with those paid persons in similar unsubsidized jobs.

### § 677.57 Wages and wage supplementation.

Wages paid to public service employment participants and the supplementation of such wages shall be in accordance with § 676.26–1(c) (sec. 237).

### § 677.58 Special cost provisions.

(a)(1) Of the funds utilized by prime sponsors for project and non-project public service employment programs:

(i) Not more than 10 percent may be contributed to the administrative cost pool (sec. 232(b)(1));

(ii) Not less than the following percentages shall be used only for training for PSE participants:

(A) 10 percent of such funds expended after April 1, 1979;

(B) 15 percent of such funds expended for fiscal year 1980;

(C) 20 percent of such funds expended for fiscal year 1981;

(D) 22 percent of such funds expended for fiscal year 1982 (sec. 232(b)(2)).

(iii) The remaining funds may be expended only for wages, fringe benefits, training and services to persons employed in public service employment (sec. 232(b)(3)).

(2) Wages, a proportional share of fringe benefits, and allowances paid to PSE participants for the period of their training may be counted towards the percentage amounts that are required to be used for such training. Records of these wages, fringe benefits, and allowances shall be maintained separately by the prime sponsor to be available for audit.

(b) Funds under Title IID may be utilized by prime sponsors for activities and services other than PSE, as set forth in § 677.13 for eligible persons (sec. 234); however, not more than 10 percent of the funds utilized for such activities may be contributed to the administrative cost pool.

(c) Unless otherwise agreed to, at least 50% of the amount available for administration of the program shall be available to program agents for administrative costs.

## PART 678—PUBLIC SERVICE EMPLOYMENT PROGRAMS UNDER TITLE VI OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Sec.

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678.4 Eligibility for funds.
678.5 Allocation of funds.
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678.8 Special cost provisions.

Authority: Sec. 126 of the Comprehensive Employment and Training Act (29 U.S.C. 801 et seq., Pub. L. 95–524, 92 Stat. 1907), unless otherwise noted.

### § 678.1 Purpose.

This Part contains the regulations governing prime sponsors for countercyclical public service employment (PSE) under Title VI of the Act. This program provides temporary employment during periods of high unemployment when the national rate of unemployment is in excess of 4 percent. It is intended that the number of jobs funded shall be sufficient to provide jobs for 20 percent of the number of unemployed in excess of 4 percent, and, when the national rate of unemployment is in excess of 7 percent, to provide jobs for 25 percent of the number of unemployed in excess of 4 percent (sec. 601).

### § 678.2 Participant eligibility.

Eligibility requirements applicable to this Part may be found in § 675.5–6.

### § 678.3 Activities and services.

(a) Prime sponsors shall use at least fifty percent of the funds expended each fiscal year for PSE jobs in projects.

(b)(1) Public service jobs in projects are not limited to entry level positions (sec. 605(a)).

(2) To the extent feasible, all public service jobs shall be provided in occupational fields which are most likely to expand (sec. 122(m)).

(c) Each prime sponsor shall establish procedures for its own use and the use of its program agents:

(1) For notifying potential project applicants of the application process and cut-off date for acceptance of project applications;

(2) For submitting, upon receipt, a copy of each project application to the prime sponsor's planning council to allow the council to submit comments and recommendations with respect to the project application.

(d) Prime sponsors and program agents should provide at least one-third of the project funds to project applicants that are nonprofit organizations.

(e) All projects shall be planned not to exceed eighteen months from their commencement. A project may be extended in increments of up to eighteen months, if, after a documented review of the project, the prime sponsor determines that the project has been effective. Projects may be extended for reasons such as:

(1) Expanding the geographic area of the project; or

(2) Expanding the project to serve additional persons; or

(3) Expanding the scope and design of the original project; or

(4) Continuing weatherization projects.

(f) In addition to providing public service employment in projects, prime sponsors may utilize funds under this Part for entry level PSE not in such projects, in accordance with the special cost provisions in § 678.8.

(g)(1) Jobs shall be allocated among State and local public agencies and subdivisions thereof, such as educational agencies, within the prime sponsor's jurisdiction, taking into account the number of unemployed persons within each area, their needs and skill levels, the needs of the agencies and the ratio of jobs in the area at each governmental level. The prime

sponsor has the ultimate responsibility for determining the equitable distribution and for the selection, job structure, participant benefits and all other aspects of the jobs funded under this Part.

(2) Jobs may also be allocated to private nonprofit agencies which provide public services within a prime sponsor's jurisdiction. Jobs may be allocated to such agencies provided: they offer public services for the general public and they are determined to best serve the eligible population based on the considerations stated in § 678.3(g)(1).

(h) Prime sponsors shall periodically assess each public service employment participant to determine whether the participant needs additional training, employability counseling or other services, in order to obtain unsubsidized employment. Prime sponsors shall utilize funds in accordance with the special cost provisions in § 678.8(b)(1)(ii) to provide services, such as employability counseling, including job search techniques, intensified job development, and training, as described in § 677.53(c)(3)(i), for public service employment participants to enable them to obtain unsubsidized employment. Such training or services conducted by program agents shall be coordinated with those conducted by the prime sponsor.

(i) Activities other than PSE authorized under Title II, Part A of Title III, Title IV, and Title VII may be provided in accordance with the special cost provisions in § 678.8(c) (sec. 610).

(j) Prime sponsors should work with the Bureau of Apprenticeship and Training to develop public-sector apprenticeship programs that provide training applicable to the private sector.

(k) In carrying out public service employment activities, the provisions of § 676.73 relating to maintenance of effort shall apply.

### § 678.4 Eligibility for funds.

(a) Prime sponsors, designated under § 676.5, are eligible to receive funds under this Part.

(b)(1) A jurisdiction or a combination of jurisdictions desiring to become a program agent shall so notify the prime sponsor, in writing, no later than May 15 preceding the fiscal year in which such arrangement is to take effect. Prime sponsors shall subgrant to program agents those funds allocated to the prime sponsors for the use of those program agents (sec. 606(b)(1)).

(2) Program agents shall have administrative responsibility for developing funding overseeing, and monitoring programs within their areas consistent with the comprehensive employment and training plan. The subgrant shall be jointly developed by the prime sponsor and the program agent (sec. 606(b)(2)).

(3) If a program agent fails to comply with paragraph (b)(2) of this section, the prime sponsor, after review and concurrence of the RA, shall ensure compliance by such action as reallocating funds to an alternative program agent to serve the area, or serving the area itself.

(4) When two or more units of general local governments attempt to qualify as program agents with respect to the same area, the designation provisions in § 676.5(b)(2) shall apply (sec. 606(b)(3)).

### § 678.5 Allocation of funds.

Funds shall be allocated by the Secretary in accordance with Section 604 of the Act.

### § 678.6 Annual plan subpart.

(a) *General.* To receive financial assistance under Title VI of the Act, a prime sponsor shall submit the following information as the Annual Plan Subpart which will become part of its Annual Plan: Narrative Description, Program Planning Summary, Budget Information Summary, Monthly Schedule, and PSE Occupational Summary.

(b) *Narrative Description.* The narrative description shall include:

(1) *Objectives and needs for assistant.* A breakout of the eligible population by race, sex, national origin and age, and the planned level of services to be provided these groups in terms of the percentage each group will constitute of those to be served (sec. 103(b)(2)). Where the planned level of service to any significant segment varies above or below the group's incidence in the eligible population, a justification must be provided.

(2) *Results and Benefits.* The results and benefits expected including:

(i) Specific quantifiable performance and placement goals by program activity;

(ii) Performance and placement goals, with respect to groups designated to be served (sec. 103(b)(4));

(iii) The relationship between the prime sponsor's performance and placement goals and the Secretary's performance standards (sec. 103(b)(4)); and

(iv) Non-quantifiable goals which the prime sponsor intends to achieve.

(3) *Approach.* The approach to be used in producing the expected results and benefits including:

(i) Program activities and services to be provided, including a description of the arrangements for the provision of training and services that will assist participants in obtaining unsubsidized employment;

(ii) How the prime sponsor will provide for an orderly transition from the number of jobs funded in the current fiscal year to the number of jobs which will be funded with the allocation for the next fiscal year (sec. 602(c));

(iii) The extent to which the prime sponsor will supplement wages of persons other than those who were in the program on September 30, 1978, including:

(A) The maximum amount of funds used to supplement any one particular job funded under this Part; and

(B) The total amount of funds used to supplement all jobs funded under this Part;

(iv) The wage rates or salaries and fringe benefits for public service employment participants and a comparison of these with the wages or salaries and fringe benefits paid to persons in similar public occupations by the same employer; levels of employment not supported under the Act; layoffs, and hiring and promotional freezes in each employing agency (sec. 103(b)(10);

(v) The methods to be used to ensure that, at the end of the fiscal year, the annual average wage rate does not exceed the area's required annual average wage rate, as described in § 676.26–1(c)(3);

(vi) The methods to be used to determine wage rates if wage rates for comparable jobs have not been established; and

(vii) How the public service employment program is integrated with other programs under the Act.

(4) *Service Deliverers.* A list of the selected deliverers and the services or facilities to be provided by each (summary of subrecipient and contractors).

(c) *Program Planning Summary (PPS).* A PPS reflecting the goals and activities for the program year.

(d) *Budget Information Summary (BIS).* A BIS containing the proposed budget and a list specifying the quantity and price of each piece of capital equipment exceeding $1,000 to be purchased during the fiscal year.

(e) *Monthly Schedule.* A monthly schedule which contains an estimate of the total number of participants who will be enrolled in Title VI programs at the end of each month, and the total cumulative expenditures expected to have been incurred by the end of each month by the PSE and non-PSE programs.

(f) *Public Service Employment Occupational Summary.* A Public Service Employment Occupational

Summary which includes a listing by employing agency of proposed public service employment positions and wages and a comparison of such wages with those paid persons in similar unsubsidized jobs.

**§ 678.7 Wages and wage supplementation.**

(a) Wages paid to public service employment participants and the supplementation of such wages shall be in accordance with § 676.26–1(c) (sec. 608).

(b) Wages paid to public service employees hired on or after January 26, 1979 under this Part may be supplemented by additional wages from non-CETA sources only if:

(1) The total amount of funds used in any fiscal year to provide such supplemented wages does not exceed an amount equal to 10 percent of the prime sponsor's Title VI allocation for such fiscal year; and

(2) The wage supplementation to any public service employee is not at a rate which exceeds:

(i) Ten percent of the maximum wage applicable for the prime sponsor's area; or

(ii) Twenty percent of the maximum wage applicable to the prime sponsor's area in any area where the average wage rate (during the period for which the most recent data is available) in employment covered under Federal or State unemployment compensation laws (without regard to any limitation on the amount of such wages subject to contribution under such law) exceeds 125 percent, but does not exceed 150 percent, of the national average wage rate in such employment; or

(iii) In areas where the maximum wage for a fiscal year decreases from the maximum wage in a previous year, the rate for the previous year pursuant to paragraphs (b)(2)(i) and (ii) of this section.

(c) Any public service employee hired between September 30, 1978, and January 26, 1979, receiving wages supplemented from non-CETA sources may continue to receive such wage after January 26, 1979, only if such supplementation is in accordance with the provisions in paragraph (b) of this section.

(d) Any PSE participant who was on September 30, 1978, receiving wages from non-CETA sources may continue to receive such wages, and may receive any subsequent increase which is either a bona fide cost of living increase or a scheduled raise, so long as the participant remains in the same position or a PSE position with the same or lower wage rate. These wages are not subject to the limitations of, nor counted in determining compliance with, paragraph (b) of this section (sec. 122(i)(3)(B)).

(e) Any PSE participant who was receiving only CETA wages on September 30, 1978, at a rate less than $10,000 a year may have such wages supplemented above the $10,000 rate from non-CETA sources after September 30, 1978, if such increase is the result of a bona-fide cost of living increase or a scheduled raise, and the person remains in the same position. These wages are not subject to the limitations of, nor counted in determining compliance with, paragraph (b) of this section.

(f) When a public service employment participant, hired after September 30, 1978, is eligible for a promotion, a general salary increase or overtime pay, the employer shall pay from non-CETA funding sources that amount in excess of the maximum amount payable from CETA funds as well as a pro rata share of the increased fringe benefits, unless such payments would be in violation of the limitations on public service wage supplementation contained in paragraph (b) of this section. If such payment would be in violation, then the participants affected must be transferred to other positions or be terminated.

(g) In areas where the maximum wage is adjusted upward for a new fiscal year, the non-CETA portion shall not be reduced for any participant hired during a previous fiscal year until the incumbent participant leaves the position or until the next employing agency's budget cycle, whichever comes earlier.

**§ 678.8 Special cost provisions.**

(a) In accordance with § 678.3(a), prime sponsors shall use at least fifty percent of the funds expended under this Part for public service jobs in projects.

(b)(1) Of the funds utilized by prime sponsors for project and non-project public service employment programs:

(i) At least 80 percent shall be expended for wages and fringe benefits (sec. 603(a));

(ii) At least 5 percent shall be expended for training and services to PSE participants employed in public service jobs under this Part (sec. 603(a));

(iii) Not more than 15 percent may be contributed to the administrative cost pool (sec. 603(a)).

(2) Wages, a proportional share of fringe benefits, and allowances paid to PSE participants for the period of their training or services may be counted towards the percentage amounts that are required to be used for such training or services. Records of these wages, fringe benefits, and allowances shall be maintained separately by the prime sponsor to be available for audit.

(c) Funds under Title VI may be utilized by prime sponsors for activities and services other than PSE, authorized under Title II, Part A of Title III, Title IV and Title VII for persons eligible under Title VI PSE (sec. 610). Not more than 20 percent of the funds utilized for such activities may be contributed to the administrative cost pool.

(d) Unless otherwise agreed to, at least 50 percent of the amount available for administration of the program shall be available to program agents for administrative costs.

## PART 679—PRIVATE SECTOR INITIATIVE PROGRAM FOR THE ECONOMICALLY DISADVANTAGED UNDER TITLE VII OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Sec.
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Authority: Sec. 126 of the Comprehensive Employment and Training Act (29 U.S.C. 801 et seq., P.L. 95–524, 92 Stat. 1907), unless otherwise noted.

**§ 679.1 Scope and purpose.**

This Part contains the regulations for activities under Title VII of the Act, known as the Private Sector Initiative Program.

(a) Title VII of the Act is a demonstration Title. It authorizes a variety of approaches to increase the involvement of the business community in employment and training activities under the Act.

(b) Title VII is designed to increase private sector employment and training opportunities for persons eligible under this Part.

(c) As a primary vehicle to assist prime sponsors in meeting these goals, Title VII provides for the establishment of Private Industry Councils (PIC's) which are to participate jointly with the prime sponsor in the local development and implementation of programs under this Part, and to consult with the prime sponsor on other employment and

training activities. Title VII encourages the formulation of a local partnership between the private sector and the prime sponsor in order to meet its purposes.

(d) The ultimate goal of Title VII is to increase private sector employment and training opportunities under all Titles of the Act, commensurate with reduced emphasis on public and private nonprofit subsidized employment.

(e) An important thrust of the Act is to provide for maximum feasible coordination of programs under the Act with related functions supported by the Department and by other Federal, State and local agencies. Accordingly, PIC's formed by prime sponsors to assist in Title VII implementation are encouraged to work with Job Service Employer Committees (JSEC's), the Bureau of Apprenticeship and Training, and State Apprenticeship Councils, as well as the Economic Development Administration, Small Business Administration, Community Services Administration, and U.S. Department of Housing and Urban Development among others, in order to increase the effectiveness of programs under this Part and under the Act in securing employment for economically disadvantaged persons (sec. 701).

(f) This Part, in conjunction with Parts 675 through 677, Subpart B, comprise the regulations for Title VII of the Act.

### § 679.2 Participant eligibility

Eligibility requirements applicable to this Part may be found in § 675.5–7.

### § 679.3 Private industry Councils (PIC's).

### § 679.3–1 Purpose.

(a) To receive financial assistance under this Part, each prime sponsor shall establish a Private Industry Council (PIC). Its purpose shall be to increase the involvement of the business community, including small business, minority business enterprises, and labor organizations in employment and training activities under the Act, and to increase private sector employment opportunities for economically disadvantaged persons (secs. 701 and 704(a)(1)).

(b) Given the diversity of local circumstances and the differing environments in which PIC's will operate, the structure, level of activity, and composition of PIC's may vary considerably from one prime sponsor jurisdiction to another.

(c) Generally, meetings of the PIC shall be open and accessible to the general public, and minutes shall be maintained.

### § 679.3–2 Appointment of PIC members.

Each prime sponsor shall appoint the members of the PIC (sec. 704).

(a) *General.* (1) A majority of the PIC membership shall be representatives of industry and business (including small business and minority business enterprises). The PIC shall also include members representing organized labor, community-based organizations, and educational agencies and institutions.

(2) Existing local councils or committees may be designated or adapted to serve as the PIC (sec. 704(a)).

(3) The prime sponsor shall make ultimate decisions regarding the membership of the PIC after soliciting and considering the recommendations of the business and industrial community. Additionally, the prime sponsor should consult with labor organizations, community-based organizations, educational agencies and institutions, the appropriate apprenticeship agency, the State employment security agency (SESA), and women's organizations, existing councils and committees, and other organizations expressing an interest in the Title VII program (sec. 704(a)).

(4) In prime sponsor jurisdictions in which a National Alliance of Business (NAB) metro organization exists, it should be given consideration in the establishment of the PIC.

(5) Nothing in this section is meant to give a presumptive role to any particular organization in the establishment of the PIC (sec. 704(d)).

(b) *Business and industry members.* (1) The prime sponsor shall make every effort to recruit business and industry members for the PIC who will be representative of the private for profit employment community in terms of the types of business represented, such as small businesses, minority-owned businesses, businesses owned by women and others reflective of the commercial and industrial makeup of the area (sec. 704(a)(1)).

(2) Where possible, at least half of the industry and business representatives shall be representatives from small business. For purposes of this requirement, "small business" means any private for profit enterprise employing five hundred or fewer employees (sec. 704(a) (1) and (2)).

(3) Minority business enterprises shall be represented on the PIC, at least consistent with their representation in the business community (sec. 704(a)(1)).

(4) Prime sponsors may consider either the residence of the prospective PIC member or the location of the business or organization with which that person is associated in considering appointments to the PIC.

(c) *Other required members.* At least one representative of each of the following shall be included among the PIC membership:

(1) Organized labor. In appointing members from organized labor, the prime sponsor should consult State or central labor bodies, building and construction trades councils, the Human Resources Development Institute (HRDI), appropriate apprenticeship agencies, and unions representing major occupations in the area.

(2) Community-based organizations that have demonstrated to the prime sponsor a record of effectiveness in their relationships with the business community.

(3) Educational agencies and institutions that have demonstrated to the prime sponsor a record of effectiveness in providing education or vocational training oriented toward the needs of the business community.

(d) *Other members.* Prime sponsors may also appoint to the PIC other members, such as representatives of persons eligible to participate in activities under this Part and representatives of organizations having unique relationships to both the CETA system and the private sector, such as SESA's and appropriate apprenticeship agencies (sec. 704(a)(1)).

### § 679.3–3 Chairperson.

(a) A chairperson pro tem from the business and industrial community should be appointed by the prime sponsor to assist in identifying potential members and in establishment of the PIC.

(b) Once established, the PIC shall have a permanent chairperson selected by the members of the PIC, who should be a representative of business and industry.

### § 679.3–4 Organizational position.

(a) The organizational position occupied by the PIC within the overall employment and training delivery system shall be determined by the prime sponsor in consultation with the PIC. Such position and relationship shall be designed to enable the PIC to carry out its responsibilities.

(b) To carry out its duties, the PIC should appoint subcommittees to deal with particular areas of concern and secure, either through its staff or other means, the expertise of persons in the private sector having knowledge of business practices and policies (sec. 704(c)).

(c) PIC relationship to the prime sponsor's planning council.

(1) The activities of the PIC shall be coordinated by the prime sponsor with

those of the prime sponsor's planning council, and area planning bodies in the case of State prime sponsors. The planning council shall be consulted in the development of the Title VII program, and shall be afforded the opportunity to review and comment on the Title VII Annual Plan subpart (sec. 703(b)(4)).

(2) For purposes of Title VII, the PIC shall not be subordinate in its authority to the prime sponsor's planning council.

(3) The PIC chairperson (or designee) shall, at a minimum, serve as an ex officio, nonvoting member of the prime sponsor's planning council, and the chairperson (or designee) of the prime sponsor's planning council shall, at a minimum, serve as an ex officio, nonvoting member of the PIC. However, the prime sponsor may assign either chairperson the status of a full voting member on the respective councils (sec. 704(b)).

(d) Due to the unique nature of Balance-of-State organizational structures, such prime sponsors are authorized to develop alternate measures regarding the organization and structure of PIC's, such as PIC's covering sub-State planning areas, a single PIC for the entire prime sponsor jurisdiction with a decentralized staff, and other special arrangements.

**§ 679.3-5 Staff.**

The PIC shall be appropriately staffed, commensurate with its responsibilities. The staffing composition of the PIC shall be determined through mutual agreement between the PIC and the prime sponsor.

(a) When the PIC is a subgrantee or contractor of the prime sponsor, staff shall be hired in a manner consistent with that status and with the terms of the PIC's subgrant or contract with the prime sponsor.

(b) If the PIC is other than a subgrantee or contractor, it shall be consulted by the prime sponsor on the matter of its staffing. To the extent possible, consistent with applicable personnel rules, the PIC should be party to decisions on staff selection or hiring.

**§ 679.3-6 Multijurisdictional PIC's.**

A PIC may be established to cover more than one prime sponsor area, pursuant to arrangements and written agreements between the prime sponsors and the PIC.

(a) A PIC may be established to cover a multijurisdictional area with the affected prime sponsors submitting and reporting upon separate Title VII Annual Plan subparts.

(b) The above approach does not preclude other arrangements. Prime sponsors may propose alternatives as part of their Title VII Annual Plan Subpart. The RA may approve such arrangements after considering the desirability of the proposed arrangements in view of the purposes of Title VII and after reviewing their feasibility in terms of reporting and otherwise meeting Comprehensive Employment and Training Plan requirements of § 676.9, § 676.10 and § 676.11.

(c) Financial incentives shall be provided to prime sponsors establishing multijurisdictional PIC's that meet criteria discussed in § 679.4(b)(2) (secs. 702(b) and 704(a)(1)).

**§ 679.3-7 Functions of the PIC.**

The prime sponsor and the Private Industry Council shall determine those functions that the PIC will perform, based upon local conditions, the interests of the private sector, and the needs of the community. Those functions include the following, among others:

(a) *General.* (1) The PIC shall serve as an intermediary to assist the local employment and training structure to become more responsive to the business community.

(2) The PIC shall serve as the business and industry contact point in the local employment and training system, to present the private sector's view and recommendations for making programs more responsive to local employment needs.

(3) The PIC shall advise and provide direction to the local employment and training system on ways to increase private sector job placements for persons eligible under this Part (secs. 701 and 704(c)).

(b) *Planning and coordination.* (1) The PIC shall, in conjunction with the prime sponsor, design and develop the Title VII program and subpart to the prime sponsor's Annual Plan (sec. 703(b)).

(2) In designing the plan, and on a continuing basis, the PIC shall analyze private sector job opportunities, including estimates by occupation, industry, and location. The analysis should survey employment demands in the private sector and training possibilities, such as apprenticeship, in order to develop projections of short and long range labor needs, and to refine employment and training programing so that it becomes increasingly responsive to private sector labor needs. In undertaking such analysis, the PIC should assess and utilize information contained in economic development plans for the area and currently available labor market information from sources already in place, such as the SESA and appropriate apprenticeship agencies (sec. 703(b)(3)).

(3) The PIC should, in conjunction with the prime sponsor, develop specific private sector employment and training projects.

(4) The PIC should, in conjunction with the prime sponsor, develop criteria for the types of occupations to be selected for the expenditure of training funds.

(5) The PIC should, in conjunction with the prime sponsor, develop standards and specifications for training in particular occupations.

(6) In designing the plan, the PIC and prime sponsor should, to the extent possible, ensure that the plan is consistent with plans, funding applications and grants for programs related to private sector employment and training which are funded by other Federal agencies. For planning purposes and to coordinate with activities under other Federal programs, the PIC and prime sponsor should where possible review and comment on such plans and funding applications, especially regarding ways in which they affect employment and training, including apprenticeship, in the private sector (including those of the Economic Development Administration, Department of Housing and Urban Development, Small Business Administration and Community Services Administration) (secs. 103(a)(20), 704(c) and 705(a)(4)).

(7) The PIC should consult with the prime sponsor and its planning council during the development of, and shall have the opportunity to review and comment on, other Annual Plan subparts under the Act (sec. 704(c)).

(8) In undertaking activities under this Part, the requirements of § 676.24, "Labor organization consultation and/or concurrence", shall be observed.

(c) *Operational functions.* (1) The PIC should actively solicit public and private support for and participation in the Private Sector Initiative Program and other programs and activities designed to increase private sector employment and training opportunities for persons who are economically disadvantaged.

(2) The prime sponsor may involve the PIC through arrangements and written agreements so that the PIC can carry out its responsibilities. In particular, the PIC should be involved with the SESA, Job Service Employer Committees (JSEC's), local WIN sponsors and other private sector intermediaries in marketing and disseminating information on the Targeted Jobs Tax Credit, created by the Revenue Act of 1978 (P.L. 95-600), and the WIN Tax Credit.

(3) The prime sponsor and the PIC may decide that the PIC will administer and directly operate local private sector employment and training programs. Such an operational function could involve directly marketing on-the-job and other training agreements with private employers, developing training programs, entering into contracts with private firms, community-based organizations, educational agencies and institutions and SESA's and other related activities. Consistent with State and local law, PIC's may incorporate for these purposes.

(4) Organizations represented on the PIC may be directly involved in the operation of employment and training programs funded under this Part, consistent with the conflict of interest provisions of § 679.3–9.

(5) In accordance with § 676.38(b), the PIC may participate with the prime sponsor in developing criteria for the selection of any nongovernmental organization, association, firm or other entity for the conduct of programs or activities under this Part (secs. 121(o) and 704(c)).

(d) *Review and Assessment.* (1) The PIC shall participate with the prime sponsor in overseeing activities under this Part. Programs under this Part are subject to the prime sponsor's monitoring responsibilities (sec. 704(c)).

(2) The PIC may, in consultation with the prime sponsor, identify the factors to be addressed in an assessment of the effectiveness of activities under this Part.

(3) In consultation with existing groups, such as Job Service Employer Committees (JSEC's) and prime sponsor's planning and youth councils, the PIC may examine the performance of the local CETA and SESA delivery system to determine how to better meet the needs of business and industry and increase private sector employment opportunities for the economically disadvantaged, and advise the prime sponsor and the SESA of its observations and recommendations (sec. 704(c)).

(e) Nothing in this section is intended to limit the functions of the PIC, with respect to assisting the prime sponsor to improve the responsiveness of employment and training programs to employment opportunities in the private sector. The business community should be involved in determining the functions of the PIC so that these will be responsive to the needs and interests of business and industry.

**§ 679.3–8 Accountability.**

The Department holds the prime sponsor accountable for activities conducted and funds expended under this Part.

(a) The PIC, in working with the prime sponsor to develop activities under this Part, must recognize the prime sponsor's ultimate liability for all of the PIC's activities. The PIC and the prime sponsor are thus both responsible for program performance, and the Department in assessing the Title VII program will take both the prime sponsor's and the PIC's performance of functions into account.

(b) Where the PIC is a contractor or subgrantee of the prime sponsor, it is financially liable to the prime sponsor for funds received.

**§ 679.3–9 Conflict of interest.**

(a) Except for voting on the Title VII Annual Plan Subpart, no member of the PIC may cast a vote on any matter which has a direct bearing on services to be provided by that member or by any organization which such member directly represents on any matter which would financially benefit such member or any organization such member represents.

(b) Contracts in excess of $10,000 between the PIC and any private organization with which a PIC member is associated as an officer, member or employee shall be subject to the final written approval of the prime sponsor, prior to execution of the contract or subgrant.

(c) In addition, the provisions of § 676.62 (b) and (c) apply.

**§ 679.4 Allocation of funds.**

(a) *Prime sponsor basic allocations.* Ninety-five percent of funds available under Title VII of the Act shall be allocated to prime sponsors as provided in section 202(a) of the Act except that:

(1) In order to ensure that every prime sponsor receives an allocation of sufficient size to mount a viable program, a minimum allocation level may be established; and

(2) in the case of Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and Northern Marianas, these shall be allocated the same percentage of Title VII funds as the percentage of Title II Parts A, B and C funds allocated to them.

(b) *Other allocations.* The remaining five percent of the funds shall be allocated in the following manner:

(1) *Assistance to Native American entities.* No less than two percent of the total funds available under Title VII of the Act will be used to support Title VII programs for Native American entities described in sections 302(c)(1) (A) and (B) of the Act.

(2) *Assistance to prime sponsors who establish a single Private Industry Council.* Additional funds shall be provided to prime sponsors that establish a single Private Industry Council that serves a substantial portion of a functioning labor market area, as determined by the Secretary. Included may be:

(i) An existing consortium covering a substantial portion of a functioning labor market area that qualifies for incentive funds under § 676.4(c);

(ii) Two or more prime sponsors establishing a PIC that serves at least 75% of a functioning labor market area; and

(iii) To the extent that funding is available, other combinations of prime sponsors forming a single PIC (sec. 702(b)).

(c) Funds may be reallocated pursuant to the provisions of § 676.47 (sec. 108).

**§ 679.5 Annual plan subpart.**

(a) *General.* To receive financial assistance under this Part, a prime sponsor shall submit the following information, which will become part of the Annual Plan as described in § 676.11. This subpart shall consist of a Narrative Description, Statement of Concurrence, Program Planning Summary, and Budget Information Summary, specific to Title VII (sec. 103(b)).

(b) The prime sponsor shall transmit a copy of the Title VII Annual Plan subpart to the prime sponsor's planning council, to appropriate labor organizations, community-based organizations, educational agencies and institutions, Overall Economic Development Program committees and to such other parties as are required by § 676.12(d). The comment and publication procedures of § 676.12 apply to this Part (secs. 703(b) (4) and (5)).

(c) The Annual Plan subpart shall have the concurrence of both the PIC and the prime sponsor in order to be approved. Therefore, a Statement of Concurrence shall be submitted, signifying the concurrence of the PIC and the prime sponsor with the contents of the Annual Plan subpart or any modifications thereto.

(d) *Narrative Description.* The narrative description shall include:

(1) *Objectives and need for assistance.* (i) State the objectives and need for funding under this Part, including an identification of private sector occupations where there are labor shortages.

(ii) Analyze the eligible population by race, sex, national origin and age, and present the planned levels of service to be provided these significant segments

in terms of the percent each group will constitute of those to be served (sec. 103(b)(2)). Where the planned level of service to any significant segment varies above or below the group's incidence in the eligible population, a justification must be provided.

(2) *Results and benefits.* Provide a statement on:

(i) Specific quantified performance and placement goals, by program activity.

(ii) Any performance and placement goals with respect to groups designated to be served (sec. 103(b)(4)).

(iii) Explain any variation between such performance and placement goals and the Secretary's performance standards (sec. 103(b)(4)).

(iv) Any nonquantifiable goals or outcomes.

(3) *Approach.* Provide a description of:

(i) The specific activities to be conducted, and how these activities will be integrated with other training and placement activities under the Act (sec. 703(a)).

(ii) The procedures and standards to be used for the selection of occupations in which training is to be provided.

(iii) The system that will be used to review and assess the success of activities, including a description of the role of the PIC.

(4) *Private Industry Council (PIC).* Provide the following:

(i) The responsibilities assumed and the functions to be performed by the Private Industry Council in the planning, operation and review of programs.

(ii) A list of the PIC membership indicating representation from among those membership categories identified in § 679.3–2.

(iii) Staffing arrangements for support of the PIC agreed upon the PIC and the prime sponsor.

(iv) A description of procedures established to ensure periodic consultation and coordination of activity between the PIC and the prime sponsor's planning council and other appropriate agencies in the labor market area.

(v) For multijurisdictional PIC's (except for existing consortia) identify the geographic area to be served, the prime sponsors participating, administrative and programmatic relationships between the PIC and the participating prime sponsors and the functions to be performed by each. A copy of the written agreement cited in § 679.3–6 must be included as an attachment to the Annual Plan Subpart.

(e) *Statement of Concurrence.* This statement documents the concurrence of the PIC and the prime sponsor with the contents of the Annual Plan Subpart.

(f) *Program Planning Summary (PPS).* The PPS reflects the goals, objectives and activities planned under Title VII for the program year.

(g) *Budget Information Summary (BIS).* The BIS contains the planned budget under Title VII for the program year.

### § 679.6 Administrative limitations.

(a) *General.* The General Provisions of Part 676 shall apply except as otherwise indicated.

(b) *Allowable costs and cost allocation.* The provisions of § 676.40 and § 676.41 shall apply to programs under Title VII except as follows:

(1) *Employment generating services.*

(i) For programs funded under Title VII only, costs for activities which are not directly related to the immediate provision of training or employment for participants but which are intended to result in the creation or expansion of employment opportunities for persons eligible under this Part may be classified as employment generating services and charged to the "Services" cost category. Examples are:

(A) Those items enumerated in paragraphs (b)(1), (2), (3), (4), (6), (7), (9), (10), (12), (13), (14) and (15) of § 679.7, Allowable Activities.

(B) The costs for the salaries and fringe benefits of labor market and program analysts, for consultants under contract for employment generating services, and for technical assistance to contractors and subgrantees.

(ii) While such activities are allowable and desirable under Title VII, no more than 30 percent of a prime sponsor's Title VII funds may be used for employment generating services.

(iii) The program activity against which the costs for employment generating services are to be allocated is "Other Activities."

(iv) No costs attributable to the general administration of the Title VII program shall be charged to the "Services" cost category.

(2) *Administrative costs.* (i) For purposes of Title VII, administrative costs are those costs which fall within the category of administration as defined in § 676.41–1(f), exclusive of employment generating services.

(ii) The total amount of funds expended for administration by all prime sponsors in carrying out programs under this Part shall not exceed 20 percent of the total expenditures for all prime sponsor Title VII programs. Each prime sponsor and PIC must make every effort to limit administrative costs to only those that are necessary to assure the effective operation of programs under this Part. If the prime sponsor and PIC determine that more than 20 percent is necessary to operate the planned program, a higher amount may be requested by providing a satisfactory explanation of the need for such amount in the Title VII Annual Plan Subpart. The special needs of urban and rural areas and other relevant factors shall be considered by the RA in reviewing requests for administrative costs in excess of 20 percent (sec. 705(b)).

(iii) It is recognized that startup and initial implementation of programs under this Part may require administrative expenditures greater than those necessary for the operation of established program. Thus, it should subsequently become possible for administrative costs to be reduced such that they are brought to a more appropriate level of 10 percent. Prime sponsors and PIC's should therefore plan to reduce administrative costs after startup and initial implementation.

(3)(i) Up to 6.5 percent of funds allocated under Title VII may be used to enroll persons using the § 675.5–3 criteria into upgrading and/or retraining programs. Up to 20 percent may be used if, in the case of upgrading programs, the employer agrees to hire at least one economically disadvantaged person for each employee upgraded, or if, in the case of retraining programs, regional administrator approval is first obtained.

(ii) Payments to private-for-profit employers through methods not specifically authorized under Parts 676 through 677, Subpart B shall not be allowable unless and until the method of payment is explained in advance and authorization for its use is specifically granted. Prime sponsors shall transmit to the RA requests to permit such new payment methods. The RA shall transmit such requests, with comments and recommendations, to the Assistant Secretary for Employment and Training. Action on a request shall be taken within 60 days after the prime sponsor's submission of the request to the RA. Nothing in this paragraph authorizes wage subsidies (sec. 703(c)).

### § 679.7 Allowable activities.

Funds under this Part shall be used to augment private sector-related activities under Part 677, including on-the-job training with private employers (sec. 703(b)(2)). Funds shall be used to provide employment and training and related activities consistent with the purposes of Title VII including:

(a) Activities and services authorized in § 677.13;

(b) Upgrading and retraining in accordance with § 675.5–7, and Subpart C of Part 677; and

(c) The following:

(1) Coordinating programs of jobs and training and education enabling individuals to work for a private employer while attending an education or training program;

(2) Developing a small business intern program to provide practical training enabling youths and other individuals to work in small business firms to acquire first-hand knowledge and management experience about small business;

(3) Developing relationships between employment and training programs, educational institutions, and the private sector;

(4) Developing useful methods for collecting information about Federal Government procurement contracts with private employers, new and planned publicly supported projects such as public works, economic development and community development programs, transportation revitalization, alternative energy technology development, demonstration, and utilization projects, energy conservation projects, and rehabilitation of low-income housing as part of a community revitalization or stabilization effort, which provide work through private sector contractors;

(5) Conducting innovative cooperative education programs for youths in secondary and postsecondary schools designed to coordinate educational programs with work in the private sector;

(6) Developing and marketing model contracts designed to reduce the administrative burden on the employer and model contracts to meet the needs of specific occupations and industries;

(7) Coordinating programs under this Part with other job development, placement, and employment and training activities carried out by public and private agencies;

(8) Providing on-the-job training subsidies on a declining ratio to wages over the period of training;

(9) Providing followup services with employees placed in private employment and employers who hire recipients of services under the Act;

(10) Encouraging employers to develop job skill requirement forecasts and to coordinate such forecasts with prime sponsors;

(11) Using direct contracts for training and employment programs with private for profit and private nonprofit organizations;

(12) Developing apprenticeship or comparable high-skill training programs for workers regardless of age in occupations where such programs do not presently exist in the area;

(13) Increasing opportunities for upgrading from entry level jobs by providing counseling and other services to employees and employers beyond initial training periods;

(14) Providing technical assistance to private employers to reduce the administrative burden of employment and training programs;

(15) Disseminating information to private employers so that they may more fully utilize programs under the Act; and

(16) Other program activities which demonstrate effective approaches to the training and employment of persons eligible to participate in programs under this Part (sec. 705(a)).

## PART 680—YOUTH PROGRAMS OPERATED BY PRIME SPONSORS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

### Subpart A—Youth Employment and Training Programs

Sec.

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Authority: Sec. 126 of the Comprehensive Employment and Training Act [29 U.S.C. 801 et seq.], unless otherwise noted.

## Subpart A—Youth Employment and Training Programs

### § 680.1 Purpose.

(a) This subpart contains the regulations for the Youth Employment and Training Programs (YETP) under Title IV, Part A, Subpart 3 and 4 of the Act. The introductory and general provisions at *Parts 675 and 676* of Title 20 also apply to YETP programs except that to the extent the regulations set forth in this subpart conflict with other regulations promulgated under the Act, the requirements contained in this subpart shall prevail (sec. 447).

(b) It is the purpose of this program to enhance the job prospects and career opportunities of young persons, especially economically disadvantaged youth, to enable them to secure unsubsidized employment in the public and private sectors of the economy. In addition, this program explores methods of dealing with the structural unemployment problems of youth and the immediate difficulties of youth in need of and unable to find jobs (sec. 431).

### § 680.2 Eligibility for funds under YETP.

Prime sponsors designated under § 676.5 are eligible to receive funds under YETP (sec. 434).

### § 680.3 Allocation of funds.

Allocation of funds under YETP shall be in accordance with section 433 of the Act.

### § 680.4 Programs planning, planning and youth councils.

(a) *Planning:* Each prime sponsor shall utilize the planning process and planning council as described in §§ 676.6 and 676.7 of this title, and the youth council described in paragraph (b) of this section (sec. 436(b)). In developing the annual plan subpart of YETP, the prime sponsor shall:

(1) Coordinate the YETP subpart with programs and activities described in the annual plan subpart for Title II, but opportunities for youth under Title II shall not be reduced because of the availability of YETP funds (sec. 436(a);

(2) Coordinate the programs and activities funded under the other titles of CETA, including Job Corps; employment and educational services provided by local educational agencies and post-secondary institutions; activities conducted under the Career Education Incentive Act; services offered by public employment service agencies, public assistance agencies, and courts with jurisdiction over youthful offenders; youth programs funded through other sources such as community-based organizations; and employment and educational activities of business, labor, apprenticeship programs, and nonprofit institutions in the community (sec. 436(a)).

(3) Afford an opportunity to community based organizations of demonstrated effectiveness in providing employment and training activities for youth to participate in the development of the YETP subpart as required by paragraph (c) of this section; and

(4) Afford an opportunity for appropriate labor organizations to comment on the YETP subpart consistent with the provisions of § 676.12 of this title.

(b) *Youth Council.* Each prime sponsor shall establish a youth council (sec. 436(b)).

(1) In consultation with the planning council, the prime sponsor shall make appointments to a youth council which include individuals who are representative of the local educational agency, local vocational advisory council, post-secondary education institutions, business, unions, apprenticeship community, public employment service agencies, local government and nongovernment agencies which are involved in serving youth, the local community, and the prime sponsor. In addition, youth council members shall include not less than two youth who are participants in, or eligible for YETP (sec. 436(b)).

(2) The youth council may be either an entirely separate council or a subcommittee or subcouncil to the planning council, or the prime sponsor may use existing youth councils created with respect to other programs under this Act if these councils meet the requirements set forth in this section. In all cases, the youth council shall report to the planning council (sec. 436(b)).

(3) The youth council shall make recommendations to the planning council for setting basic goals, policies and procedures for the YETP program. The youth council shall review the findings of the prime sponsors monitoring efforts for YETP and other CETA youth programs and make recommendations to the planning council for the purpose of improving the utilization and coordination of the delivery of services under such programs (sec. 436(b)).

(4) The youth council shall review and make recommendations to the planning council with respect to the proposed agreements with local educational agencies under YETP (sec. 436(c)).

(c) Community-based organizations (CBO's). Each prime sponsor shall involve CBO's in the planning process as follows:

(1) Forty-five (45) days prior to submission of the proposed YETP subpart to the RA either the complete subpart or a summary of the proposed subpart shall be submitted to such CBO's. Such organizations shall have 30 days for review and comment on the proposed YETP subpart. If a summary is submitted, it shall include at a minimum:

(i) Description of activities to be funded;

(ii) Proposed service deliverers and the services to be provided by each; and

(iii) A copy of the Youth Program Planning Summary and Youth Budget Information Summary.

(2) Any substantive comments received must be considered prior to the submission of the YETP subpart to the RA and written responses will be made to comments from such CBO's regarding selection of service deliverers and these comments and responses will be included when the YETP subpart is transmitted to the RA.

(d) *Selection of service deliverers.* (1) In addition to the provisions of § 676.23 of this title, the following provisions apply to the selection of service deliverers for YETP. The provisions however, do not apply when the prime sponsor chooses to deliver YETP activities, itself, and to the programs funded with 22 percent of the YETP funds covered by local educational agency (LEA) agreements required in § 680.7.

(i) Published criteria that will be used to evaluate applications; and

(ii) Written notification to each applicant of acceptance or nonacceptance with an explanation of the reasons for disapproval of funding.

(2) A prime sponsor may directly perform classroom training, on-the-job training or work experience as described in § 676.25 of this title, only if, after consultation with CBO's, the prime sponsor determines that direct operation of the program will promote the purposes of this subpart (sec. 432(b)). The prime sponsor shall maintain documentation on the administrative and programmatic benefits of such direct operation.

**§ 680.5 Description of the YETP annual plan subpart.**

(a) Each prime sponsor shall submit a YETP subpart by a date established by the RA which when approved, shall become part of the annual plan.

(b) The RA shall review and approve or disapprove the YETP subpart using the plan review procedures in § 676.14 of this title.

(c) *Narrative description.* The YETP subpart narrative shall contain:

(1) *Objectives and needs for assistance.*— (i) *Program purpose.* State the purpose, goals, and objectives of the YETP program in the overall strategy for serving unemployed youth in the prime sponsor's area.

(ii) *Analysis of need.* Identify the target groups within the eligible population that will receive services under the program and indicate the planned level of services to be provided to each group.

(iii) *Group waivers.* Describe, in accordance with § 676.30(g), the evidence upon which any request for a waiver of the limitation on participation in work experience is based for any group(s) of youth being served under YETP.

(2) *Results and benefits.* Describe the benefits that will accrue to YETP participants and include:

(i) The quantifiable performance and placement goals for each program activity.

(ii) The quantifiable performance and placement goals for each target group identified in the analysis of need.

(iii) Any non-quantifiable benefits expected from participation in the YEPT program.

(iv) Any academic credit received by YETP participants, the level of credit and the activities for which credit will be received, and the agency awarding such credit.

(3) *Approach.* (i) *Program activities and services.* If not elsewhere in the Comprehensive Employment and Training Plan, describe the criteria to be used to select youth that are most in need, participant recruitment and intake process, and eligibility verification of YETP participants.

(ii) *Program linkages.* If not elsewhere described in the Comprehensive Employment and Training Plan, describe the program linkages established under YETP.

(4) *Management and administration.* (i) Describe any significant differences in the administration, operation, and management (including organizational structure) of the YETP program from the information provided elsewhere in the Comprehensive Employment and Training Plan.

(ii) Attach a copy of the Program Planning Summary (PPS) and Budget Information Summary (BIS) on the YETP program.

(iii) Attach a summary of subgrantees and contractors covering financial arrangements under YETP.

(5) *Assurances and certifications.* The YETP assurances and certifications and detailed instructions for completing the requirements of the YETP subpart narrative are contained in the *Forms Preparation Handbook.*

**§ 680.6 Activities and services.**

(a) Programs may include any type of employment and training activity specified in § 676.25 of this title, except public service employment.

(1) Work experience activities may include a wide range of community betterment activities such as rehabilitation of public properties; assistance of weatherization of homes occupied by low-income families; demonstrations of energy-conserving measures, including solar energy techniques (especially those utilizing materials and supplies available without cost), park establishment and upgrading, neighborhood revitalization, conservation and improvements, removal of architectural barriers to access, by handicapped individuals, to public facilities, and related activities (sec. 432(a)).

(2) Productive employment and work experience opportunities may be funded in such fields as education, health care, neighborhood transportation services, crime prevention and control, environmental quality control (including integrated pest management activities), preservation of historic sites, and maintenance of visitor facilities (sec. 432(a)).

(3) A written job description shall be developed and maintained for all work experience and on-the-job training positions funded under this subpart to provide a basis for determining their comparability to existing jobs of other individuals similarly employed.

(b) *In-School programs.* The in-school programs shall be designed to provide for either or both of the following two classifications of services (Sec. 423(a)):

(1) *Transition services.* (i) These transition services shall be designed to prepare and assist youth to move from school to unsubsidized jobs in the labor market.

(ii) These services may include:

(A) Outreach, assessment, and orientation;

(B) Counseling, including occupational information, apprenticeship information, and career counseling;

(C) Activities promoting education to work transition;

(D) Provision of labor market information;

(E) Services to youth to help them obtain and retain employment;

(F) Literacy training and bilingual training;

(G) Attainment of certificates of high school equivalency;

(H) Job sampling, including vocational exploration in the public and private sector;

(I) Institutional skills training;

(J) Transportation assistance;

(K) Child care and other necessary supportive services;

(L) Job restructuring to make jobs more responsive to the objectives of this subpart, including assistance to employers in developing job ladders or new job opportunities for youth, in order to improve work relationships between employers and youth;

(M) Provision of information regarding employment and training related opportunities;

(N) Job development, direct placement, and placement assistance to secure unsubsidized employment opportunities for youth to the maximum extent feasible and referral to employability development programs;

(O) Assistance in overcoming sex-stereotyping in job development, and placement; and

(P) Outreach and other services to increase the labor force participation rate among minorities and women.

(2) *Career employment experience.* This activity is a combination of both well supervised employment (work experience or on-the-job training) and certain transition services including, at a minimum, career information, counseling, including career counseling, and occupational information. Where work experience or on-the-job training is supported with funds serving in-school youth under agreements with local educational agencies, the ancillary transition services must also include placement services. Each prime sponsor shall assure that in-school youths participating in career employment experience need such participation in order to continue their education (sec. 436).

(c) *Special component.* A prime sponsor may design a special component using up to 10 percent of its YETP funds for programs to serve a mixture of youth from families above and below the income level specified in § 680.8(a)(3), and who are economically disadvantaged and not economically disadvantaged. The program shall test whether or to what extent income eligible youth benefit from participating in programs designed to serve youth from all economic backgrounds (sec. 435). This special component shall:

(1) Have them follow a structured experimental design;

(2) Establish and use comparison groups;

(3) Provide for followup on participants; and

(4) Provide in an Annual Narrative Report a followup on the experimental outcomes.

### § 680.7 Local Educational Agency agreements.

(a) Prime sponsors shall use at least 22 percent of their annual allocation of funds under this subpart (not including any amounts carried-in from the previous fiscal year) to serve in-school youth in programs designed to enhance their career opportunities and job prospects (sec. 433(d)(1)) pursuant to written agreements between the prime sponsors and local educational agencies (LEA's).

(b) Agreements may be between the prime sponsor and one or more local educational agencies or a combination of LEA's represented by one LEA.

(c) Each agreement may be either a financial or nonfinancial agreement whichever is determined most appropriate by the prime sponsor and the LEA(s), and shall:

(1) Provide a description of the activities and services to be provided to eligible participants:

(2) Detail the responsibility of each party to the agreement for providing the activities and services which have been selected;

(3) Contain provisions to assure that services provided and/or funds received pursuant to the agreement will not supplant existing services and/or State and local funds expended for the same purpose; and

(4) Provide an assurance that the agreement has been reviewed by the youth council.

(d) *Additional provisions.* Additional provisions are required in those agreements which specifically provide for career employment experience opportunities. These include:

(1) Assurances that participating youth will be provided constructive work experience, which will improve their ability to make career decisions and which will provide them with basic work skills needed for regular employment or self-employment;

(2) Assurances that career counseling, including occupational information and placement services will be made available to participating youth and that funds provided under the agreement will be available to, and will be utilized by, the local educational agency or agencies to the extent necessary to pay the cost of school-based counselors to carry out the provisions of this in-school program;

(3) Assurances that jobs provided under this program will be certified by the participating educational agency or institution as relevant to the educational and career goals of the participating youth.

(4) Assurances that the prime sponsor will advise participating youth of the availability of other employment and training resources in the local community to assist such youth in obtaining employment or self-employment; and

(5) An assurance that career employment experience opportunities provided will be certified by a school-based counselor as being relevant to the career and educational program for the youth being provided those opportunities.

(e) In order to carry out the purposes of the LEA agreement, LEA's and prime sponsors, where appropriate, are encouraged to enter into subagreements, grants or contracts with post-secondary schools, State accredited profit and nonprofit educational institutions, public employment service agencies, and CBO's which have demonstrated effectiveness, in serving youth, particularly those who are economically disadvantaged.

(f) An LEA agreement may be a new agreement or a certification that the existing agreement remains the same or that it is revised as described in attachments to the certification. The certification and/or revisions shall be included as part of the YETP annual plan subpart. If an agreement is not reached within 60 days after the initial submission of the YETP subpart to the RA, the RA shall initiate the reallocation process as described in §680.15.

### § 680.8 Eligibility for participation.

Eligibility requirements governing this program may be found in § 675.5–8(a).

### § 680.9 Eligibility for participation (extraordinary).

Eligibility requirements governing this program may be found in § 675.5–8 (b) and (c).

### § 680.10 Participant compensation, benefits and working conditions.

Prime sponsors shall provide participant benefits, wages and allowances as provided in § 676.26, and § 676.27 of this title, except:

(a) *Wages.* Participants receiving wages shall be paid no less than the highest of (sec. 442):

(1) The wage rate set forth in section 6(a)(1) of the Fair Labor Standard Act. Fourteen and fifteen-year olds, however, may be paid the rate set forth in section 14(b) of the Fair Labor Standard Act; or

(2) The applicable State or local minimum wage, including exceptions for the wage rates of 14 and 15-year olds; or

(3) The prevailing wage for a job which is substantially the same as existing jobs of the same employer, except that, the employer may pay less than its prevailing wage, but not less than the minimum wage, if:

(i) The employer, the prime sponsor, and the appropriate collective bargaining agent, when a collective bargaining agreement is affected, agrees in writing to a lesser wage;

(ii) There is job restructuring. In order to accomplish job restructuring, the prime sponsor, employer, and the appropriate collective bargaining agent shall enter into an agreement concerning the restructuring. If, after agreeing to the restructured job, the agent, employer, or prime sponsor disagrees over the wages

to be paid for the restructured job, the parties shall resolve such dispute at the local level within 30 days. If, after 30 days, an agreement has not been reached, they shall either agee to negotiate in good faith with the RA to resolve the disagreement or select other jobs. If negotiations with the RA do not result in resolution within the 30 days, the RA shall set the wage rate; or

(iii) The employer creates new jobs. If disputes arise regarding whether the jobs are new to the employer, the prime sponsor, appropriate collective bargaining agent, and employer should attempt to resolve the issue within 30 days after the agent has been informed of those jobs. If no agreement can be reached within that time frame, they shall either agree to negotiate in good faith with the RA to resolve the disagreement, or select other jobs. If negotiations with the RA do not result in a resolution within 30 days, the RA shall make a determination as to whether or not the jobs are new to the employer; or

(4) The prevailing wage determined by the Secretary under the Davis-Bacon Act (See 29 CFR Parts 1, 3, 5, and 7) in the case of jobs in projects to which the provisions of the Davis-Bacon Act, or any Federal law containing labor standards in accordance with the Davis-Bacon Act, apply. However, in the case of such projects financed under YETP under $5,000, the employer, prime sponsor, and appropriate collective bargaining agent may agree to pay youth participants not less than the applicable minimum wage and not more than the wage rate of the entering apprentice in the most nearly comparable apprenticeable trade, and to prescribe an appropriate ration of journeymen to such participating youth to work on the project. If they cannot agree in 30 days, they may request a decision from the RA, or develop other jobs (sec. 442).

(b) Because most jobs will be short-term and/or part-time work assignments, and are designed to enhance the employability of individuals who are new entrants who have never worked, or individuals who are new entrants who have not been working in the competitive labor market, most jobs will be at entry level. Prime sponsors, therefore, are expected to pay wherever feasible the minimum rate required by this section, rather than a higher rate.

**§ 680.11 Earnings disregard.**

Wages and allowances received by any youth under YETP shall be disregarded in determining the eligibility of the youth or the youth's family for, and the amount of, any benefits received based on need, under any Federal or federally assisted programs (sec. 446).

**§ 680.12 Maintenance of effort.**

(a) The maintenance of effort provisions of § 676.73(a) of this title apply to all activities funded under YETP (sec. 443).

(b) The maintenance of effort provisions for public service employment programs described in § 676.73 (b) and (c) of this title, shall apply to work experience activities under YETP.

**§ 680.13 Substitution for Title II programs.**

Programs funded under YETP shall be supplementary to but not replace programs and activities for youth available under Title II of the Act (sec. 431).

**§ 680.14 Academic credit.**

Prime sponsors shall make appropriate efforts to encourage educational agencies and post-secondary institutions to award academic credit for the competencies participants gain from the program (sec. 445).

**§ 680.15 Reallocation procedures.**

(a) Reallocation procedures under § 676.47 of this title shall apply except as in paragraph (b) of this section (sec. 444(b)).

(b) If all proposed LEA agreements or certifications to existing agreements are not signed by the prime sponsor and the LEA(s) within 60 days after the initial submission of the YETP subpart to the RA for review and approval, the RA shall initiate reallocation procedures for those funds which were required to be covered under LEA agreements *except;* the RA may extend the 60 day period for a reasonable period of time when the RA determines that an agreement could not be reached because of circumstances beyond the control of the prime sponsor and LEA, for example, work stoppages. If the RA has initiated reallocation procedures, the RA shall mediate the dispute during the 30 day comment period.

**§ 680.16 Modifications.**

(a) The procedures specified in § 676.16 of this title shall apply to modifying the YETP subpart.

(b)(1) When a collective bargaining agreement would be affected, the appropriate bargaining agent and the RA shall be notified in writing of all wage rate and job classification changes under the YETP program at least 15 calendar days prior to implementing such changes.

(2) If the bargaining agent disagrees with the proposed changes in wage rates or job classifications, the dispute shall be resolved and the resolution recorded in writing prior to implementing such changes.

**§ 680.17 Reporting requirements.**

The reporting requirements under § 676.44 of this title shall apply to YETP. In addition, each prime sponsor shall, at the end of each fiscal year and on a date established by the Secretary, submit an Annual Narrative Report. The report will include an assessment of the sponsor's performance and the accomplishments of the program.

**§ 680.18 Governor's Statewide Youth Services Program.**

(a) *Activities and services.* The Governor shall use the funds allocated under section 433 of the Act to provide statewide youth services such as the following:

(1) Expanded and experimental programs in apprenticeship arrangements, in conjuction with businesses, labor unions, State or Federal apprenticeship agencies;

(2) Special model employment and training programs and related services with particular emphasis on experimental job training in the private sector;

(3) Providing labor market and occupational information for prime sponsors and local educational agencies without reimbursement;

(4) Fostering cooperative efforts between State and local institutions, including (i) occupational and career guidance and counseling, as well as placement services for in-school and out-of-school youth; and (ii) coordination of statewide activities carried out under the Career Education Incentive Act to improve the quality of education and enhance career opportunities for students by relating education to their employment aspirations (sec. 433(c)).

(5) Funding employment and training programs as defined in § 680.6 for eligible youth who are under the supervision of the State.

(b) *Eligibility for participation.* Individuals participating in the Governor's statewide youth services program shall meet the eligibility criteria provided in § 680.8 or § 680.9 (sec. 435).

(c) *Limitation of funds.* (1) The overall 20 percent limitation of funds used for administration as set out in § 676.40–2 of this title shall not apply to the Governor's youth services plan. (2) The requirement in § 676.42 for pooling of administrative costs shall not apply to the Governor's youth services plan. Such costs however, may be pooled in accordance with the procedures set forth in § 676.42.

(d) *Governor's statewide youth services plan.* The Governor's youth services plan shall include the following information:

(1) *The Master Plan.* The Governor may utilize the Master Plan developed for the Balance of State program or the Master Plan developed for the Governor's Special Grant as described in § 677.33 of this title, in lieu of developing a separate Master Plan for the Governor's statewide youth services program;

(2) A Request for Approval Letter;

(3) Application for Federal Assistance (standard form 424);

(4) The narrative description which shall include the following:

(i) *Objectives and need for assistance.* (A) A description of the purpose, goals, and objectives of the statewide youth services plan, including how the Governor's youth services plan, will enhance or expand the quality of youth employment and training services presently provided throughout the State.

(B) A description of the target groups that will be served by the Governor's youth services plan, including an explanation of why the specific groups were selected, and the groups of youth that will be seved who are under the supervision of the State.

(ii) *Results and benefits.* As described in the YETP narrative requirements, provide a description of expected results and benefits that will accrue to the participants.

(iii) *Approach.*—(A) *Program activities and services.* Describe the activities and services to be provided under this plan and include:

(1) The service deliverers and the activities they will provide;

(2) The number of participants to be served by each activity;

(3) The duration of each activity; and

(4) If training is one of the activities, the skill(s) to be learned.

(B) *Program linkages.* Describe the program linkages, if not elsewhere described in the Comprehensive Employment and Training Plan for Special Grants to Governors.

(iv) *Management and administration.* (A) Provide the organizational chart and staffing pattern for the plan, if not included in the master plan.

(B) Describe the monitoring and evaluation process if different than that found elsewhere in the Comprehensive Employment and Training Plan for Special Grants to Governors.

(C) Attach a Program Planning Summary (PPS) and a Budget Information Summary (BIS).

(v) The assurances and certifications for the Governor's youth services plan and detailed instructions for completing the requirements of the plan are contained in the *Forms Preparation Handbook.*

(e) *Procedures for comment, modification and approval of Governor's youth services plan.* (1) In developing the Governor's youth services plan, the Governor shall establish a youth council as described in § 680.4(b) which shall report to the State Employment and Training Council. The responsibilities of this council shall be those described in § 680.4, except the references to local agencies shall mean representatives of State agencies who represent statewide concerns.

(2) In submitting the Governor's youth service plan, the procedures specified in § 676.12(a), (b) and (d) and § 677.33(a)(3) of this title shall be followed.

(3) The approval procedures to be followed for the Governor's youth services plan are those specified in § 676.14 of this title.

(4) The modification procedures specified in § 676.16 of this title shall be used to modify the Governor's youth services plan under YETP.

## Subpart B—Youth Community Conservation and Improvement Projects

### § 680.100 Purpose.

(a) This subpart contains the regulations for the Youth Community Conservation and Improvement Projects (YCCIP) under Title IV, Part A, Subparts 2 and 4 of the Act. The introductory and general provisions at *Parts 675 and 676* of Title 20 and the YETP regulations at Subpart A of this Part also apply to YCCIP programs, except that to the extent the regulations set forth in this subpart conflict with other regulations promulgated under the Act, the requirements contained in this subpart shall prevail (sec. 447).

(b) This program seeks to provide youth, experiencing severe difficulties in obtaining employment with well supervised work in projects that produce tangible benefits to the community.

### § 680.101 Eligibility for funds under YCCIP.

Prime sponsors designated under § 676.5 are eligible to apply for YCCIP funds for projects in their area.

### § 680.102 Allocation of funds.

(a) *Allocations.* Allocation of funds under YCCIP shall be in accordance with section 423 of the Act.

(b) *Program funding estimates.* The Secretary will provide prime sponsors with program funding estimates based on their relative share of the State's unemployed population.

### § 680.103 Program planning, planning and youth councils.

(a) *Planning.* The prime sponsor shall utilize the planning process and planning council as described in §§ 676.6 and 676.7 of this title and the youth council established for YETP in developing its annual plan subpart for YCCIP (sec. 426(c)).

(b) *Additional information.* The RA may require that the additional information specified below be submitted at the same time as the Preapplication for Federal Assistance. Where such information is required, a decision concerning the adequacy of that information must be provided to the prime sponsor by five (5) working days after the submission date of the preapplication. The prime sponsor will not be required to submit such information in its annual plan subpart. Such information includes a description of methods to:

(1) Solicit applications, particularly, from neighborhood and community-based organizations, and solicit comments on the project applications from the planning and youth councils;

(2) Objectively select and rank project applications; and

(3) Involve appropriate labor organizations in the planning process.

### § 680.104 Description of the YCCIP annual plan subpart.

(a) Each prime sponsor shall submit a YCCIP subpart, by date established by the RA which, when approved, shall become part of the annual plan.

(b) The RA shall review and approve or disapprove the YCCIP subpart using the procedures in § 676.14 of this title.

(c) *Narrative description.* The narrative shall contain:

(1) *Objectives and needs for assistance.* Using the requirements for the YETP narrative, provide a description of the purpose, goals and objectives of YCCIP program and the target groups that will be served.

(2) *Results and benefits.* As described in the YETP narrative requirements, provide a description of the benefits that will accure to the participants and to the community through the YCCIP program (Sec. 426(b)).

(3) *Approach*—(i) *Participant recruitment and eligibility.* As described, in the YETP narrative requirements, provide the methods that will be used to recruit, select and verify eligibility of YCCIP youth.

(ii) *Worksite supervision.* (A) Describe the training for worksite supervisors and other worksite personnel involved with project participants (sec. 425(b)(3)); and

(B) If the supervisor/worker ratio is less than 1:12, provide justification (sec. 425(b)(3)).

(iii) *Program activities and services.* (A) Describe the job training and skill development activities that will be available to participants. Indicate the service delivered and the activities they will provide, the duration of each activity and the skills to be learned, and the number of participants to be served by each activity (sec. 426(b)(2)).

(B) Describe plans to coordinate the training and skill development activities with school-related programs (sec. 426(b)(2)).

(iv) *Program linkages.* If not elsewhere described in the Comprehensive Employment and Training Plan, describe the program linkages established under YCCIP.

(v) *Project solicitation and selection.* (A) If not included elsewhere in the Comprehensive Employment and Training Plan, describe the method used to solicit YCCIP project applications. Describe the efforts made to solicit applications from neighborhood and community-based organizations; and the method used by program agents to solicit applications, if different from the prime sponsor's (sec. 426(a)(1)).

(B) List or attach the criteria used to determine which project proposals are eligible for funding (sec. 426(a)(1)).

(C) Attach all project applications approved by the prime sponsor and the program agent and include a ranked listing of the approved project applications which total 100 percent of the prime sponsors funding estimate (sec. 426(a)(1)). Also include a ranked listing of any additional approved project applications above the funding estimate.

(D) Attach all project applications approved by program agents but not approved by the prime sponsors and describe why these project proposals were not approved by the prime sponsor (sec. 426(a)(1)).

(4) *Management and administration.* (i) Describe any significant differences in the administration, operation, and management (including organizational structure) of the YCCIP program from the information provided elsewhere in the Comprehensive Employment and Training Plan.

(ii) Attach a copy of the Program Planning Summary (PPS) and Budget Information Summary (BIS) on the YCCIP program.

(5) *Assurances and certifications.* The Assurances and certifications and detailed instructions for completing the requirements of the YCCIP annual plan subpart are contained in the *Forms Preparation Handbook.*

**§ 680.105 Project planning process.**

(a) *Program specifications.* In developing the program specifications, prime sponsors may, after obtaining the approval of the planning and youth councils, limit the types of project activities by:

(1) Establishing limitations on the size and duration of all projects;

(2) Restricting projects to specified community needs; and

(3) Identifying specific neighborhoods or geographic areas in which projects may be conducted.

(b) *Procedures.* Each prime sponsor shall establish procedures for its own use and the use of any program agent(s) which will assure that potential project applicants, particularly neighborhood and community-based organizations, are notified of the project application process and the cut-off date for acceptance of project applications. The method of notification may be public hearings, public notice in the newspapers, bulletins, or other appropriate media.

**§ 680.106 Project application content.**

All project applications must contain the following information:

(a) *Agency.* Name of agency or organization applying for project funds, type of agency (community-based organization, local educational agency) and, if applicable, the program agent to which it was submitted;

(b) *Description of project.* (1) The need for the project in the area in which it will be conducted and how the project will meet the need;

(2) The types of jobs youth are to perform;

(3) The full-time supervisor to youth ratio, or its equivalent and the reason for selecting the ratio;

(4) The qualifications of the supervisors in terms of necessary skills and experiences, or where these are not yet specifically identified, assurances that supervisors will be adequately trained in the skills needed to carry out the projects and in instructing participating youth and a description of the method for selecting supervisors; and

(5) The beginning and ending dates of the project;

(c) *Participants.* (1) Identify the number of participants to be enrolled and their expected duration of employment, not exceeding 12 months;

(2) List the target groups to be served; and

(3) Describe the expected benefits to accrue to participants, e.g., skills to be obtained, academic credits to be earned;

(d) *Job titles, description and wages.* (1) The principal job titles, job descriptions, and hourly wages to be paid. If job restructuring is to occur, a description of the methods of the analysis to be used, the expected results, the methods for obtaining concurrence of appropriate collective bargaining agents, when a collective bargaining agreement is affected, and the relevant expertise of personnel who performed the restructuring; and

(2) The participation of appropriate collective bargaining agents, if a collective bargaining agreement will be affected, with regard to job classifications and wage rates;

(e) *Administration.* A description of the project applicant's organization (including type of organization, purpose of organization), experience in operating employment and training programs and/or providing public services, and a description of the accounting and financial management procedures and/or arrangements; and

(f) *Budget.* The budget shall include totals for the following line items:

(1) Direct program costs;

(2) Costs of participant wages and fringe benefits;

(3) Costs of wages and fringe-benefits of worksite supervisors;

(4) Costs of job-related training;

(5) Costs of materials, supplies and equipment used by participants on the job; and

(6) Costs of supportive services for participants.

**§ 680.107 Project application submission.**

The project applicant shall submit applications to the program agent or to the prime sponsor, if there is no program agent, for its area.

**§ 680.108 Project review.**

(a) *Criteria.* The prime sponsor shall establish criteria to be used consistently by itself and any program agent for evaluating and approving project applications. These criteria are subject to review and comment by the youth and planning councils.

(b) *Information.* Each project, in order to be approved must:

(1) Provide tangible output and measurable benefits which will accrue to the community;

(2) Provide benefits to participants in terms of work habits, skills, apprenticeable skills, and attainment of academic credit, where applicable;

(3) Be labor intensive;

(4) Assure an adequate level of supervision, taking into account the complexity of the jobs to be created;

(5) Describe or assure adequate qualifications for supervisors in terms of necessary skills and experience;

(6) Assure that projects shall permit in-school youths employed in the projects to coordinate their jobs with classroom instruction and, to the extent feasible, permit such youths to receive academic credit for their participation in the program (sec. 427(b)); and

(7) Assure that any person hired to supervise youth shall not impede the promotional rights of existing employees.

(c) *Process.* Project applications from neighborhood and community-based organizations of demonstrated effectiveness in providing employment and training services to youth shall be considered before applications from other project applicants are considered. Where it can be documented that a neighborhood or community-based organization does not have the administrative capability to run a project, or its project application does not meet the project review criteria established by the prime sponsor, then project applications from other than neighborhood and community-based organizations may be considered: *Provided,* the same criteria are used.

(d) *Review.* Program agents shall review the project applications submitted to them, approve or disapprove them, and submit all project applications to the prime sponsor, indicating their approval or disapproval.

(e) The prime sponsor shall review those project applications received, including those submitted by any program agent(s). When reviewing those submitted by a program agent, the prime sponsor shall give due consideration to project applications approved by the program agent.

(f) After review, the prime sponsor shall submit all project applications to the youth and planning councils for comment and recommendations (sec. 426(c)).

(g) After review of any comments and/or recommendations of the planning and youth councils, the prime sponsor shall approve or disapprove the project applications. The prime sponsor, however, shall not disapprove a project application recommended for approval by the councils unless it has first considered any comments and recommendations made by the planning and youth councils and unless it has provided the councils with a written statement of its reasons for disapproval (sec. 426(c)(2)).

(h) In case of disapproval, the prime sponsor shall inform the project applicant in writing of its disapproval. It shall also indicate the reasons for the disapproval.

**§ 680.109 Project prioritization.**

Each prime sponsor shall rank, in terms of their relative priority, approved project applications. Each prime sponsor shall submit:

(a) A primary listing or prioritized proposed projects not to exceed 100 percent of the program funding estimate; and

(b) If additional projects have been approved, a second listing to be considered for future funding, in instances where:

(1) Projects submitted within the 100 percent are not acceptable to the RA;

(2) A project is subsequently found to be nonproductive or is withdrawn; or

(3) Additional funds become available.

**§ 680.110 Project activities.**

(a) Each project shall provide participants with constructive work in terms of individual and community benefits in such areas as, the rehabilitation or improvement of public facilities (including removing of architectural barriers which limit the access to these facilities by handicapped individuals), neighborhood improvements, weatherization and basic repairs to low-income housing, energy conservation including solar energy projects, especially those utilizing materials and supplies available without cost, and conservation, maintenance, or restoration of natural resources on non-Federal publicly held lands (sec. 4220).

(b) Training provided in YCCIP shall be directly related to the development of specific skills needed for the job.

**§ 680.111 Agreements with project applicants.**

(a) Prime sponsors or program agents shall enter into financial agreements with project applicants except as provided in paragraph (b) of this section.

(b) The prime sponsor or program agent may enter into a nonfinancial agreement with a project applicant if there is a written agreement that clearly identifies the administrative and programmatic benefits of such a nonfinancial agreement.

**§ 680.112 Program agent responsibility.**

A program agent under title II may elect to be a program agent under this subpart. Program agents shall approve or disapprove projects, administer the program in their areas, and be subject to the limitation of funds provided in § 680.113. The administrative responsibilities described in § 677.54(b) of this title shall apply to YCCIP program agents.

**§ 680.113 Limitation on use of funds.**

(a) *Administrative costs.* No more than 5 percent of the total funds may be used by the prime sponsor and program agent(s) for administrative costs. The remaining funds shall be made available for projects.

(b) *Project funds.* Of the project funds:

(1) At least 65 percent of the funds available shall be used for participant wages and fringe benefits, unless adequate justification is provided in the prime sponsor's YCCIP annual plan subpart.

(2) No more than 10 percent may be used by project applicants for administrative costs.

(3) Any remaining funds may be used for project related training of participants, project supervisors, service to participants, and for the acquisition, lease, or rental of materials, equipment, and supplies.

**§ 680.114 Supervisory personnel.**

Each project shall have an adequate number of skilled supervisors. There shall be at least the ratio of 1 full-time supervisor to every 12 youths, unless satisfactory justification for another ratio is provided in the prime sponsor's YCCIP annual plan subpart. Supervisors shall have the skills needed to carry out the project and shall be able to instruct participants in those skills (sec. 425(b)).

**§ 680.115. Eligibility for participation.**

Eligibility requirements governing this program may be found in § 675.5–9.

**§ 680.116 Participant compensation, benefits and working conditions.**

(a) Participants shall receive wages as described in § 680.10(a).

(b) Each participant shall be provided the benefits and working conditions as provided in § 676.27 of this title.

**§ 680.1117 Earnings disregard.**

Wages received by any youth under YCCIP shall be disregarded in determining the eligibility of the youth or the youth's family for, and the amount of, any benefits received based on need, under any Federal or federally assisted programs (sec. 446).

**§ 680.118 Maintenance of effort.**

The provisions of § 680.12 regarding the maintenance of effort shall apply to YCCIP programs.

**§ 680.119 Substitution for Title II programs.**

Programs funded under YCCIP shall be supplementary to but not replace programs and activities for youth available under title II of the Act (sec. 421).

**§ 680.120 Academic credit.**

Prime sponsors shall make appropriate efforts to encourage educational agencies and post-secondary institutions to award academic credit for competencies participants gain from their participation in the program (sec. 445(a)). If academic credit is not given for work experience in YCCIP projects, high school dropouts and potential dropouts shall be encouraged to return to or remain in school.

**§ 680.121 Reallocation procedures.**

The reallocation procedures under § 680.15(a) shall apply to YCCIP programs.

**§ 680.122 Modifications.**

The modification procedures under § 680.16 shall apply to YCCIP programs.

**§ 680.123 Reporting requirements.**

The reporting requirements under § 680.17 shall apply to YCCIP programs.

**§ 680.124 Review by the RA, redistribution.**

(a) The RA may approve projects up to 100 percent of the prime sponsors program funding estimate.

(b) The RA shall disapprove any project application which does not meet the requirements of the Act, and the regulations. RA's shall review individual applications for unresolved disagreements between appropriate labor organizations, employers, and prime sponsors with respect to jobs that have been restructured. RA's shall provide in writing to the prime sponsor an explanation for any prioritized project applications that are rejected.

(c) *Redistribution.* If there are insufficient approved prioritized project applications to equal the prime sponsor's program funding estimate, the RA shall allow the prime sponsor 30 days in which to modify the prioritized project list. If the prime sponsor fails to submit revised project applications or submits revised project applications which are not approvable, the RA shall award the unused funds to other prime sponsors within the State for project applications approved by the RA. In States with only one prime sponsor or in States where no other prime sponsor will be able to spend these funds within a reasonable period of time, the RA shall initiate the reallocation procedures set forth in § 676.47 of this title.

## Subpart C—Summer Youth Employment Programs

**§ 680.200 Purpose.**

(a) This subpart contains the regulations for that part of the Summer Youth Employment Program (SYEP) under Title IV, Part C of the Act which is operated by prime sponsors designated under § 676.5 of this title. The introductory and general provisions at *Parts 675 and 676* and the YETP regulations at Subpart A of this Part also apply to the SYEP program. To the extent, however, that the regulations in this subpart conflict with other regulations promulgated under the Act, the requirements contained in this subpart shall prevail (sec. 484).

(b) The Summer Youth Employment Program shall provide eligible youth with useful work and sufficient basic education and institutional or on-the-job training to assist these youths to develop their maximum occupational potential and to obtain employment not subsidized under this Act. The programs shall be designed to meet the diverse individual needs of each participant. Among these are:

(1) Structured and well supervised work;

(2) Opportunities to explore vocational interest;

(3) Job rotations to expose youth to different work settings;

(4) Vocational counseling and occupational information;

(5) Providing income to participants who without assistance would be unable to attend school;

(6) Meeting special employability needs;

(7) Services to induce and aid dropouts to return to school; and

(8) Placement into short-term subsidized employment leading to full-time unsubsidized employment for youth where return-to-shool is not expected.

**§ 680.201 Eligibility for SYEP funds.**

Prime sponsors designated under § 676.5 are eligible to receive funds under SYEP (sec. 482).

**§ 680.202 Allocation of funds.**

Allocation of funds under SYEP shall be in accordance with section 483 of the Act.

**§ 680.203 Unexpended previous year funds.**

Unexpended summer program funds as of September 30 of each year shall be used in planning and designing the next year's summer program as described in § 680.204

**§ 680.204 Startup of program.**

(a) During the planning and design phase of the program and prior to the close of the school year, only those activities outlined in paragraph (b) of this section are permissible. Youth may not be compensated for participation in the program prior to the close of school.

(b) Upon approval by the RA, the following planning and design activities shall be allowable beginning October 1 of each year:

(1) Development of the SYEP annual plan subpart;

(2) Hiring of staff (planners, worksite developers, intake specialists, etc.);

(3) Publication and clearance;

(4) Worksite development;

(5) Recruitment, intake and selection of participants;

(6) Arrangements for supportive services;

(7) Dissemination of program information, including orientation;

(8) Development of coordination between schools and other services;

(9) Staff training; and

(10) Other activities, with the approval of the RA, that may be characterized as planning and design but not program operation.

**§ 680.205 Program planning; planning and youth councils.**

(a) Each prime sponsor shall utilize the planning process and planning council, as described in § 676.6 and 676.7 of this title, and the youth council established under subpart A of this Part.

(b) In developing the SYEP annual plan subpart, the prime sponsor shall coordinate SYEP activities with programs for youth under Part 677 and subparts A and B of this Part (sec. 483(a)).

**§ 680.206 Basic program design provisions.**

Each prime sponsor shall:

(a) Provide services to those individuals most in need among its economically disadvantaged youth population, within the prime sponsor's jurisdiction, taking into account any priorities identified by the Secretary. Such services shall be provided on an equitable basis considering the geographic distribution of economically disadvantaged youth within the prime sponsor's jurisdiction.

(b) Design programs which are, to the maximum extent feasible, consistent with every participant's fullest capabilities.

(c) Develop outreach and recruitment techniques aimed at all segments of the economically disadvantaged youth population; especially school dropouts, youth not likely to return-to-school without assistance from the summer program, and youth who remain in school but are likely to be confronted with significant employment barriers relating to work attitude, aptitude, social adjustment, and other such factors.

(d) Provide labor market orientation to all participants either on a group or individual basis.

(e) Make maximum efforts to develop cooperative relationships with other community resources so that SYEP activities, including worksite supervision, are provided in the summer program at no cost, or at minimum cost, to the summer program.

(f) Make appropriate efforts to encourage local educational agencies and post-secondary institutions to award academic credit for the competencies participants gain from their participation in the summer program.

**§ 680.207 Description of the SYEP annual plan subpart.**

(a) Each prime sponsor shall submit a SYEP subpart by a date established by the RA which, when approved, shall become part of the annual plan. The RA may request an advance copy of the plan for preliminary review or authorize the prime sponsor to simultaneously submit the subpart to the regional office during the comment and publication process. The RA may conditionally approve the plan subject to final resolution of any comments received during the comment and publication period or any comments made by the regional office.

(b) The RA shall review, and approve or disapprove the SYEP subpart using the procedures in § 676.14 of this title.

(c) the SYEP subpart shall consist of the following items:

(1) Approval Request Letter;

(2) Application for Federal Assistance (Standard Form 424); and

(3) Narrative description.

(d) *Narrative description.* The narrative description shall contain:

(1) *Objectives and needs for assistance.* (i) Using the requirements for the YETP narrative, provide a description of the purpose, goals, and objectives of the SYEP program and the target groups that will be served by the program.

(ii) *Special group waivers.* Describe the conditions for which a waiver to the limitation on participation in work experience is being requested for any special group(s) of youth being served under SYEP.

(2) *Results and benefits.* Using the requirements for the YETP narrative, describe the participant benefits that will result from the program.

(3) *Approach*—(i) *Program activities and services.* (A) Provide a description of the program activities and services and indicate the service deliverers and the activities they will provide, the duration for each activity and the skills to be learned, and the number of participants to be served by each activity.

(B) Describe the labor market orientation component.

(ii) *Program linkages.* If not elsewhere described in the Comprehensive Employment and Training Plan, describe the program linkages established under SYEP.

(iii) *Worksites.* (A) Attach a copy of a worksite agreement which is representative of the worksite agreements used for SYEP.

(B) Describe the training for worksite supervisors, and other worksite personnel with respect to their responsibilities under the SYEP.

(iv) *Participant recruitment and selection.* Using the requirements for the YETP narrative, describe the methods that will be used to recruit, select, and verify eligibility of YETP youth.

(v) *Special components.* (A) If a vocational exploration program (VEP) is be funded under the SYEP, describe the program and indicate the number of participants and planned expenditures for the program, the organizations with which agreements have been written, the arrangements covered by these agreements, the occupations to which participants will be exposed, provide evidence of the approval by the affected collective bargaining agent(s), and if a nationally funded VEP is operating in the prime sponsor's area, identify the functions or activities the prime sponsor will perform for the nationally funded program

(B) If an Entitlement project under subpart D of this Part is being funded and operated with SYEP funds, describe the project, including the primary program activities.

(4) *Management and administration.* (i) Describe any significant differences in the administration, operations, and management (including organizational structure) of the SYEP program from the information provided elsewhere in the Comprehensive Employment and Training Plan.

(ii) Describe the results of or attach copies of any evaluation/assessment reports conducted on the last year's SYEP program which were used to set priorities and/or determine the programmatic goals for purpose of SYEP.

(iii) Attach copies, if any, of comments and recommendations received on the SYEP plan from the appropriate labor organizations, the youth council, the planning council, CBO's and LEA's.

(iv) If not elsewhere included in the Comprehensive Employment and Training Plan, describe the monitoring and evaluation process that will be used for the program.

(v) Attach a copy of the Youth Program Planning Summary and Youth Budget Information Summary on the SYEP program.

(5) *Assurances and certifications.* The SYEP assurances and certifications and detailed instructions for completing the requirements of the SYEP annual plan subpart are contained in the *Forms Preparation Handbook.*

**§ 680.208 Activities and services.**

(a) Programs may include any employment and training activity or service specified in § 676.25 of this title, except public service employment.

(b) Prime sponsors operating Youth Incentive Entitlement Pilot Projects (YIEPP) may use SYEP funds for their YIEPP program. The provisions of Subpart D of this Part shall apply to SYEP funds used for this purpose.

**§ 680.209 Program management provisions.**

Each prime sponsor shall:

(a) Provide adequate skilled supervisors to participate at each worksite.

(b) Closely monitor the performance of service deliverers in compliance with the provisions of the regulations governing the summer program, particularly the provisions of paragraph (h) of this section. Specifically, prime sponsors shall have sufficient technical and managerial personnel to monitor performance and to measure program outcomes against prime sponsor's established goals.

(c) Ensure that enrollee applications are widely available and that jobs are awarded among the most severely disadvantaged in an equitable fashion. Each prime sponsor shall inform each participant of the purposes of the program, the conditions and standards (including such items as hours of work, pay provisions and complaint procedures) for work activities in the program and require a signature of the applicant or (in the case of minors) the parent, responsible adult, or guardian attesting to the accuracy of the information, especially income data, provided on the application.

(d) When using contractors or subrecipients, enter into contracts or subgrants in accordance with § 676.37. Prime sponsors may enter into contracts or subgrants for those allowable activities or operations of the summer program only with organizations that have demonstrated sufficient program capability and shall have reasonable assurances that such organizations:

(1) Have sufficient capability to operate the program;

(2) Have financial management capability as required by § 676.34;

(3) Assure in their applications that all proposed worksites meet the requirements of this subpart, and that such worksites will meet the standards of § 680.210;

(4) Assure in their applications that they will have available for review and monitoring the names and qualifications of their officers, directors, and managing personnel, including the names and qualifications of officers, directors and managing personnel of any affiliate, subsidiary, etc., who have operational or fiscal responsibilities for the summer program;

(5) Assure in their applications that they will have available a list of all Department of Labor; Department of Health, Education, and Welfare; and Department of Agriculture programs under which they have received financial assistance during the last three years and provide in their applications a statement that to the best of their knowledge, they have substantially complied with the requirements, procedures and objectives of such programs;

(6) Assure in their applications that there is no information available to them showing substantial non-compliance with the Act and regulations in operation during the terms of the previous year's summer program, or if there is, they shall include in their applications a copy of an acceptable plan to correct such deficiencies; and

(7) Assure in their applications that all of their personnel will have basic training in the program and regulations before the summer program begins.

(e) Consider in selecting contractors or subrecipients the capability of such organizations to:

(1) Provide worthwhile work to participants (i.e., work that is appropriate in terms of participants' needs and local market demands);

(2) Provide the specific services contracted for;

(3) Restrict expenditures to allowable cost items only;

(4) Submit timely and accurate reports;

(5) Authorize payment only for time worked by a participant or an employee of the project sponsor; and

(6) Provide such public information regarding the program worksites and its administrators as may be requested.

(f) Require their contractors or subrecipients to:

(1) Have supervisory and operational personnel for monitoring each site to which participants are assigned;

(2) Assure that all sites, where participants will be assigned, have the capability and facilities to provide services to summer youth in a sanitary and safe environment; and

(3) Train their own personnel and worksite personnel with regard to the duties and responsibilities, including monitoring.

(g) Compile and continually update a list of worksites divided by contractor and subrecipient to aid in its monitoring efforts and to be made available to the public on request.

(h) Visit worksites of each contractor or subrecipient on a sample basis during the first half of the summer program to determine whether:

(1) The activities on the site are those described in the worksite agreement;

(2) There is sufficient meaningful work to occupy all the youth assigned during the hours they are at the site;

(3) Attendance records are being maintained and accurately record time worked by each enrollee; and

(4) The requirements of the Act and this subpart are being met.

(i) Promptly review the reports written by its own and Federal monitors.

(j) Revisit worksites where monitors report problems.

(k) Close worksites where it finds serious or continual violations of the Act, the regulations or conditions of the contract or subgrant, and which are not likely to be remedied by quick remedial action.

### § 680.210 Worksite standards.

(a) No participants under 18 years of age shall be employed in any occupation which the Secretary has found, pursuant to his authority under the Fair Labor Standards Act, to be particularly hazardous for persons between 16 and 18 years of age (see Subpart E of Part 570 of Title 29).

(b) Participants who are 14 and 15 years of age shall participate only in accordance with the limitations imposed by the Fair Labor Standards Act. (See subpart C of Part 570 §§ 570.31 and 570.35 of Title 29.)

(c)(1) Each prime sponsor shall develop a written financial or nonfinancial agreement with each worksite employer which assures:

(i) Adequate supervision of each participant,

(ii) Adequate accountability for participant time and attendance, and

(iii) Adherence to the rules and regulations governing SYEP.

(2) Such written agreements may be memoranda of understanding, simple work statements or other documents which indicate an estimate of the number of participants at the worksite and any operational conditions to which the worksite is expected to adhere.

(d) Each prime sponsor shall establish procedures for the monitoring and evaluation of each worksite to insure compliance with the worksite agreements and the terms and conditions of subgrants and contracts.

(e) No participant shall be required to work, nor be compensated for work, with CETA funds, for more than 40 hours per week. While the Department uses a 9-week, 26-hour week job as the basis for estimating the number of youth to be served, it is not intended to take away the flexibility of the prime sponsor to establish job slots in keeping with the needs of the area and the youth to be served.

### § 680.211 Eligibility for participation.

Eligibility requirements governing this program may be found in § 675.5–10.

### § 680.212 Participant compensation benefits and working conditions.

(a) Prime sponsors shall provide participant benefits, wages, and allowances as provided in §§ 676.26 and 676.27.

(b) Participants enrolled in vocational exploration activities shall be compensated as described in § 676.26 *except:* Participants receiving public assistance, or whose needs or income are taken into account in determining such public assistance payments to others, may receive a stipend in addition to their incentive allowance for participation in vocational exploration program activities; *Provided,* That the participant's total allowances (the incentive allowance plus any stipend) do not exceed the basic allowances paid to other participants.

This stipend is available to provide for the exceptional expenses incurred by these participants which might otherwise prevent the individuals from participating in a VEP activity. The first $30 of such total allowance payment shall be disregarded in determining the amount of public assistance payments under Federal or federally assisted public assistance programs. In prescribing the total allowance payment for each participant, the prime sponsor shall insure that no individual shall receive an amount in allowances which would result in a net loss to the youth or the youth's family in public assistance benefits.

### § 680.213 Reallocation procedures.

The reallocation procedures under § 676.47 shall apply to SYEP programs.

### § 680.214 Modifications.

(a) The procedures specified in § 676.16 shall apply to the modifying of the SYEP subpart, except that the

provisions concerning A-95 clearance shall not apply

(b) The RA shall notify the prime sponsor of approval or disapproval within 10 days of receipt of the proposed modification.

**§ 680.215 Reporting requirements.**

Each prime sponsor shall submit the following reports to the RA:

(a) A Youth Program Status Summary, as of June 30 and September 30 (separate reporting of the vocational exploration program component will be included in this report);

(b) A Youth Financial Status Report, as of June 30 and September 30 (separate reporting of the Vocational exploration program component will be included in this report);

(c) Separate Quarterly Summary of Participant Characteristics reports as of September 30, based on the participant records for this program and any Part 677 summer youth programs;

(d) Selected information required on the above reports shall be submitted for informational purposes for participants and expenditures in summer components funded with monies in the Part 677 annual plan subparts as applicable;

(e) Selected information required on the above reports shall also be submitted for reporting purposes, for participants and expenditures in entitlement projects funded with monies provided under this subpart, as well as in the required entitlement reports; and

(f) The reports in this section shall be submitted to the RA no later than 30 days after the end of the report period.

**§ 680.216 Termination date for the summer program.**

(a) Participants shall not be enrolled in program activities beyond September 30. However, in no event may a participant work full time after the beginning of his or her school year.

(b) In addition to the activities described in § 680.204, allowable activities after September 30 include: report and record preparation and submittal, completion of evaluations and assessments of the summer program, and audits.

## Subpart D—Youth Incentive Entitlement Pilot Projects

**§ 680.300 Scope and purpose of subpart.**

(a) This subpart contains the regulations governing the Youth Incentive Entitlement Pilot Projects (Entitlement Projects) under Title IV, Part A, Subpart 1 of the Act. The Youth Incentive Entitlement Pilot Projects were established by Title II of the Youth Employment and Demonstration Projects Act (YEDPA) of 1977.

(b) The basic purpose of the Entitlement Projects is to test the experimental idea of guaranteeing jobs, or in some cases a combination of jobs and training, to economically disadvantaged youth. The program is operating only in certain prime sponsor areas, or portions of prime sponsor areas, chosen by the Department of Labor. Within those areas during the school year, otherwise unavailable part-time employment, or a combination of part-time employment and training, will be guaranteed to those economically disadvantaged youth between the ages of 16 to 19 inclusive, who are in secondary school or who are in a program leading to a certificate of high school equivalency. In addition, in those same areas during the summer, otherwise unavailable full-time employment, or a combination of part-time employment and training, will be guaranteed to economically disadvantaged youth, between the ages of 16 to 19 inclusive, who are in a secondary school or who are in a program leading to a certificate of high school equivalency (sec. 416(a)).

(c) Congress mandated that the entitlement approach be rigorously tested under varying geographic, economic, and other circumstances. Because of the high cost of guaranteeing year-round jobs to all in-school disadvantaged youths, only a limited number of demonstrations could be undertaken with available funds. In order to test whether jurisdictions can feasibly implement substantial programs, only a limited number of Tier I projects were implemented. These are covering entire jurisdictions or neighborhoods. In order to test a number of innovative approaches authorized by the Act and to get a wider geographic spread, a somewhat larger number of Tier II projects were funded, demonstrating specific innovative entitlement approaches. These projects might cover only the area served by a particular school or small school district.

(d) To make sure that Entitlement Projects would be selected and operated as a national experiment, with the necessary flexibility to develop and test new and improved ideas, Congress did not authorize the Secretary to allocate funds to CETA prime sponsors by formula. Instead, the Secretary of Labor was required to determine how many Entitlement Projects are to be established and where they should be located.

**§ 680.301 Regulations governing entitlement projects; definitions.**

(a) All the provisions of Part 676 of this title shall apply to the Entitlement program except to the extent they conflict with the regulations in this subpart.

(b) To the extent that the research, demonstration, and informational requirements of this subpart conflict with the regulations contained in Part 676, the regulations in this subpart shall prevail. In order to determine whether a conflict exists, grantees shall consider both the regulations in this subpart and the terms of the Entitlement grants which implement the regulations in this subpart. For example, the regulations throughout this subpart contain requirements that the grantee submit detailed information not required by the regulations in Part 676. Because of the research and demonstration nature of the Entitlement program such information is essential. As a result, the Entitlement grants, which implement the regulations contained in this subpart, contain reporting and other requirements which are both different from, and more detailed than, those in Part 676. In such cases, the grantees shall follow the Entitlement grant requirements. Other specific examples of such conflicts are as follows:

(1) Since under the regulations in this subpart, the Entitlement program is administered by the national office the terms regional office and Regional Administrator in Part 676 mean for purposes of this subpart national office and Grant Officer respectively; and

(2) To extent that Entitlement grants require the use of categories for allocating costs for reporting purposes which are different from or more detailed than the allocable cost categories in § 676.41, the grantee shall allocate costs pursuant to the categories in the Entitlement grant.

(c) Questions regarding the applicability of specific provisions of Part 676 which may appear to conflict with the regulations or grant shall be addressed to the Grant Officer.

(d) Definitions for terms used in this subpart may be found at § 675.4 of this title, except as stated within this subpart.

**§ 680.302 Funding of entitlement projects.**

(a) Of the funds available under this subpart, the Secretary shall reserve a portion of the funds for research, technical assistance, consultants, and other appropriate purposes.

(b) The Secretary shall use the remaining funds under this subpart to fund selected Entitlement Projects.

**§ 680.303 Eligibility for funds.**

All prime sponsors under Title II of the Act were eligible to apply for Entitlement Project funds.

**§ 680.304 [Reserved]**

**§ 680.305 [Reserved]**

**§ 680.306 [Reserved]**

**§ 680.307 [Reserved]**

**§ 680.308 [Reserved]**

**§ 680.309 [Reserved]**

**§ 680.310 [Reserved]**

**§ 680.311 [Reserved]**

**§ 680.312 [Reserved]**

**§ 680.313 [Reserved]**

**§ 680.314 Assurances and certifications.**

The prime sponsor shall assure that, in operating its Entitlement Project, the prime sponsor will comply with the Master Plan including Assurances and Certifications in the Master Plan and with the following additional assurances:

(a) Compliance with Title IV, Part A, Subpart 1 of the Act, with other applicable provisions of the Act, and with the regulations in its subpart; and

(b) Compliance with the Hazardous Occupations Orders issued pursuant to the Fair Labor Standards Act and set forth at 29 CFR 570.50 *et seq.* with respect to the employment of youths under 18 years of age.

**§ 680.315 Project responsibilities and requirements.**

(a) *Project organization and administration.* (1) Because of the size and complexity of the Entitlement Projects, a single governmental, private nonprofit, or educational agency should be designated to assume overall management responsibility for program operations, including coordinating participant recruitment, work site development, operational relationships among schools, training activities and support services, program monitoring, report preparation, and maintenance of management information. The prime sponsor may delegate this responsibility.

(2) For the Entitlement Project, the entire youth participant payroll shall be centrally administered by the prime sponsor of its delegated management agency, Finally, since this is a demonstration project, extensive research, monitoring, and evaluation must be carried out by the prime sponsor under the supervision of the Department of Labor.

(b) *Commitment of local institutions and organizations.* (1) Prime sponsors shall consult with the appropriate labor organizations in developing restructured and/or newly classified jobs.

(2) Section 418(a)(4)(D) of the Act also requires that prime sponsors consult and work with a number of other local institutions and organizations in planning and implementing Entitlement Projects, including law enforcement and judicial agencies, youth groups, State and local public assistance agencies, community-based organizations, the private sector, and the State Employment Service. Arrangements should be made with all appropriate groups to obtain their assistance in operating the program.

(c) *Agreements.* Prime sponsors shall comply with the following agreements in carrying out their Entitlement Projects:

(1) All wage agreements entered into pursuant to § 680.319(a);

(2) An agreement with the State Employment Service agency;

(3) Agreements obtained from each participating school and high school equivalency (GED) program in the Entitlement Project area which is attended by eligible youths, and, to the extent feasible and appropriate, with every such school outside the Entitlement Project area which eligible youths from the Entitlement Project attend, indicating their willingness to provide a monthly status report for each participant certifying the participant's compliance or noncompliance with the school's or GED program's minimum academic and attendance requirements, including, from each participating secondary school and GED program a description of the standards and policies for determining its minimum academic and attendance requirements;

(4) All on-the-job training, employment guarantee and other agreements entered into with private nonprofit and for-profit employers;

(5) Any agreements with unions with respect to apprenticeship training; and

(6) Any other agreements entered into in order to run the Entitlement program.

(d) *Program operation-related documentation.* Prime sponsors shall document the following:

(1) The procedures for verification and reverification of eligibility criteria as required in § 680.313(f), and the method by which these will be implemented, and how the eligibility criteria and verification procedures will be explained to participants at the time of enrollment;

(2) Policies for defining good cause for the participant's rejection of a job or other nonparticipation; proposed procedures and timetable for making another job offer in such cases; and proposed procedures for the resolution of grievances.

(3) In detail, standards for determining satisfactory performance including policies on attendance and lateness on the job or at training, suspension and termination policies and procedures, and the procedures and staff responsibilities for monitoring program performance.

(4)(i) Descriptions of which of the following groups of youth, if any will be considered by the prime sponsor to "reside" in the Entitlement Area and therefore be eligible (if otherwise eligible) for program participation:

(A) Youths confined in prisons or other correctional institutions in the area;

(B) Youths in area hospitals, drug rehabilitation centers, half-way houses, etc.; and

(ii) How the enrollment eligibility criteria and procedures will be applied to any of these or other groups of youth in institutional "residences" selected to be included in the program.

**§ 680.317 Work sites.**

(a) Work sites shall:

(1) Not detract from or interfere with the educational curriculum of the participants and, whenever possible, shall complement that curriculum;

(2) Be primarily in the Entitlement Area or easily accessible, and in reasonable proximity to the residences of eligible youth;

(3) Maintain a cooperative relationship with local business, union and community group interests;

(4) Provide attendance and productivity standards, which are adequate for monitoring purposes and capable on-site supervision; and

(5) Be developed and committed in such numbers and in such a way as to minimize the time between enrollment and assignment to a work site of any participant.

(b) Emphasis in work site development shall be placed on jobs having careful supervision and which provide youth with structured, productive work settings. Jobs shall be designed to introduce youth to the habits of successful work life and entry level or preparatory skills.

(c) Prime sponsors should make every effort to create new and different job classifications, occupations, and restructured jobs (sec 418(a)(3)).

(d) Participants shall spend a majority of paid program time on the work site engaged in direct job performance. Training may be provided during the remaining time, provided the training is

directly related to the specific work assignement.

**§ 680.318 Allowable activities.**

(a) The Entitlement project may include any type of employment and training activity specified in § 676.25 of this title, except public service employment.

**§ 680.319 Participant benefits.**

(a) The wage provisions of § 680.10 shall apply to the Entitlement program. In addition:

(1) In Entitlement projects in which employment with private-for-profit employers is authorized, up to 100 percent of the wages may be paid. (i) However, in such cases, prime sponsors must submit acceptable plans for reducing the level of wage subsidy over the period of participation of the participant.

(ii) No additional payments shall be provided by the Entitlement program to any such for-profit organization.

(2) In the case of participants working at jobs and/or engaged in training provided by private-for-profit organizations wages (and/or allowances) shall be paid, as in all cases, by the centrally administered payroll facility required by § 680.315(1)(b).

(3) Each participant shall spend the majority of his/her paid time in the Entitlement program in either work or training which is directly related to the assignment. Consequently, participants should be paid wages for both work time and training time, except when more than 50 percent of scheduled program time is spent in training. In such cases, allowances shall be paid in accordance with § 676.26 for the period spent in training.

(b) Each participant, while in on-the-job training, or work experience, shall be assured of the general benefits and working conditions for program participants required by § 676.27 of this title.

(c) No funds under the Entitlement program may be used for retirement benefits or costs.

**§ 680.320 Academic credit.**

Prime sponsors shall make appropriate efforts to encourage educational agencies to award academic credit for the competencies participants gain in the Entitlement program.

**§ 680.321 Disregarding earnings.**

The provisions of § 680.11 of this Part shall apply to the Entitlement program (sec. 446).

**§ 680.322 Maintenance effort.**

The provisions of § 680.12 and 680.13 shall apply to the Entitlement program.

**§ 680.323 Limitations on use of funds.**

(a) No funds under the Entitlement program may be used to pay for time spent in the Entitlement program in excess of 20 hours a week during the school year or 40 hours per week during the summer. The minimum paid program time guaranteed for each employed youth shall be 10 hours per week during the school year and 30 hours per week during the summer. Prime sponsors may also allow youths to work 40 hours a week during school year vacations of 5 consecutive school days or more, but there shall be no minimum paid program guarantee applicable to these school year vacations.

(b) *Training and support services.* (1) The basic intent of the Entitlement Projects is to provide employment. Training and support services may be provided, however, it should be assumed that a participant will spend most of paid program time engaged in direct job performance at the worksite.

(2) Any training that is conducted during paid program time should be directly related to the participant's specific work assignment.

(3) Participants are to be paid for time spent in training in accordance with § 676.26 and § 680.319(a)(3)).

(4) Participants shall not be paid for time spent in supporting services (as defined in § 676.25(e)(3)).

(5) Prime sponsors are discouraged from paying for staff and overhead costs for training and support services out of Entitlement funds. Prime sponsors should use funds from other sources to cover these costs.

(c) *Innovative Approaches.* Prime sponsors may test a variety of innovative employment and training approaches within the larger context of the Entitlement program. These approaches should not cover an entire Tier I project, of which the basic purpose is to test the Entitlement notion itself, but may be used as a component of Tier I projects. Tier II projects should include one or more of the following innovative approaches:

(1) The use of subsidies to private for-profit employers to encourage such employers to provide employment and training opportunities;

(2) Arrangements with unions to enable eligible youth to enter into apprenticeship training as part of the employment entitlement;

(3) Inclusion of economically disadvantaged youth between the age of 19 and 25 who have not received their high school diploma or equivalent;

(4) Inclusion of occupational and career counseling, outreach, career exploration, and on-the-job training as part of the employment entitlement;

(5) Inclusion of youth under the jurisdiction of the juvenile or criminal justice system with the approval of the appropriate authorities.

(b) Prime sponsors may use program funds under both Title II and Title IV, Part C of the Act for the Entitlement Project. Funds under Title IV, Part A, Subparts 2 and 3 of the Act may also be used provided modifications are obtained for those grants. Funds received under Title IV, Part C shall be integrated with funds received under this subpart. Therefore, the regulations under this subpart shall apply to such funds. Title II funds and other Title IV funds, however, may not be integrated, but must be separately accounted for. The regulations appropriate to each program shall apply to such funds when conflicts occur between those regulations and the Entitlement regulations. Thus, for example, Entitlement Project wages and allowances paid for with Title II funds, shall be paid at the wage rates and allowance rates set forth in the Title II regulations.

Signed at Washington, D.C., the 14th day of May, 1980.

Ray Marshall,

*Secretary.*

[FR Doc. 80-15374 Filed 5-15-80; 2:17 pm]

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## DEPARTMENT OF LABOR

### Employment and Training Administration

### 20 CFR Parts 676, 677, 678 and 679

### Comprehensive Employment and Training Act Regulations

**AGENCY:** Employment and Training Administration, Labor

**ACTION:** Proposed rule.

**SUMMARY:** This document contains proposed changes to several sections of the final regulations under the Comprehensive Employment and Training Act which are being published today. The purpose of this publication is to request comment on these proposed rules.

**DATES:** Comments on the proposed rules are due on or before July 21, 1980.

**ADDRESS:** Comments should be addressed to the Assistant Secretary for Employment and Training, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213, Attention: Robert Anderson, Administrator, Office of Comprehensive Employment Development.

**FOR FURTHER INFORMATION CONTACT:** Robert Anderson, Telephone: (202) 376-6254.

**SUPPLEMENTARY INFORMATION:** The Department of Labor has today published final rules for Parts 675–680 of Title 20 of the Code of Federal Regulations. Proposed rules were published on April 4, 1980, 45 FR 23296. At that time, the Department inadvertently omitted publication of several proposed changes for comment. Accordingly, we now propose for comment the following changes in the final CETA regulations.

Pursuant to Office of Management and Budget (OMB) direction, several sections of the regulations which set forth reporting or recordkeeping requirements are proposed for deletion.

The Department proposes to delete all references in these regulations to the PSE Occupational Summary. In our view, this summary is repetitive of the the narrative information which is provided elsewhere in the prime sponsor's CETP. The Occupational Summary has become a major paperwork burden which has proven to be of no benefit to the Department in monitoring compliance with the Act because it is not required to be updated throughout the year and would be virtually impossible to keep current. Accordingly, the Department proposes to amend §§ 676.12(f), 676.16(c)(3)(v), 677.56 (a) and (f), and 678.6 (a) and (f), to delete all references to the Occupational Summary.

In the final regulations published today, the individual significant segments charts and related information are required in the Annual Plan subparts for Parts B, C and D of Title II and Titles VI and VII. The Department proposes to amend these regulations to require that prime sponsors provide that information in the Annual Plan General Narrative. This change would allow the centralization of this information where it can be related to the target group information which follows that section of the plan. Accordingly, the Department proposes to transfer these provisions to the Annual Plan General Narrative by deleting §§ 677.15(b)(1), 677.56(b)(1), 678.6(b)(1) and 679.5(d)(1)(ii) and adding § 676.11(c)(5)(i)(A), (B), (C), (D).

In order to reduce unnecessary paperwork burdens the Department proposes to transfer from the Annual Plan subparts to the Master Plan the requirements that prime sponsors describe methods for ensuring compliance with the average wage rate provisions, for determining PSE wage rates, and for integrating PSE programs with other CETA programs. These provisions would be transferred by deleting §§ 677.56(b)(3)(iv), (v), and (vi), and 678(b)(3)(v), (vi), and (vii) and adding §§ 676.10–4(i)(4)(i), (ii), and (iii).

The Department also proposes to eliminate five items now required to be reported in the Master Plan. They are: (A) § 676.10–4(f)(2), the description of procedures to ensure that planning council meetings are open; (B) § 676.10–4(f)(3), the description of staff support to the council; (C) § 676.10–4(g)(1)(iii), the description of the Personnel Merit System; (D) § 676.10–4(g)(2)(vi), the description of the allowance payment system; and (E) § 676.10–4(g)(2)(vii), the description of methods to ensure compliance with retirement provisions. It is our view that these provisions simply require the prime sponsor to explain how certain requirements of the Act are being met and the purpose the provisions serve is adequately met by other requirements in the regulations.

In comments on the April 4 *Proposed Regulations,* and in parallel comments on ETA's grant requirements in the *Forms Preparation Handbook,* a number of commentators noted that the above requirements were not prescribed by statute, but were administrative requirements included by ETA in regulations. Accordingly, as part of the Department's efforts to reduce the paperwork burden in CETA plans, the Department proposes to eliminate the above items as part of the official Master Plan submission, and alternatively to provide under § 676.22(f) for prime sponsors to maintain on-site descriptions of the personnel system, and the retirement system, the allowance payments system, and the retirement system (20 CFR § 676.22(f), items (1), (2), and (3)).

The Department proposes to amend § 676.44 to require at (a)(6) a new Annual Report of Training Enrollments and Completions. This report is being required pursuant to Section 313(g) of the Act which provides, in part, that the Secretary shall "establish procedures for the uniform reporting by prime sponsors of information on enrollments, completions, job placements, and training related placements by detailed occupational or training code for classroom and on-the-job training programs funded under this Act."

In addition to the proposed reporting and recordkeeping changes, the Department proposes to amend § 677.39(f) to clarify that the 20 percent limitation for administrative costs contained at (e)(i) of this section does not apply to activities specified at § 677.39(f) which are by their nature administrative and are specifically required by section 204 of the Act. This revision clarifies that the 20 percent restriction on administrative costs will apply only to the 85 percent of funds to be used for services to participants. Accordingly, the phrase "and § 677.39(e)(1) above" is deleted from § 677.39(f).

Accordingly, it is proposed to amend Parts 676, 677, 678 and 679 of Title 20 of the Code of Federal Regulations as follows:

### Part 676—[Amended]

(1) Part 676 is amended by deleting §§ 676.10–4(f)(2); 676.10–4(f)(3); 676.10–4(g)(1)(iii); 676.10–4(g)(2)(vi) and 676.10–4(g)(2)(viii);

#### § 676.10–4 [Amended]

(2) Section 676.10–4(i) is amended by adding the following new subparagraph (4) to read as follows:

(4)(i) A description of the methods to be used to ensure that, at the end of the fiscal year, the annual average wage rate does not exceed the area's required annual average wage rate, as described in § 676.26–1(c)(3);

(ii) A description of the methods determine wage rates if the wage rates for comparable jobs have not been established; and

(iii) A description of how the public service employment program is integrated with other programs under the Act.

§ 676.11 [Amended]

(3) Section 676.11(c)(5)(i)(A) through (D) are added to read as follows:

(c) * * *

(5) * * *

(i) * * *

(A) For Title II Parts B and C.(*1*) Identification of those groups that have been determined for priority of service and most in need.

(*2*) A breakout of the eligible population by race, sex, national origin, and age, and the planned level of services to be provided for these significant segments in terms of the percent each group will constitute of those to be served (sec. 103(b)(2)). Where the planned level of service to any significant segment varies above or below the group's incidence in the eligible population, a justification must be provided.

(B) For Title II Part D. A breakout of the eligible population by race, sex, national origin and age, and the planned level of services to be provided these groups in terms of the percentage each group will constitute of those to be served (sec. 103(b)(2)). Where the planned level of service to any significant segment varies above or below the group's incidence in the eligible population, a justification must be provided.

(C) For Title VI. A breakout of the eligible population by race, sex, national origin and age, and the planned level of services to be provided these groups in terms of the percentage each group will constitute of those to be served (sec. 103(b)(2)). Where the planned level of service to any significant segment varies above or below the group's incidence in the eligible population, a justification must be provided.

(D) For Title VII. An analysis of the eligible population by race, sex, national origin and age, and a presentation of the planned levels of service to be provided these significant segment in terms of the percent each group will constitute of those to be served (sec. 103(b)(2)). Where the planned level of service to any significant segment varies above or below the group's incidence in the eligible population a justification must be provided.

§ 676.12 [Amended]

(4) Part 676 is amended by deleting § 676.12(f).

§ 676.16 [Amended]

(5) Part 676 is amended by deleting § 676.16(c)(3)(v).

(6) Part 676 is amended at § 676.22 by adding the following paragraph (f):

§ 676.22. [Amended]

* * * * *

(f) Each prime sponsor shall maintain on-site a description of its:

(1) Personnel merit system,

(2) Allowance payment system, and

(3) Retirement system.

These descriptions must be available for review by authorized DOL staff.

§ 676.44 [Amended]

(7) Part 676 is amended by adding § 676.44(a)(6) as follows:

(a) * * *

(6) The Annual Report of Training Enrollments and Completions (sec. 313(g)).

§§ 676.15 and 677.56 [Amended]

(8) Part 677 is amended by deleting §§ 677.15(b)(1) and 677.56(b)(1).

§ 677.39 [Amended]

(9) Part 677 is amended at § 677.39(f) to read as follows:

* * * * *

(f) Subject to the limitations specified in § 676.40 (allowable costs under CETA), remaining funds may also be used by the Vocational Educational Board for the following activities:

* * * * *

§ 677.56 [Amended]

(10) Part 677 is amended by deleting the words "PSE Occupational Summary" from § 677.56(a).

(11) Part 677 is amended by deleting § 677.56(f).

(12) Part 677 is amended by deleting § 677.56(b)(3) (iv), (v), and (vi).

Part 678—[Amended]

§ 678.6 [Amended]

(13) Part 678 is amended by deleting the words "and PSE Occupational Summary" from § 678.6(a).

(14) Part 678 is amended by deleting § 678.6(b)(3) (v), (vi), and (vii).

(15) Part 678 is amended by deleting § 678.6(b)(1).

(16) Part 678 is amended by deleting § 678.6(f).

Part 679—[Amended]

§ 679.5 [Amended]

(17) Section 679.5(d)(1) is amended by deleting § 679.5(d)(1)(ii) and deleting the "(i)" before the sentence beginning "State the objectives . . ."

(Section 126 of the Comprehensive Employment and Training Act (29 U.S.C. 801 *et seq.*, Pub. L. 95-524, 92 Stat. 1907))

Signed at Washington, D.C. this 16th day of May 1980.

Ray Marshall,

*Secretary of Labor.*

[FR Doc. 80-15555 Filed 5-19-80; 8:45 am]

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Part X

# Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Surface Coal Mining and Reclamation Operations; State Programs

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

### 30 CFR Parts 731 and 732

### Surface Coal Mining and Reclamation Operations; State Programs

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

**ACTION:** Final rules.

**SUMMARY:** OSM's permanent rules are amended to provide a ten month period for review and resubmission of State programs following their submission. The amendments revise timing for:

(1) Review by the Regional Director;

(2) Notice and public hearing requirements; and

(3) Decision by the Secretary.

These revisions do not provide more total time for review than the regulations did when adopted March 13, 1979, but reflect a delay of the submission date ordered by a final court decision and subsequent opinion of the Solicitor allowing the required decision date to be likewise delayed.

**EFFECTIVE DATE:** May 20, 1980.

**ADDRESSES:** Copies of the December 5, 1979, Solicitor's Opinion (discussed below) are available at: Office of Surface Mining, U.S. Department of the Interior, South Building, Room 153, 1951 Constitution Avenue, N.W., Washington, D.C. 20240.

**FOR FURTHER INFORMATION CONTACT:** Mr. Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining, Room 224, South Interior Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, Telephone (202) 343–4221.

**SUPPLEMENTARY INFORMATION:** On March 13, 1979, the Secretary of the Interior promulgated the final rules for the permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.* (the Act). The rules provided, in accordance with the requirement of Section 503(a) of the Act, that for a State to assume primary jurisdiction under the Act for the regulation of coal mining and reclamation operations on non-Federal and non-Indian lands within its borders, it must submit its proposed permanent program to OSM by August 3, 1979. Section 504(a) of the Act further provided that if no State submission is made by that date a Federal program will be implemented for surface coal mining and reclamation operations within the State. The March 13, 1979, rules also required a final decision on program submissions by the Secretary no later than June 3, 1980. OSM's March 13, 1979, rules relating to State program submission are found in 30 CFR Parts 730–736, 44 FR 15323 *et seq.*

On July 25, 1979, the U.S. District Court for the District of Columbia, in response to a suit filed by the State of Illinois, preliminarily enjoined the Department of the Interior from requiring the submission of State programs under Section 503(a) of the Act until March 3, 1980.

On August 21, 1979, the court ordered that its injunction remain in effect. The court's order did not explicitly alter, however, the requirement of Section 504(a) of the Act that a final decision by the Secretary on a State program must be made by June 3, 1980. As a result, the time period between the court-ordered deadline for program submission and the date for final decision by the Secretary set forth in the regulations was reduced to just three months, precluding adherence to the review schedule contained in 30 CFR 732.11, and 732.12 and 732.13 of the permanent program regulations. In accordance with the court order, OSM published amendments to Subchapter C on October 22, 1979, (44 FR 60969) extending the latest date for submission of a State program to March 3, 1980, making the review procedures in 732.11, 732.12 and 732.13 inapplicable to programs submitted after August 3, 1979, and requiring the Regional Director to establish appropriate adjustments in the timing of the review, notice and public hearings and decision for each program submission.

Prior to the court-ordered extension of the date for program submission, the Secretary had requested that Congress enact a seven month extension of the statutory dates. On June 25, 1979, a bill (S. 1403) was introduced in the Senate to extend both August 3, 1979, and the June 3, 1980, dates by seven months. 125 *Cong. Reg.* S. 8411, June 25, 1979. On September 11, 1979, the Senate passed a bill including provisions extending the dates 12 months. To this date the House has not pased the extension of the August 3, 1979, or June 3, 1980, dates.

On December 5, 1979, the Solicitor of the Department of the Interior issued an opinion noting the purpose of Section 503 of the Act, which provides ten months to review and approve or disapprove a State program submission, is to allow the Secretary to consult with and obtain approvals from other Federal agencies, allow for public participation in review of each State program, give the Secretary adequate time to consider the program submission and allow the States to correct any deficiencies in their initial State program submission prior to the imposition of a Federal program. The Solicitor concluded that because each State is now entitled to submit its program no later than March 3, 1980, for those States which submit their programs on or before March 3, the June 3, 1980, deadline for promulgation of a Federal program must be extended as necessary to provide the opportunity for the full ten month review and resubmission period provided in Section 503.

The States' obligation to meet the March 3 deadline remains unchanged, however, and if a State failed to submit a program on or before March 3, a Federal program must be implemented.

Three State programs were submitted on or before August 3, 1979, and review was carried out according to the March 13, 1979, provisions under 30 CFR 732. Twenty-one programs were submitted between August 3, 1979, and March 3, 1980, and OSM made appropriate adjustments to the review procedures in accordance with amended 30 CFR 732 and taking the full 10 months for each program allowed pursuant to the December 5, 1979, Solicitor's opinion.

This amendment revises the sequence of the dates for public hearing and close of public comment in 30 CFR 732.12(a)(3) and (6) to allow five days after the public hearing for comment.

This amendment is being promulgated today without having been initially proposed since notice and public comment are in this case deemed impracticable and unnecessary. The basis for omitting notice and comment on this action is that the amendment merely reestablishes procedures that were originally established through a process that included extensive public review and comment. In addition, the March 3, 1980, deadline for program submissions has already passed and OSM has established review schedules for each of the 24 States. Therefore, the effect of this amendment on the States and the public is minimal.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14, 43 FR 58292, *et seq.* (December 12, 1979).

Primary author of this document is James Fulton, State Programs Division, Office of Surface Mining.

Dated: May 9, 1980.

Walter N. Heine,

*Director, Office of Surface Mining.*

Text of Amendment:

**§ 730.12 [Amended]**

1. 30 CFR 730.12(a) is amended by changing the date June 3, 1980 to January 3, 1981 both times it appears.

**§ 731.12 [Amended]**

2. 30 CFR 731.12(d) is deleted in its entirety.

**§ 732.11 [Amended]**

3. 30 CFR 732.11(d) is amended by changing the date November 15, 1979, to "104 days from the date of submission" both times it appears.

**§ 732.12 [Amended]**

4. 30 CFR 732.12(a) is amended by changing the date November 20, 1979, to "109 days from the date of submission."

5. 30 CFR 732.12(a)(3) is amended by changing "an opportunity" to "30 days from publication of the notice" so that the sentence begins "The notice shall afford interested persons 30 days from publication of the notice to submit * * *."

6. 30 CFR 732.12(b) is amended by changing "30" to "25" to read "25 days."

7. 30 CFR 732.12(b)(2) is amended by changing the date November 15, 1979, to "104 days from the date of submission."

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Part XI

# Department of Justice

## Law Enforcement Assistance Administration

Response to Public Comment and Issuance of LEAA Program Announcement "Removing Juveniles From Adult Jails and Lock-Ups"

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

## Response to Public Comment and Notice of Issuance of LEAA Program Announcement, "Removing Juveniles From Adult Jails and Lock-Ups"

**AGENCY:** Law Enforcement Assistance Administration (LEAA), Justice.

**ACTION:** Notice of issuance and response to public comment.

**SUMMARY:** Notice is hereby given that the Office of Juvenile Justice and Delinquency Prevention, Law Enforcement Assistance Administration, pursuant to the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 42 U.S.C. 5601, et seq., is issuing an addition to the National Priority Program and Discretionary Program Announcement, published in the Federal Register on February 15, 1980. It will not in any way impact upon the programs or regulations presently set out in that announcement or affect the eligibility of those individuals applying for previously announced programs.

**SUPPLEMENTARY INFORMATION:** The Office of Juvenile Justice and Delinquency Prevention (OJJDP), Law Enforcement Administration (LEAA), published in the Federal Register on March 25, 1980, a draft Program Announcement for a Program to Remove Children from Adult Jails and Lock-Ups. This notice sets forth the final program guideline and Appendix A of this notice summarizes the public comments received pertaining to the draft announcement and details the changes made.

**FOR FURTHER INFORMATION CONTACT:** Mr. Doyle A. Wood, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, N.W., Washington, D.C. 20531. (202) 724-7775.

Ira M. Schwartz,

*Administrator, Office of Juvenile Justice and Delinquency Prevention.*

### Office of Juvenile Justice and Delinquency Prevention, Program Announcement "Removing Juveniles from Adult Jails and Lock-Ups"

*A. Program Objective*

Pursuant to Section 224(a)(2) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) is sponsoring a program to support the development and implementation of projects which will address the problems of removing juveniles from adult jails and lock-ups. This program is consistent with the mandate of Section 223(a)(13) of the JJDP Act of 1974, as amended, which provides that juveniles shall not be detained or confined in any institution in which they have regular contact with adult persons incarcerated because such adults have been convicted of a crime or are awaiting trial on criminal charges. This program is intended to provide the necessary resources, including both financial and technical, to jurisdictions to assist them in planning and implementing a viable strategy to remove juveniles from adult jails and lock-ups.

*B. Program Description*

1. *Background*

The detention of juveniles in adult jails and lock-ups has long been a moral issue in this country which has been characterized by sporadic public concern and minimal action toward its resolution.

It is suspected that the general lack of public awareness and the low level of official action are exacerbated by the absence of meaningful information, and the low visibility of juveniles in jails and lock-ups. This situation is perpetuated by official rhetoric which cloaks the practice of jailing juveniles in a variety of poorly-conceived rationales.

In fact, the time-honored but unsubstantiated "rationales" of public safety, protection from themselves or their environments, and lack of alternatives break down under close scrutiny.

In reality, the aggressive and unpredictable threat to public safety perceived by the community is often just the opposite. A recent survey of a nine-state area by the Children's Defense Fund indicates that 18 percent of the juveniles in jails have not even been charged with an act which would be a crime if committed by an adult. Four percent have committed no offense at all. Of those jailed on criminal-type offenses, 85 percent are there on property and minor offenses.

Not until 1971, with the completion of the National Jail Census, did a clearer and more comprehensive picture of jails surface. By its own admission, the Census showed only a snapshot of American jails and the people who live in them. Significantly, it excluded those facilities holding persons less than 48 hours. This is critical with respect to juveniles because it is the police lock-up and the drunk tank to which alleged juvenile offenders are so often relegated awaiting court appearance.

The Census did, however, give us the first nationwide indication of the number of juveniles held in jail. On March 15, 1970, 7,800 juveniles were incarcerated in 4,037 jails. A comparable census in 1974 estimated that the number had grown to 12,744. The inadequacy of the data is more apparent when a determination of the number of juveniles admitted to adult jails and lock-ups each year is sought. Children's Defense Fund states that even the half-million figure is "grossly understated" and that "there is an appalling vacuum of information . . . when it comes to children in jails." Regardless of the true figure, it is clear that the practice of jailing juveniles has not diminished during the last decade. People who do not belong in jail, and jail conditions that are not suitable for people, were the concerns that impelled representatives from more than 28 national organizations (including the National Association of Counties, the National Sheriff's Association, the National League of Cities, and others) to establish the National Coalition for Jail Reform. Its recent statement of position, which was agreed to by each organization of the coalition, is that no juvenile should be held in an adult jail.

2. *Problem Addressed*

Many communities have not been able to fully implement Section 223(a)(13). The limited number of alternative resources available to them has resulted in a heavy reliance on city lock-ups and county jails for youth who are held pending court appearance. This lack of resources is particularly serious since there is a significant number of juveniles, including both delinquents and status offenders, held in jails and lock-ups.

This program is aimed at providing alternative programs and services to alleviate the use of adult jails and lock-ups for the detention of children. It is also intended to challenge the policies and practices which result in the inappropriate placement of juveniles in adult jails and lock-ups. Persistent indicators consistently identify the less visible and often more brutal practice of inappropriate confinement of juveniles in jails and lock-ups which needs immediate attention and rectification. In virtually all of the rural areas of the country, the sole resource for those alleged juvenile offenders who cannot immediately be returned to their own homes pending court appearance is the local jail or municipal lock-up. These antiquated facilities are often unsuitable for adult offenders, much less juvenile offenders. The substandard living conditions found in many are the subject

of wide-spread litigation under the Eight Amendment.

The major areas of concern include:

—A general lack of alternative residential and non-residential programs for youth awaiting court appearance.

—Lack of community resources to deal effectively with status offenders and non-offenders in the schools and within the family structure.

—Legal services are often inaccessible on an immediate basis and/or unavailable even in the long run.

—Low public visibility of the practice of jailing juveniles brought on by a lack of organized or informal youth advocacy efforts geared to the deinstitutionalization issues.

—The existence of unique situations which greatly increase the incidence of status offenses in certain areas, particularly those involving out-of-state runaways on interstate highways and seasonal migration to resort areas.

—A lack of 24-hour intake screening and a lack of objective intake criteria.

3. *Assumptions*

a. Regular contact between juveniles and adult offenders is detrimental and should be eliminated in detention and correctional facilities.

b. Mere sight and sound separation of a juvenile from an adult offender in a jail or lock-up does not guarantee that children held in jails will receive services geared to their special needs. Alternative strategies should be developed which include the consideration of emergency foster care, home detention, 24-hour intake screening, crisis intervention services, shelter care, and, where appropriate, regional juvenile detention, as indicated by a comprehensive survey and analysis of the juvenile detention population and available community resources.

c. There are dangers inherent in any level of separation short of complete removal. These dangers include the potential for isolation of juveniles in adult facilities, which is counterproductive to the development of the child. Also, efforts to separate often result in costly renovation of facilities which still do not meet the needs of the community and the child.

d. Alternatives to incarceration are often scarce in rural communities, as the number of youth served is relatively small in comparison with urban areas.

4. *Target Population*

The population expected to benefit from this initiative is juveniles (delinquents, status offenders, and non-offenders) who are currently held in adult jails and lock-ups.

5. *Results Sought*

a. The removal of juveniles from adult jails and lock-ups.

b. The development of a flexible network of service and placement options for alleged juvenile offenders and non-offenders based upon: (1) The least restrictive alternative, and (2) maintenance of a juvenile's family and community ties.

c. A planning and implementation process for removal which: (1) is based upon a recognition of youth rights and due process and which promotes the advocacy of such, and (2) uses active citizen participation and youth involvement.

d. The development and adoption of intake criteria, consistent with the standards of the National Advisory Committee for Juvenile Justice and Delinquency Prevention and other nationally recommended standards, for alleged juvenile offenders and non-offenders who are awaiting court appearance.

e. An enhanced capacity for parents, schools, and police to resolve problems of youth in a non-judicial manner and thus alleviate the use of jails and lock-ups. This includes, where appropriate, the coordination and integration of public and private child welfare services.

f. An identification and description of viable alternatives to the use of jails and lock-ups.

*C. Program Strategy*

This program employs a two-phased approach. Phase I is a planning and analysis period during which local jurisdictions, with OJJDP assistance, will develop a systematic plan for removing juveniles from adult jails and lock-ups.

Phase II is the implementation of the plan in a selected number of those jurisdictions whose planning process and results support the need for program and service alternatives.

A National Program Coordinator (NPC), through a 24-month cooperative agreement with OJJDP, will receive an award of funds to implement this program. The National Program Coordinator will thus act as the conduit for funds to the local jurisdictions and provide jurisdictions assistance with data collection and analysis, training, designing survey instruments, facilitating community and citizen participation, developing alternative programs and services with the local jurisdiction, and program implementation.

1. *Phase I: Planning and Analysis*

a. Phase I is directed toward planning and analysis which will result in an action plan for removing juveniles from adult jails and lock-ups. Participants, with technical assistance and other support from the National Program Coordinator, will undertake a planning process consisting of problem perspective and definitions, needs assessment, policy and plan development, plan implementation, and follow-up assessment and monitoring.

b. During Phase I, the following problems should be addressed:

(1) Need for the use of intensive supervision in the child's home as a placement alternative.

(2) Lack of emergency foster care, shelter care and independent living arrangements.

(3) Lack of crisis intervention services and short-term residential crisis intervention programs which can be used for conflict mediation, emergency holding and provision of emergency attention for youth with physical or emotional problems.

(4) Need for the development of objective intake criteria which are based upon a presumption of release, promote utilization of the least restrictive alternative, assure the protection of a child's right to due process, and maintain a child's ties to the family and community.

(5) Lack of coordination and cooperation between law enforcement officials, the judicial sector, public and private service providers, the community in general, etc., which attributes to the inappropriate placement of juveniles in jails and lock-ups.

(6) Need to develop a flexible network of services and programs which is amenable to the individual local jurisdiction's needs and capabilities.

(7) Need for 24-hour intake screening services.

2. *Phase II: Program Implementation*

Phase II is directed toward implementing a comprehensive strategy to remove juveniles from adult jails and lock-ups based upon the plan developed in Phase I. OJJDP, with the assistance of the National Program Coordinator, will provide financial and program assistance to support implementation of such plans. OJJDP will be issuing an RFP for a contractor to provide technical assistance in the area of alternative responses to delinquent behavior. Part of this contractor's responsibility will be to provide technical assistance to the recipients of Phase II of this initiative to remove juveniles from adult jails and lock-ups. At that point, the alternative responses to delinquent behavior contractor will assume all major technical assistance responsibilities to the local jurisdictions.

3. *National Program Coordinator*

The National Program Coordinator (NPC) will be the conduit for financial, planning, and program assitance to the local jurisdiction during both Phase I and Phase II. The NPC will provide the jurisdictions assistance in the following activities:

a. Collection of information on trends for intake processing, intake criteria, alternatives to incarceration, planning strategies and cost.

b. Training of data collectors.

c. Design of survey instruments.

d. Information and data analysis.

e. Establishment of objective intake criteria.

f. Survey of standards relative to implementation and operational aspects of alternative programs.

g. Facilitating citizen participation.

h. Developing alternative programs and service.

i. Program implementation.

j. Program follow-up.

k. Assisting local jurisdictions in securing additional financial support from general revenue sources, foundations, other Federal agencies, or other sources of financial support.

l. Identifying and developing technical assistance needs.

The National Program Coordinator, in cooperation with OJJDP, provides general guidance as to goals and organization of local projects; it assists with development of planning strategies and may work directly with particular key officials; it provides specialized assistance in relation to technical tasks of each phase; and finally it provides sites with a substantial amount of technical assistance material and assistance in financial accountability. The NPC, in cooperation with OJJDP, will be responsible for identification and description of viable alternatives to the use of jails and lock-ups for the detention of juveniles. The NPC will assist OJJDP with screening of potential sites; selections will be made by the NPC with final approval authority in OJJDP. The NPC and OJJDP will jointly develop selection criteria for Phase II participation. The NPC should coordinate activities within states with the respective State Planning Agency (SPA).

*D. Dollar Range and Number of Grants*

1. The period for this program is two years with a total funding commitment of $3,000,000. The NPC will be selected by OJJDP with financial support through a cooperative agreement between OJJDP and the NPC. Support for the NPC shall not exceed $360,000 (i.e., 12% of total the $3,000,000 award). The remainder of the award will be contracted by the NPC to local jurisdictions for implementation of Phase II of the initiative. Financial assistance provided under this program requires no matching contribution, except as provided in Section D–3 of this announcement regarding construction funds. This agreement will be for two years with the potential for an additional 12-month grant based upon satisfactory performance, subject also to the availability of funds.

2. Up to 20 local jurisdictions will be approved by OJJDP to participate in Phase I which should be completed over a six-month period. Each local site will receive technical assistance for Phase I from OJJDP and the NPC. No financial assistance is provided to local jurisdictions during Phase I.

3. Those jurisdictions participating in Phase I and which satisfactorily complete Phase I by developing an adequate plan to remove juveniles from adult jails and local-ups are eligible to participate in Phase II. Phase II financial support will range from $50,000 to $200,000 and will be made directly by the NPC to the local sites. Project periods for Phase II will range from 12 to 18 months, with the potential for an additional 12-month support for successful projects, subject also to the availability of funds.

Up to one-third of the funds received by a jurisdiction for Phase II may be used for construction or renovation purposes. All construction funds must be used for innovative, non-secure community-based facilities for less than 20 persons and must be matched dollar for dollar by the local jurisdiction. The local jurisdiction will be held accountable for adherence to Section 227 of the JJDP Act and the requirements for construction programs which are contained in LEAA Financial Guideline M 7100.1A, Change 3, Chapter 7, Paragraph 9, entitled "Identification of Construction Programs." In addition, the erection of new buildings or the renovation of jails will not be permitted with funds acquired through this program.

*E. Project Eligibility/Applicant Capability*

1. *National Program Coordinator*

Applications are invited from public agencies and private non-profit organizations which have extensive knowledge and experience in developing and/or implementing alternatives to the detention of juveniles in adult jails and lock-ups.

The applicant must:

a. Demonstrate knowledge of and experience with juvenile justice systems, local jails and lock-ups in which changes are to be sought, and the problems, strategies and program alternatives necessary to remove children from adult jails and lock-ups;

b. Have the demonstrated capability or experience to develop management and fiscal systems necessary for the proper administration of Federal funds;

c. Demonstrate its ability to fulfill the activities identified in Section C3 of this announcement;

d. Have available experienced administrative and professional staff who demonstrate a commitment to and experience in providing alternatives to the detention of juveniles in jails and lock-ups; and

e. Provide a detailed task specific description of activities which includes a proposed level of OJJDP involvement in each task.

2. *Phase I*

a. Concept papers are invited from local agencies and private non-profit organizations and must contain the elements of Section H within this program announcement.

b. Concept papers must demonstrate the following:

(1) A documented history of placement of alleged juvenile offenders, status offenders, and non-offenders in adult jails or lock-ups.

(2) Willingness on the part of the court, community groups and local governments to support positive change with regard to adoption of objective intake criteria, placement of children in the least restrictive alternative, and a regard for maintenance of family and community ties.

(3) Willingness to develop community-based or other release options for juveniles.

(4) Documented willingness to apply local financial resources to this effort.

(5) Evidence of willingness to adhere to nationally recognized standards, regulations and guidelines pertaining to interim status of youth awaiting court appearance.

*F. Application Submission Procedures and Deadlines*

1. *National Program Coordinator*

Prospective applicants for the National Program Coordinator must mail or hand deliver one (1) original and two (2) copies of the application, using Standard Form 424, to Mr. Doyle Wood, Office of Juvenile Justice and Delinquency Prevention, LEAA, Room 442, 633 Indiana Avenue, NW, Washington, DC 20531, by July 18, 1980. Applications sent by mail will be considered to be received on time if sent by registered mail or certified mail no later than July 18, 1980, as evidenced by

the U.S. Postal Service postmark or the original receipt from the U.S. Postal Service. Section G of this program announcement identifies what must be contained in the application for the National Program Coordinator.

2. *Phase I Concept Papers*

Those eligible jurisdictions who propose to participate in Phase I must submit concept papers by August 15, 1980. An original and two (2) copies must be sent to Mr. Doyle Wood, Office of Juvenile Justice and Delinquency Prevention, LEAA, Room 442, 633 Indiana Avenue, NW, Washington, DC 20531. Section H of this program announcement identifies what must be contained in the Phase I Concept Papers.

*G. Contents and Selection Criteria for the National Program Coordinator Applications*

These requirements are to be used in lieu of the Part D—Program Narrative instructions in the Standard Federal Assistance Form 424. In order to be considered for funding, applications for the National Program Coordinator must include the following:

1. *Project Goals and Objectives*

Translate the objectives and activities of the National Program Coordinator as outlined in this solicitation into the goals and objectives of your application. Establish a 24-month workplan which is broken down into six month segments. Discuss in detail the tasks necessary to accomplish the objectives outlined in the solicitation. State the goals, objectives and tasks necessary to complete each specific milestone or time frame. Each task should include a proposed level of OJJDP involvement.

2. *Problem Definition*

a. Discuss your understanding of: (1) The placement of juveniles in jails and lock-ups and the issues surrounding the removal of juveniles from them, (2) legislative activities related to juveniles in jail, and (3) promising programs, services and various approaches for achieving the removal of juveniles from jails and lock-ups.

b. Discuss the anticipated major difficulties and problem areas in management of the selection process, management of the Phase I activities, management of Phase II activities and the jurisdictions under contract to implement Phase II, and coordination with OJJDP, the Phase II contractors, the State Planning Agency and the national evaluator. This discussion of anticipated problems should also address potential or recommended approaches for their solutions.

c. Proposals must address the following points regarding qualifications and experience of the applicant.

(1) Describe experience with similar or related projects completed or now underway.

(2) Key personnel should be identified, along with their responsibilities and the approximate percentage of time and duration each will be available for this program. Resumes which indicate relevant education and experience are required. Recommended key staff, e.g., project director, will be subject to OJJDP approval.

3. *Program Methodology*

Provide a plan and program design to accomplish the following administrative and developmental tasks:

a. Administration.

(1) Propose an administrative, management and fiscal structure. This structure should reflect the relationship between contractors who will implement Phase II of this initiative and the applicant organization, as well as the relationship between the National Coordinator, OJJDP, and the State Criminal Justice Council (SPA).

(2) Provide an implementation plan which includes a schedule, management policies and organizational chart to show provisions for quality control and compliance with Federal requirements.

b. The plan for implementing Phase I and Phase II of the Removing Juveniles from Adult Jails and Lock-ups Program.

(1) Outline a plan for screening of potential sites for participation of Phase I and describe a cooperative process with OJJDP for identifying those sites which can be recommended to OJJDP for approval. Outline a plan for processing concept papers and selecting the most qualified applicants.

(2) Outline a plan for developing selection criteria and screening for Phase II participation. This outline must include a plan for screening and processing applicants.

(3) Outline a plan for assisting those jurisdictions which are selected for and satisfactorily complete Phase I with the development of their applications for Phase II.

(4) Outline a plan for the management of all Phase II contracts. This plan should include:

(a) Procedures for assuring the contractors' compliance with OJJDP/LEAA program and fiscal requirements;

(b) A plan for joint site monitoring to be coordinated with OJJDP;

(c) A plan for assuring that all contractors meet quarterly program and fiscal reporting requirements;

(d) A discussion of how the grantee will coordinate with the National Alternative Responses to Delinquent Behavior Technical Assistance Contractor in the effort to provide technical assistance to the contractors, a discussion of how the grantee will identify all program and management technical assistance needs of the contractors, and a discussion of the cooperative relationship with the National Evaluation Contractor. The final detailed plan for management will be worked out in cooperation with and subject to the final approval of OJJDP.

4. *Section Criteria for National Program Coordinator*

Applications will be evaluated on experience, methodology and management capability as evidenced by the submitted documentation.

a. Application Capability—Applicants must evidence the following qualifications and experience: (40 points)

(1) Diversified experiences in working with issues related to the inappropriate placement of juveniles in adult jails and lock-ups and the programs, services and policy changes which serve as jail alternatives and result in the removal of juveniles from jail. (15 points)

(2) Ability to establish effective relationships with the juvenile justice system and alternative service providers. (5 points)

(3) Availability of key staff and consultants experienced in providing diverse populations with technical expertise in substantive topics related to the development of the projects. (10 points)

(4) Capability and expertise in maintaining and managing contracts where local projects will be implementing various techniques. (10 points)

b. Understanding of proposed methodology. Applicants must evidence an understanding of the following: (20 points)

(1) Provide a clear and concise discussion on the jailing of children, its causes and consequences, and the variety of methods which might be used to remove juveniles from jail. (10 Points)

(2) The required steps in the development of the planning and analysis phase (Phase I), the implementation phase (Phase II), and technical assistance to potential contractors in the application process and management of such including the necessary OJJDP approval at each decision point. (10 points)

c. Management Capability. Applicants must evidence management capability as follows: (30 points)

(1) The completeness of the plan with respect to organization, management of the project selection process, and management of the subcontracts. (10 points)

(2) The feasibility of the workplan with respect to milestones, time frames and costs. (5 points)

(3) The understanding of research and data requirements and the ability to coordinate with the National Evaluator. (5 points)

(4) The completeness of the plan for assuring compliance with LEAA, administrative and fiscal requirements. (10 points)

*H. Contents and Selection Criteria for Phase I Concept Paper*

1. Concept papers for Phase I should not exceed 15–20 pages and must include the information numbered and labeled, according to the following:

a. Name and address of jurisdiction, including name, address and phone number of contact persons.

b. Brief description of the jurisdiction's interest in the program.

c. Description of the project jurisdiction, size and the juvenile population.

d. Description of the current juvenile intake and detention processes, intake criteria, resources, constraints, legal framework (including a summary of all relevant laws and formal administrative policies and procedures bearing on the issue of detaining children in jails and lock-ups), and financial or funding sources.

e. Statement as to the number of adult jails and lock-ups in the jurisdiction and the holding capacity for both juveniles and adults in each.

f. Statement of need including a brief description as to the reasons why children are held in the local jails or lock-ups.

g. Total number of juvenile arrests and total number of adult arrests within jurisdiction for the latest 12-month period.

h. Total number of juveniles detained in each of the jurisdiction's facilities for the latest 12-month period; total number of these detained or incarcerated with adults and description of the facilities in which they are commingled.

i. A brief description of the existing jail alternatives, including both secure and non-secure alternatives.

j. Assurance that the court of jurisdiction is willing to reexamine its intake criteria and experiment with alternative criteria.

k. A documented statement of willingness to develop community-based or other release options, to apply local financial resources to the effort and to continue the effort once Federal financial support ceases, and to adhere to nationally recognized standards, regulations, and guidelines pertaining to juveniles awaiting court appearance.

l. Letters of support from local juvenile court officials, law enforcement officials and local child service providers which demonstrate a commitment to removing juveniles from adult jails and lockups.

2. Phase I participants will be selected according to the extent they meet the eligibility criteria contained in Section E of this announcement and to the extent they demonstrate the need and willingness to remove juveniles from adult jails and lock-ups. Preferential consideration will be provided to those concept papers from jurisdictions in which the following exist:

a. The geography and the absence of alternatives to the use of jails are major obstacles in removing children from adult jails and lock-ups.

b. A group of contiguous counties or jurisdictions has jointly cooperated in the development and submission of one concept paper.

c. Local jurisdictions are currently under court order to remove children from adult jails and lock-ups.

1d. There exists a documented history and an exceptionally high rate of juveniles being detained and/or placed in the local jails and lock-ups.

*I. Evaluation Requirement*

1. An independent evaluation of this program is planned, to be undertaken by an independent evaluator selected by the Office of Juvenile Justice and Deliquency Prevention (OJJDP). The evaluator and OJJDP will select projects for intensive evaluation.

2. In addition to the normal self-assessment and monitoring activities all Phase II participants must propose an evaluation plan for their project.

3. Participants may be required to modify their proposed project specific evaluation plans in order to be integrated into the national level program evaluation design to be developed by the independent national evaluator.

4. All participants must indicate in advance their willingness to cooperate fully with the national evaluator and to participate in the program evaluation.

*J. Civil Rights Compliance Requirements*

Those who are selected for funding under this program will be required to comply with the following:

Each recipient of OJARS assistance within the criminal justice system which has 50 or more employees and which has received grants or subgrants of $25,000 or more pursuant to and since the enactment of the Safe Streets Act of 1968, as amended, and which has a service population with a minority representation of 3% or more, is required to formulate, implement and maintain an EEOP. Where a recipient has 50 or more employees, and has received grants or subgrants of $25,000 or more and has a service population with a minority representation of less than 3%, such recipient is required to formulate, implement and maintain an EEOP relating to employment practices affecting women. This requirement shall be satisfied prior to the receipt of funds.

Applicants that do not meet any of the above criteria, educational institutions, public and/or private non-profit agencies shall maintain such records and submit to the OJJDP upon request timely, complete and accurate racial and ethnic data establishing the fact that no person or persons will be or have been denied or prohibited from participation in, benefits of, or denied or prohibited from obtaining employment in connection with any program or activity funded in whole or in part with funds made available under this intitiative because of their race, color, national origin, religion, or handicap status.

In the case of any program under which a primary recipient of Federal funds extends financial assistance to any other recipient or subcontracts with any other perons or group, such other recipient, person or group shall submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out and assure its civil rights compliance obligations under the award.

*K. Contact*

For further information contact: Mr. Doyle A. Wood, Formula Grants and Technical Assistance Divsion, Office of Juvenile Justice and Deliquency provention, Law Enforcement Assistance Administration, 633 Indiana Avenue, NW, Washington, DC 20531, (202) 724–7775.

**Appendix A—Summary of Comments Recieved and Changes Made to Draft Announcement of Program Removing Children From Adult Jails and Lock-Ups**

The Office of Juvenile Justice and Delinquency Prevention recieved 22 letters in response to the Removing Children from Adult Jails and Lock-Ups Draft Guideline published in the March 25, 1980, Federal Register. An analysis of the comments indicates that most respondents were supportive of the guideline. Responses were received from a wide variety of public and private youth serving agencies and many useful suggestions and recommendations were made. The following summarizes the

comments received and discusses OJJDP's response to the comments.

*A. Target Population*

*Comment:* The target population should include all youth held in jail and not limited to those youth held in regular contact with adult offenders.

*Response:* OJJDP has accepted the recommendation and this portion of the guideline has been modified.

*B. Program Strategy*

1. *Comment:* The structure of the guideline which allow planning and technical assistance by a National Program Cooridinator may be too rigid and does not allow flexibility in creating alternatives.

*Response:* New terminology has been incorporated into the program implementation description which will clarify the National Program Coordinator's role. Technical assistance responsibility during program implementation is clearly to the OJJDP Alternative Responses to Delinquent Behavior contractor.

2. *Comment:* The guideline fails to provide any role for the State Criminal Justice Councils and should be revised to provide the CJC's with appropriate involvement.

*Response:* The program strategy section has been supplemented with additional language to indicate the National Program Coordinator's responsibility to coordinate activities with respective CJCs. Also, a new section entitled contents and selection criteria for the NPC application was added which requires NPC applicants to address coordination, including the CJC, and to address the relationship between the CJC and the NPC in the proposed administration and management structure.

*C. Dollar Range and Number of Grants*

1. *Comment:* The guideline is not clear as to whether monies are available to jurisdictions for Phase I.

*Response:* A clarifying statement has been added which amplifies that no financial assistance is available to local jurisdictions during Phase I.

2. *Comment:* The elimination of a handful of sites during Phase II seems unnecessary and is a waste of time and dollars. It was suggested that all sites selected for Phase I continue during Phase II.

*Response:* The guideline has been modified to eliminate an automatic reduction in sites from Phase I to Phase II. The modified terminology allows all Phase I participants to participate in Phase II if they satisfactorily complete the planning and analysis and develop an adequate plan during Phase I.

3. *Comment:* There were opposing views on the amount and percentage of funds which may be used for construction or renovation purposes. The comments ranged from a position that more emphasis should be placed on non-residential alternatives and less on construction to a position that the one-third limitation be increased because the nature of this initiative lends itself to construction and/or renovation.

*Response:* No change was made in response to these comments. Up to one-third of the funds received by a jurisdiction for Phase II may be used for innovative, non-secure community-based facilities. It is the position of OJJDP that certain jurisdictions may need a limited amount of dollars for the development of residential, non-secure jail alternatives; however, the primary emphasis of the initiative is to impact the jailing of children through the development and implementation of policy and procedural changes coupled with the utilization of existing resources, services and programs.

*D. Contents and Selection Criteria for Phase I Concept Papers*

*Comment:* The guideline has no assumption of cost provision. It is recommended that this provision be a criterion to insure that there are capabilities at the local level to continue the effort once Federal support ends. The guideline should require a commitment that the jurisdiction will not revert back to old practices once Federal dollars are no longer available.

*Response:* The Office of Juvenile Justice and Delinquency Prevention cannot mandate that efforts continue once Federal financial support ceases. However, the selection criteria is based upon the information required in the concept paper. The concept paper must provide a documented statement of willingness to apply local financial resources to the effort. Additional language has been added which broadens the statement of willingness to apply financial resources the continue to effort once Federal financial support ceases. The guideline also requires letters of support which demonstrate a continuing commitment to removing children from adult jails and locks-ups.

*E. Evaluation Requirements*

*Comment:* It was recommended that the National Program Coordinator concept be evaluated since it appears to be a new innovation in program implementation. A suggestion to add another subsection to the evaluation requirements to evaluate the efficiency and effectiveness of the NPC concept was presented.

*Response:* An independent evaluation of this program is planned. A task of the National Evaluator will be to evaluate the efficiency and effectiveness of the National Program Coordinator concept.

*F. Other General Comments*

1. *Comments:* A concern was expressed that efforts to remove juveniles from jail will result in the development of regional detention centers and that the subsequent use of the facilities will result in the detention of more children and the removal of the juvenile from his community, family and legal representative.

*Response:* The structure of this program requires that a local jurisdiction assess its needs and develop the most appropriate, least restrictive alternative. The concern that over-use of detention will occur is discredited if in fact the local jurisdiction detains only those juveniles which require such, based upon objective criteria. If such criteria is used then *only* those juveniles which need a secure setting would be placed in detention, no more or no less.

2. *Comment:* It was recommended that OJJDP target the entire initiative toward one State and award all the funds to that state to achieve total removal statewide.

*Response:* One of the purposes of this initiative is to identify various methods and techniques which have proven to be viable in a jurisdiction's effort to remove children from adult jails and lock-ups. This information will then be transferred to other similar jurisdictions to assist in their efforts to prevent the jailing of juveniles. If only one State is targeted than all efforts would be developed in the framework of the legislative provisions of that State and would not be representative of a myriad of circumstances, attitudes, policy, standards, et cetera. To ensure there are a variety of concepts established in various frameworks, the guideline is not being changed to target on one State.

3. *Comment:* Comment was received objecting to the fact that the draft guideline was released for public comment for a 30-day period rather than a 60-day period.

*Response:* The 30-day external review period was approved by Homer F. Broome, Jr., Acting Administrator of LEAA. The 60-day review period was waived because it was deemed to be in the best interest of the public to provide for award of the grants under this Program by October 1, 1980.

4. *Comment:* General comments were received which related to the responsibility and relationship of the

National Program Coordinator to OJJDP CJCs, and local jurisdictions. It was suggested that the guideline provide additional detail and justification for the NPC activities and responsibilities.

*Response:* An entirely new section entitled Content and Selection Criteria for National Program Coordinator Applications was added to the guideline. This section details the information which must be addressed in the application and includes a statement of goals and objectives, problem definition, and program methodology for both administration and implementation. Applications for the NPC must clearly establish a structured relationship between themselves and State, Federal, and local agencies. The new section provides a clearer, more precise indication of the role of the NPC.

5. *Comment:* Several commentators simply expressed enthusiasm and support for an initiative to remove juveniles from adult jails and lock-ups.

*Response:* Thanks.

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Federal Register

Tuesday
May 20, 1980

Part XII

# Department of Justice

Bureau of Prisons

Control, Custody, Care, Treatment, and Instruction of Inmates; Final and Proposed Rules

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Parts 544, 546, 550, 552, and 572

# Control, Custody, Care, Treatment, and Instruction of Inmates

AGENCY: Bureau of Prisons, Justice.

ACTION: Final Rules.

SUMMARY: This document contains final rules relating to the control, custody, care, treatment, and instruction of inmates. Included are final rules on (1) education tests, minimum standards; (2) alcohol testing; (3) hostages; (4) parole and mandatory release violator reports; (5) filing claims for inmate accident compensation; and (6) recreation programs, inmates. The document is intended to provide the public notice of the rules in this area, not just changes from prior policy.

DATE: Effective Date: June 22, 1980.

ADDRESS: Office of General Counsel, Bureau of Prisons, Room 910, 320 1st Street N.W., Washington, D.C. 20534.

FOR FURTHER INFORMATION CONTACT: Mike Pearlman, Office of General Counsel, Bureau of Prisons, phone 202/724-3062.

SUPPLEMENTAL INFORMATION: In this document the Bureau of Prisons is publishing final rules relating to the following:

(1) Education tests: minimum standards for the administration, interpretation, and use at all Bureau of Prisons institutions;

(2) Alcohol testing;

(3) Hostages;

(4) Parole and mandatory release violator reports;

(5) Filing claims for inmate accident compensation; and

(6) Recreation programs, inmates.

Each subject has been published in the Federal Register previously as a proposed rule. Final rules (1)-(4) were published as proposed rules on January 12, 1979 (at 44 FR 2978 et seq.). Final rules (5)-(6) were published as proposed rules on December 27, 1979 (at 44 FR 76727 et seq.).

Interested persons were invited to submit comments on the proposed rules and public comments were received from various sources. On the basis of these comments and internal staff review of Bureau policies, some changes have been made. Members of the public may, of course, submit further comments concerning these rules by writing the previously cited address. These comments will be considered, but will receive no further response in the Federal Register. Public comments which were received in these areas and the changes which were made are discussed below.

## Summary of Changes/Other Comments

*I. Part 544, Subpart B—Education Tests: Minimum Standards for the Administration, Interpretation, and Use at All Bureau of Prisons Institutions*

1. § 544.10(a) has been revised to read "more than one year" (i.e., felony-type offense) as opposed to "one year or more". § 544.10(b) provides that other inmates with a sentence of a year or less (i.e., misdemeanor-type offense) may be given an SAT when test results are required for program placement. The final rule excludes Community Treatment Centers, Detention Centers, and Metropolitan Correctional Centers from the provisions of the rule on education tests, since full education programs are not feasible within these settings (see 44 FR 62251, October 29, 1979).

2. § 544.10—Because of the potential for abuse in the use of educational and psychological tests, particularly by unqualified individuals, a commenter suggests that each facility have appropriately trained persons, either on a full-time or consulting basis, to routinely review the utilization of the tests and their findings. The Bureau concurs with this concept. Internal instructions implementing this rule require that tests administered for education purposes be supervised by professional staff and that education personnel involved in administering, scoring and interpretation receive appropriate training. The Bureau also requires that persons who use test results periodically receive refresher training. Tests administered for psychological purposes are the responsibility of the Chief of Psychology Services.

A commenter suggested that SAT tests, when used for program placement, be administered in the inmate's first language. These tests are now available only in the English language. Pre-tests in other languages are available for inmates for whom English is not a first language.

A comment was received stating that it was "virtually impossible" to comment on this subpart without a description or presentation of the Bureau's educational program and its goals. On December 21, 1977 the Bureau of Prisons published its proposed rules (at 42 FR 64084) relating to Educational Program Goals and Characteristics. These rules were finalized October 29, 1979 (at 44 FR 62251).

*II. Part 544, Subpart D—Recreation Programs, Inmates*

1. § 544.31—§ 544.31(d) is retitled "Hobbycraft Activities."

2. § 544.32—"28 CFR 544.81" is substituted for "44 FR 62251" in § 544.32(a)(3).

3. § 544.33—A comment on § 544.33(d)(1) suggested that the display of art work or hobbycraft is clearly protected by the First Amendment right of freedom of expression and may not be restricted by governmental agencies except under the "most narrow of circumstances". The commenter further cited *Procunier v Martinez* saying § 544.33(d) does not fall within any of the valid purposes of correctional restrictions or goals. § 544.33(d)(1) is directed to public displays, which most frequently are showings of samples of inmate art and hobby work at special shows or on general display in the more public areas of the institution such as the lobby and visiting room. These in fact are public exhibitions, where people of all ages and backgrounds, including young children, may attend and observe the work. The Warden's determination on what may be displayed is based on expectations of decency in the local community. It does not place any limitations on the work of the inmates themselves, nor on their ability to distribute the work as noted in § 544.33(c). The rule does not obstruct the inmate's opportunity to create specific art or hobby works.

A comment stated that the rule fails to provide an inmate with notice that the work is unacceptable, an opportunity to object, and a right to further review by a person other than the one who initially disapproved the material. The Bureau's Administrative Remedy Procedure provides the opportunity for formal review of a complaint which relates to any aspect of the inmate's imprisonment.

4. § 544.34—An inmate objected to the showing of certain movies in the institution, citing a movie shown at his institution which he believed to reflect violence, immature behavior and a glorified image of street gangs. § 544.34 attempts to deal with this concern by having a committee composed of staff and inmate representatives select films on behalf of the inmate population and then submit their list for final approval of the Warden. In accordance with this procedure, the final rule deletes the proposed language of "X-rated films may not be shown", as all films are to be considered within the provisions of final § 544.34. These provisions strive to

ensure that movies shown are representative of the desires of the inmate population while not posing a potential danger to the individual inmate or to institutional security and order.

*III. Part 550, Subpart B—Alcohol Testing*

Part 550, Subpart B, originally titled "Marijuana and Alcohol Testing", is retitled in the final rule "Alcohol Testing". The proposed rule language on marijuana testing is withdrawn. Proposed §§ 550.12 and 550.13 become final § 550.10 (a) and (b).

*IV. Part 552, Subpart D—Hostages*

1. Proposed § 552.31 (a) and (b) are combined into final § 552.31(a). The proposed phrase, "staff who have a relationship with the captors" is deleted from the final rule. Relationship with the captors is only one consideration to be given in assigning staff. Negotiation training is another. These aspects are internal instructions to staff and are not subject to rules publication. Proposed § 552.31 (c) and (d) become final § 552.31 (b) and (c). Final § 552.31 (b) and (c) substitute the term "person" for "staff member", in recognition that outside assistance may be requested. Final § 552.31(b) substitutes the term "intermediary" for "go-between".

*V. Part 572, Subpart D—Parole and Mandatory Release Violator Reports*

1. Final § 572.31(e) is revised to read "Parole or mandatory release" as an inmate cannot simultaneously be on both parole and mandatory release on the same sentence.

2. A suggestion that the violator report contain comments by persons who are requested by the inmate and who have knowledge of the events surrounding the alleged violation is not precluded by the final rule. However, there is no basis to make this a mandatory aspect. Interested persons may communicate their knowledge directly to the U.S. Parole Commission.

Conclusion

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 USC 552 (a) and delegated to the Director of the Bureau of Prisons in 28 CFR 0.96(t), 28 CFR Chapter V is amended as set forth below. The effective date of these rules is June 22, 1980.

Dated: May 14, 1980.

Norman A. Carlson,

*Director, Bureau of Prisons.*

1. Subchapter C is amended as follows:

A. Part 544, Subparts B and D are added.

B. Part 546 is added.

C. In Part 550, Subpart B is added.

D. Part 552 is added.

A. In Part 544, Subparts B and D are added.

## PART 544—EDUCATION

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**Subpart B—Education Tests: Minimum Standards for the Administration, Interpretation, and Use at all Bureau of Prisons Institutions**

Sec.

544.10 Purpose and scope.

* * * * *

**Subpart D—Recreation Programs—Inmates**

544.30 Purpose and scope.
544.31 Definitions.
544.32 Goals.
544.33 Art and hobbycraft.
544.34 Movies.

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

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### Subpart B—Education Tests: Minimum Standards for the Administration, Interpretation, and Use at all Bureau of Prisons Institutions

**§ 544.10 Purpose and scope.**

(a) The Bureau of Prisons administers appropriate educational tests to inmates confined within its institutions. Staff shall administer the Stanford Achievement Test (SAT) within one month of arrival of a newly committed inmate sentenced to a term of more than one year provided that the inmate reads English. Staff may administer the Revised BETA, the General Aptitude Test Battery (GATB), and other appropriate achievement and aptitude tests as needed to take a specific measure of achievement or aptitude. Community Treatment Centers, Detention Centers, and Metropolitan Correctional Centers are excluded from the provisions of this rule, as the test procedures described apply only to institutions and camps maintaining full educational programs.

(b) When test results are required for program placement and other purposes, the Warden may approve the administration of an SAT to a newly committed inmate who is serving a sentence of a year or less.

(c) Staff may not allow inmates to administer, score, or interpret tests which are the subject of this rule. Staff may not assign the clerical handling of such tests to an inmate.

### Subpart D—Recreation Programs—Inmates

**§ 544.30 Purpose and scope.**

The Bureau of Prisons encourages an inmate to make constructive use of leisure time and offers the interested inmate opportunity to participate in a wide variety of sports and social activities, as well as arts and hobbycrafts. The Bureau of Prisons encourages the showing of movies whose chief value may be their entertainment potential. Except for such Community Treatment Centers, Detention Centers, and Metropolitan Correctional Centers where full recreation programs may not be feasible, the Warden shall operate a recreation program in the institution to provide an inmate the opportunity for maximum use of leisure time.

**§ 544.31 Definitions.**

(a) *Leisure Activities.* Describe a wide range of activities in which an inmate may engage when not performing assigned duties. Leisure activities include organized or informal sports, table games, hobbycrafts, membership in social and cultural organizations, and attendance at movies and stage shows. Religious activities, education classes, and activities conducted by Psychology Services are not included within this definition.

(b) *Organized Activities.* Are activities for which there is an accounting by registration or roster of individual participation.

(c) *Art Work.* Includes all paintings and sketches rendered in any of the usual media (oils, pastels, crayons, pencils, inks, and charcoal), with the exception of printers or india ink, consistent with institution guidelines.

(d) *Hobbycraft Activities.* include leatherwork, models, clay, mosaics, crocheting, knitting, sculptures, woodworking, lapidary, and other forms consistent with institution guidelines.

**§ 544.32 Goals.**

(a) The Warden is to insure, to the extent possible, that:

(1) Leisure activity programs are used to meet the social, physical, and psychological needs of inmates;

(2) Leisure activities are designed to attract inmate participation regardless of ethnic, racial, age and sex differences, and to provide positive carry-over for post-release involvement;

(3) An inmate with the need, capacity, and desire has the opportunity to complete one or more prescribed leisure activities (see CFR 544.81);

(4) A hobbycrafts program is available in the institution;

(5) Music programs are offered in the institution to provide an inmate the opportunity to learn basic theory, and to develop appreciation, as well as musical skills; and

(6) Intramural competitive activities are organized for each appropriate season of the year.

**§ 544.33 Art and hobbycraft.**

(a) An inmate engaged in art or hobbycraft activities may obtain materials through:

(1) The institution art program (if one exists);

(2) The commissary sales unit;

(3) Special purchase commissary orders, if the sales unit is unable to stock a sufficient amount of the needed materials; or

(4) Other sources approved by the Warden.

(b) Each inmate shall identify art or hobbycraft materials by showing the inmate's name and registration number on the reverse side of the item.

(c) Completed or abandoned art or hobbycraft articles may be disposed of in the following manner:

(1) Upon approval of the Warden, by giving the item to an authorized visitor;

(2) Mailing the item to a verified relative or approved visitor; postage, unless otherwise determined by the Warden, must be paid by the inmate;

(3) Selling the item through an institution's art and hobbycraft sale program (if one exists) after sales prices have been determined by the institution's Price Committee; or

(4) Other methods approved by the Warden.

(d) *Restrictions.*

(1) The Warden may restrict, for reasons of security and housekeeping, the size of inmate paintings. Paintings mailed out of the institution must conform to both institution guidelines and postal regulations. If an inmate's art work or hobbycraft is on public display, the Warden may restrict the content of the work in accordance with community standards of decency.

(2) The Warden may set limits, in compliance with commissary guidelines, on the amount of money an inmate may spend on art or hobbycraft material.

(3) The Warden may restrict for reasons of security, fire safety, and housekeeping, the use or possession of art and hobbycraft items or materials.

(4) The Warden may limit hobbycraft projects in the cell/living areas to those which can be contained/stored in designated personal property containers. Exceptions may be made for such items as a painting where the size would prohibit placement in a locker. Hobbycraft items must be removed from the living area when completed.

(5) The Warden shall require completed hobbycraft articles to be mailed out of the institution, at the inmate's expense, within 30 days of completion or disposal through approved sales. However, articles offered for sale must be sold within 90 days of completion, or be mailed out of the institution at the inmate's expense.

**§ 544.34 Movies.**

The Warden may approve the showing of movies at the institution. A committee designated by the Warden shall select and review suggested films and submit the list to the Warden for final approval. The committee shall include staff and inmate representatives.

B. Part 546 is added.

## PART 546—SAFETY

**Subpart A-B [Reserved]**

**Subpart C—Filing Claims for Inmate Accident Compensation**

Sec.
546.20 Purpose and scope.
546.21 Procedures.

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 4126, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99, 301.5.

### Subpart A-B [Reserved]

### Subpart C—Filing Claims for Inmate Accident Compensation

**§ 546.20 Purpose and scope.**

The Bureau of Prisons recognizes an inmate's right to file a claim for inmate accident compensation when the claim results from a work-related injury incurred while confined in federal custody. The Warden shall ensure that an inmate who sustains a work-related injury while confined in federal custody is advised of the right to file a claim for inmate accident compensation prior to release from confinement or transfer to a Community Treatment Center. The Warden shall document this notification in the inmate's record.

**§ 546.21 Procedures.**

(a) As part of the institution's Admission and Orientation Program, staff shall discuss with the inmate the accident compensation procedures and shall provide each inmate with a copy of the Inmate Accident Compensation Procedures Booklet and with a copy of the Uniform Basic Safety Regulations. Staff shall obtain a signed and dated receipt from each inmate, for placement in the inmate's central file.

(b) Staff shall interview the inmate who has incurred a documented work-related injury while in custody approximately 30 days prior to the inmate's scheduled release from confinement or transfer to a Community Treatment Center. In the interview, staff shall advise the inmate of the right to file a compensation claim and of the importance of filing the claim prior to release from confinement or transfer to a Community Treatment Center. Staff shall request the inmate sign an appropriate form acknowledging advisement of the right to file a compensation claim. In the event the inmate refuses to sign, the staff member who made the advisement shall document this refusal on the form and sign the form himself. Documentation of the notification is then placed in the inmate's central file.

(c) In addition to staff action as described in paragraph (b) of this section, an inmate may elect to directly contact staff regarding filing a claim for accident compensation. Such a request should not be made until approximately 30 days prior to the inmate's scheduled release from confinement or transfer to a Community Treatment Center.

C. In Part 550, Subpart B is added.

## PART 550—DRUG PROGRAMS

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**Subpart B—Alcohol Testing**

Sec.
550.10 Purpose and scope.

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

### Subpart B—Alcohol Testing

**§ 550.10 Purpose and scope.**

The Bureau of Prisons maintains a surveillance program in order to deter and to detect the illegal introduction or use of alcohol in its institutions. In an effort to reduce the introduction or use of alcohol, the Warden shall establish procedures for monitoring and testing individual inmates or groups of inmates who are known or suspected to be users of alcohol, or who are considered high risks based on behavior observed or on information received by staff.

(a) Staff may prepare a disciplinary report on an inmate who shows a positive substantiated test result for alcohol.

(b) Staff may initiate disciplinary action against an inmate who refuses to submit to an alcohol test.

D. Part 552 is added.

## PART 552—CUSTODY

Subpart A–C [Reserved]

Subpart D—Hostages

Sec.
552.30 Purpose and scope.
552.31 Negotiations.
552.32 Hostages—no authority.
552.33 Non-negotiable items.
552.34 Notifications.

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

### Subpart A–C [Reserved]

### Subpart D—Hostages

#### § 552.30 Purpose and scope.

The Warden of each institution has the authority to resolve a situation in which a hostage is taken in the institution. Staff's primary objectives in these situations are to safely free the hostage and to regain control of the institution.

#### § 552.31 Negotiations.

(a) The Warden is not normally directly involved in negotiations, generally assigning this responsibility to another individual.

(b) A person assigned as negotiator has no decision-making authority but acts as an intermediary.

(c) A person assigned as negotiator shall attempt to keep communications open at all times with the captors.

#### § 552.32 Hostages—no authority.

Captive staff have no authority, and their directives shall be disregarded.

#### § 552.33 Non-negotiable items.

The following items are non-negotiable:

(a) Release of captors from custody;

(b) Immunity from prosecution.

#### § 552.34 Notifications.

(a) The Warden shall assign staff to handle all news releases and news media inquires in accordance with the rule on Contract with News Media (see 28 CFR 540.65).

(b) The Warden shall arrange to have the family members of the hostages notified as soon as practical after the incident occurs.

2. Subchapter D is amended by adding Subpart D to Part 572.

## PART 572—PAROLE

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Subpart D—Parole and Mandatory Release Violator Reports

Sec.
572.30 Purpose and scope.
572.31 Procedures.

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

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### Subpart D—Parole and Mandatory Release Violator Reports

#### § 572.30 Purpose and scope.

The Bureau of Prisons provides the United States Parole Commission with a Violator Report for use at the revocation hearing of a parole or mandatory release violator, when that hearing is conducted in an institution of the Bureau of Prisons.

#### § 572.31 Procedures.

Staff shall prepare the Violator Report to include the following information:

(a) The inmate's original offense, sentence imposed, date and district;

(b) Description of release procedure;

(c) Alleged violation(s) of parole or mandatory release;

(d) Inmate's comments concerning the alleged violation(s);

(e) An outline of the inmate's activities while under supervison on parole or mandatory release; and

(f) At the option of the inmate, statement of current release plans and available community resources.

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**DEPARTMENT OF JUSTICE**

**Bureau of Prisons**

**28 CFR Part 524**

## Control, Custody, Care, Treatment and Instruction of Inmates; Proposed Rulemaking and Request for Comments

**AGENCY:** Bureau of Prisons, Justice.

**ACTION:** Proposed rules.

**SUMMARY:** The Bureau of Prisons is proposing another set of rules for the management of Inmates in Federal penal and correctional institutions. Published rules of the Bureau of Prisons relate to the control, custody, care, treatment, and instruction of inmates. This installment encompasses the Bureau of Prisons' proposed rules on Central Inmate Monitoring System. Discussed are Bureau procedures to monitor and control the transfer and community activities of certain inmates who present special needs for management. A proposed rule on this subject, published in the Federal Register July 17, 1978, is withdrawn.

**DATE:** Comments must be received on or before July 21, 1980.

**ADDRESS:** Office of General Counsel, Bureau of Prisons, Room 910, 320 1st Street, NW, Washington, DC 20534.

**FOR FURTHER INFORMATION CONTACT:** Mike Pearlman, Office of General Counsel, Bureau of Prisons, phone 202/724/3062.

**SUPPLEMENTAL INFORMATION:** Pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director of the Bureau of Prisons in 28 CFR 0.96(t), notice is hereby given that the Bureau of Prisons intends to publish in the Federal Register its proposed rules on Central Inmate Monitoring System.

Portions of this rule were proposed previously in the Federal Register (July 17, 1978, at 43 FR 30575–30576), and are now withdrawn. The present set of rules on Central Inmate Monitoring System discusses the Bureau of Prisons' procedures to monitor and control the transfer and community activities of certain inmates who present special needs for management. This monitoring is not for the purpose of precluding inmates from transfer or participation in community activities, when the inmate is otherwise eligible, but rather to provide protection for all concerned and to ensure the safe and orderly running of the institution.

Interested persons may participate in this proposed rulemaking by submitting data, views, or arguments in writing to the Bureau of Prisons, Room 910, 320 1st Street, NW, Washington, DC 20534. Comments received before July 21, 1980 will be considered before final action is taken. Copies of all written comments received will be available for examination by interested persons at the Bureau of Prisons, Room 910, 320 1st Street, NW, Washington, DC 20534. The proposed rules may be changed in light of the comments received. No oral hearings are contemplated.

In consideration of the foregoing, it is proposed to amend Subchapter B of 28 CFR, Chapter V by adding Part 524 to read as follows:

**SUBCHAPTER B—INMATE ADMISSION, CLASSIFICATION, AND TRANSFER**

## PART 524—CLASSIFICATION OF INMATES

**Subpart A–E [Reserved]**

**Subpart F—Central Inmate Monitoring System**

Sec.

524.70 Purpose and scope.
524.71 Responsibility.
524.72 Central inmate monitoring case categories.
524.73 Procedures.
524.74 CMC activities clearance.
524.75 Review of CMC status.

**Authority:** 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 5015, 5039, 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

### Subpart A—E [Reserved]

### Subpart F—Central Inmate Monitoring System

#### § 524.70 Purpose and scope.

The Bureau of Prisons monitors and controls the transfer and community activities of certain inmates who present special needs for management. Such inmates, known as Central Monitoring Cases (CMC), require Central Office of Regional Office approval for transfers or community activities recommended by the Warden. This monitoring is not for the purpose of precluding inmates in the system from transfers or participation in community activities, when the inmate is otherwise eligible, but rather to provide protection for all concerned and to ensure the safe and orderly running of federal institutions.

#### § 524.71 Responsibility.

Authority for actions relative to the Central Inmate Monitoring System is delegated to the Assistant Director, Correctional Programs Division, Regional Directors, and Wardens. Each of these persons shall designate a CMC coordinator for the Central Office, each Regional Office, and each institution, respectively. The CMC coordinator shall ensure that no inmate has direct contact with any CMC data or information.

#### § 524.72 Central inmate monitoring case categories.

(a) Central inmate monitoring cases are designated according to the following categories.

(1) 01 *Witness Security Program:* Those inmates who are under the Department of Justice Witness Security Program.

(2) 02 *Witness Protection Unit:* Those inmates who are under the DOJ Witness Security Program and/or BOP Witness Security Program and who are housed in an MCC Witness Protection Unit.

(3) 03 *Sophisticated Criminal Activity:* Those inmates who have been involved in large-scale, sophisticated criminal activity.

(4) 04 *Secret Service Surveillance:* Those inmates who have made threats to government officials or have been identified by the U.S. Secret Service as requiring special surveillance.

(5) 05 *Broad Publicity:* Those inmates who have received widespread publicity.

(6) 06 *Disruptive Groups:* Individuals who belong to or are closely associated with prison gangs, which have a history of disrupting institutional operations and security in either state or federal penal facilities.

(7) 07 *Assaultive Persons or Escape Risks (Special):* Extremely assaultive inmates or escape risks who require housing in special control units and may not function in general population.

(8) 08 *Assaultive Persons or Escape Risks (General):* Extremely assaultive inmates or escape risks with a recent history of violence or escape attempts or actions who can function in general population.

(9) 09 *Special Supervision:* Inmates who require special supervision and/or placement for their protection from *unknown* inmates.

(10) 10 *Further Separations:* Those individuals who may come into federal custody in the future and should be separated from individuals currently in federal custody.

(11) 11 *Separation (State):* Those inmates who are housed in state facilities for separation and protection purposes.

(12) 12 *Separation:* Those inmates who may not be confined in the same facility with other specified individuals.

(b) Except as provided in § 524.74(c)–(f):

(1) The Central Office will control confirmation of cases, transfers, and

community activities of persons designated in Categories (01) through (06) of this section;

(2) The Regional Office will control confirmation of cases, transfers, and community activities of persons designated in Categories (07) through (11) of this section; and

(3) The Regional Office will control transfers and community activities of persons, and the Warden will control confirmation of cases in Category (12) of this section.

(c) When an inmate is designated and/or tentatively designated a central inmate monitoring case in two or more categories, the highest confirming authority shall control confirmation, transfers, and community activities (except as provided in § 524.74(c)–(f) for that inmate. For example, where an inmate is tentatively designated both a Category 04, Secret Service Surveillance, and a Category 12, Separation, the Central Office Inmate Monitoring Program Section shall make the decision as to confirmation.

**§ 524.73 Procedures.**

Staff shall use the following procedure in making central inmate monitoring designations.

(a) An inmate may be identified at any time for tentative designation as a central inmate monitoring case by the appropriate staff at the Central Office Regional Office, or institution. This tentative designation takes effect when proper notifications are made to authorities at the institution where the designated inmate is confined and at the Central Office or Regional Office.

(b) The institution's CMC Coordinator shall advise the inmate in writing as promptly as possible of the tentative designation and the basis for it. The notice of the basis may be limited in the interest of security or safety. For example, in separation cases under § 524.72, notice will not ordinarily include the names of those from whom the inmate must be separated. On the other hand, in sophisticated criminal involvement cases under § 524.72, adequate notice shall include specific reference to the sophisticated criminal involvement, that is, the crime or crimes for which the inmate was convicted or explicit and reliable information of other sophisticated criminal activity.

(c) The institution's CMC Coordinator shall give the inmate an opportunity to respond and object in writing to the designation if the inmate desires to do so. If the inmate indicates that information must be obtained from outside the institution, the inmate will be given a reasonable time (ordinarily not to exceed 30 days) to provide it. The CMC Coordinator shall have the inmate sign a notification form as conformation that the inmate was notified of the tentative designation. A copy of this form is provided to the inmate.

(d) The CMC Coordinator shall forward to the confirming authority complete information regarding the central inmate monitoring case designation, including, but not limited to, a summary of the inmate's objections and a copy of all written material submitted by the inmate under paragraph (c) of this section.

(e) The confirming authority shall make a final decision based on material submitted and shall notify the institution's CMC Coordinator in writing of the decision. The CMC Coordinator shall notify the inmate of the final decision. At the time of notification, the CMC Coordinator also advises the inmate that the inmate may appeal the final decision through the Administrative Remedy Procedure. The inmate shall sign for and receive the original of the notification form, with a copy being placed in the inmate's central file. When the inmate is not confirmed as a CMC case, staff shall remove from the inmate's central file all references to the tentative designation, with the exception of the notification form and original documentation.

(f) When an inmate's name is ordered removed from the central inmate monitoring list, staff shall remove all references to the designation from the inmate's file and any other written material in such a way that any person reviewing the file material will not be able to ascertain that such a designation was made. The confirming authority shall notify the inmate in writing of the removal of the specific CMC designation. The inmate shall sign for and receive the original of this notification form.

**§ 524.74 CMC activities clearance.**

(a) If designated or tentatively designated a central inmate monitoring case, an inmate may not be transferred (except for medical emergencies) and may not participate in community programs without specific prior approval from the appropriate confirming authority.

(b) Except as provided in paragraphs (c)–(f) of this section, clearance by the Central Office or Regional Office (depending upon designated category) is required prior to the CMC inmate's participation in the following activities:

(1) Transfer to another federal facility (except a satellite camp at the facility where already located);

(2) Transfer to non-federal facilities or contract CTCs (for continued service of federal sentence);

(3) Writ release to federal, state, and/or local jurisdictions;

(4) Furloughs, including day passes;

(5) Escorted trips outside a 25 mile radius of the institution; and

(6) Work or Study Release.

(c) The Warden may approve the transfer of a CMC inmate in Categories 03–12 from the Warden's institution to that institution's satellite camp.

(d) The Warden may approve a CMC inmate in Categories 03–12 for an escorted trip within a 25 mile radius of the institution.

(e) Furloughs and Work or Study Release placements for a CMC inmate in Categories 03–12 require approval of the Regional Director, and if the inmate is designated Category 03–06 the approval of the Central Office is also required.

(f) The Central Office Inmate Monitoring Section shall be the confirming authority on all activities clearance for a CMC inmate in Category 01–02.

**§ 524.75 Review of CMC status.**

With the exception of CMC Category 01 and Category 02 inmates, the Warden shall ensure that each CMC inmate is reviewed on a semi-annual basis for new information, or change in behavior or status which may substantiate the inmate's removal as a central monitoring case.

Dated: May 14, 1980.

Norman A. Carlson,

*Director, Bureau of Prisons.*

[FR Doc. 80-15459 Filed 5-19-80; 8:45 am]

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# Reader Aids

Federal Register

Vol. 45, No. 99

Tuesday, May 20, 1980

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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 "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

### Rules Going Into Effect Today

NUCLEAR REGULATORY COMMISSION

14533 3–6–80 / Nondiscrimination in Federally assisted Commission programs; application to handicapped

### 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 May 8, 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:** June 13 and 27; July 11 and 25; 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.

### SALT LAKE CITY, UTAH

**WHEN:** May 19 and 20; at 9 a.m. (identical sessions.)

**WHERE:** Room 3421, Federal Bldg., 125 S. State St., Salt Lake City, Utah.

**RESERVATIONS:** Call Helen Ferderber, Salt Lake City, Federal Information Center, 801–524–5353.

### SEATTLE, WASH.

**WHEN:** May 23; 9 a.m.

**WHERE:** North Auditorium; Federal Bldg., 915 2nd Avenue, Seattle, Wash.

**RESERVATIONS:** Call the Seattle Federal Information Center, 206–442–0570.

### CHICAGO, ILL.

**WHEN:** May 28 and 29; at 9 a.m. (identical sessions.)

**WHERE:** Room 204A, Dirksen Federal Bldg., Chicago, Ill.

**RESERVATIONS:** Call Ardean Merrifield, 312–353–0339.

### ST. LOUIS, MO.

**WHEN:** June 24 and 25; at 9:00 a.m. (identical sessions.)

**WHERE:** Room 3720, Federal Office Bldg., 1520 Market Street, St. Louis, Mo.

**RESERVATIONS:** Call Evelyn Wiebusch, Federal Information Center, 314–425–4106.

### PITTSBURGH, PA.

**WHEN:** June 4 at 1:30 p.m. and June 5 at 9 a.m. (identical sessions.)

**WHERE:** Rooms 2212 and 2214 (both days), Federal Bldg., 1000 Liberty Ave., Pittsburgh, Pa.

**RESERVATIONS:** Call Mary Silipo, Pittsburgh Federal Information Center, 412–644–3456.