12-14-79
Vol. 44 No. 242
Pages 72569-73000

federal register

Friday
December 14, 1979

Highlights

72696 **Export-Import Bank: Policy on Chile** State determines to deny guarantees, insurance, extensions of credit and participations in extension of credit in support of purchase or lease of product or service by purchase or lessee in Chile

72728 **Improving Government Regulations** HEW/Sec'y publishes semiannual agenda of regulations; (Part II of this issue)

72794 **Minimum Wages for Federal and Federally-Assisted Construction** Labor/ESA publishes general wage determinations; (Part III of this issue)

72578 **Eurodollar Deposits** FHLBB issues rules regarding security for deposits, effective 12-5-79

72654 **General Education Provisions** HEW/Secretary requires announcement of certain data requests that Federal agencies address to educational agencies and institutions; comments by 1-14-80

72575 **Middle Distillates** DOE/ERA issues rule to adopt amendments to special set-aside procedures; effective 12-10-79

72866 **Wheat and Wheat Foods** USDA/AMS issues order announcing decision to establish nationally coordinated program (Part VII of this issue)

CONTINUED INSIDE

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The Federal Register provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The Federal Register will be furnished by mail to subscribers, free of postage, for $5.00 per month or $50 per year, payable in advance. The charge for individual copies of 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the Federal Register.

Area Code 202-523-5240

Highlights

72826, 72832 **Savings Bonds** Treasury/FS adopts the terms and conditions of the offering of Series EE and HH bonds; effective 1-1-80; (2 documents) (Parts IV and V of this issue)

72653 **Medicare Program** HEW/HCFA policy concerning coverage of oxygen for use in a patient's home; comments by 2-12-80

72892 **Water Resources Planning** WRC sets forth rules establishing current set of procedures for evaluation of national economic development benefits and costs; effective 1-14-80 (Part IX of this issue)

72584 **Comprehensive Employment and Training** Labor/ETA issues regulations concerning self-insured workers' compensation; effective 12-14-79

72838, 72864 **Beef Research and Information** USDA/AMS proposes establishment of program to develop and improve markets for cattle, beef, and beef products (2 documents) (Part VI of this issue)

72652 **Hazardous Radium Sources** HEW/FDA and EPA issue a joint memorandum of understanding to assist States in disposing

72618 **Textile Products From Malaysia** CITA announces import restraint levels for certain cotton, wool and man-made fibers; effective 1-1-80

72582 **Small Business** SBA issues rule establishing new size standard for retail heating oil dealers; effective 12-14-79

72604 **Corporation Finance** SEC request public comment to assist in re-evaluating the Guides for the Preparation and Filing of Registration Statements and Reports; comments by 2-29-80

72670 **Comprehensive Employment and Training** Labor/ETA gives notice of proposed allocations for fiscal year 1980

72700 **Sunshine Act Meetings**

Separate Parts of This Issue

72728 **Part II, HEW**
72794 **Part III, Labor/ESA**
72826 **Part IV, Treasury/FS**
72832 **Part V, Treasury/FS**
72838 **Part VI, USDA/AMS**
72866 **Part VII, USDA/AMS**
72888 **Part VIII, USDA/AMS**
72892 **Part IX, WRC**
72978 **Part X, WRC**
72992 **Part XI, OMB**

Contents

Federal Register
Vol. 44, No. 242
Friday, December 14, 1979

Agricultural Marketing Service
RULES
72572 Lemons grown in Ariz. and Calif.
72571 Oranges (navel) grown in Ariz. and Calif.
Stockyards:
72575 Rate proceedings; deletion of regulations
72866 Wheat and wheat foods research and nutrition education
72884, 72888 Wheat and wheat foods research and nutrition education; referendums (2 documents)
PROPOSED RULES
Beef research and information national program:
72838 Decision and order
NOTICES
72864 Beef research and information; cattle producers referendum

Agriculture Department
See Agricultural Marketing Service; Animal and Plant Health Inspection Service; Food and Nutrition Service; Food Safety and Quality Service

Animal and Plant Health Inspection Service
RULES
Animal and poultry import restrictions:
72574 Cattle; Harry S Truman Animal Import Center; special permits for quarantine, lottery basis; application date extension
Livestock and poultry quarantine:
72574 Brucellosis

Army Department
NOTICES
Discharge Review Board:
72623 Special discharge review program; extracts from Air Force memorandum

Arts and Humanities, National Foundation
NOTICES
Meetings:
72683 Media Arts Advisory panel
72683 Music Advisory Panel

Blind and other Severely Handicapped, Committee for Purchase From
NOTICES
72619 Procurement list, 1980; additions and deletions

Census Bureau
NOTICES
Surveys, determinations, etc.:
72617 Whosesale trade; purchases and inventories

Civil Aeronautics Board
NOTICES
Hearings, etc.:
72617 Former large irregular air service investigation (3 documents)

Commodity Credit Corporation
NOTICES
72700 Meetings; Sunshine Act

Consumer Product Safety Commission
NOTICES
Consent agreements:
72619 R & K Carpets, Inc.

Commerce Department
See Census Bureau.

Customs Service
NOTICES
72699 Imported cab chassis; tariff classification; extension of time

Defense Department
See Army Department; Navy Department.

Economic Regulatory Administration
RULES
Petroleum allocation and price regulations:
72575 Middle distillates; special set-aside procedures

Employment and Training Administration
RULES
Comprehensive Employment and Training Act programs:
72584 Self-insured worker's compensation
NOTICES
Comprehensive Employment and Training Act Programs:
72670 Funds allocations for fiscal year 1980
72669 Employment transfer and business competition determinations; financial assistance applications

Employment Standards Administration
NOTICES
72794 Minimum wages for Federal and federally-assisted construction; general wage determination decisions, modifications, and supersedeas decisions (Ala., Fla., Ill., Kans., Ky., Miss., Mo., N.J., Pa., Tex., and Utah)

Energy Department
See also Economic Regulatory Administration.
NOTICES
Crude oil domestic; allocation program
72625 Refiners buy/sell list; October, 1979, through March, 1980

Environmental Protection Agency
RULES
Air programs; energy facilities; delayed compliance orders:
72593 Georgia, et al.
72589 Air quality surveillance and data reporting; correction
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
72614 California
72614 Guam
72615 Washington

Water pollution control:
72615 Disposal sites for dredged or fill material; section 404 guidelines; extension of time
NOTICES
Air programs; fuel and fuel additives:
72643 Beker Industrial Corp., waiver application
Environmental statements; availability, etc.:
72644 Agency statements; weekly receipts
Toxic and hazardous substances control:
72643 Radium sources disposal; memorandum of understanding with FDA

Environmental Quality Council
NOTICES
72622 National Environmental Policy Act; implementation; progress report

Equal Employment Opportunity Commission
NOTICES
72700 Meetings; Sunshine Act

Farm Credit Administration
NOTICES
Authority delegations:
72648 Governor et al.; authenticate documents, certify official records, and affix seal

Federal Emergency Management Agency
RULES
Flood insurance; communities eligible for sale:
72594, 72595 Alabama, et al (2 documents)

Federal Energy Regulatory Commission
NOTICES
Hearings, etc.:
72627 Alabama Gas Corp.
72627 Alabama-Tennessee Natural Gas Co. et al.
72628 Algonquin Gas Transmission Co.
72628 Amoco Production Co. et al.
72628 Cities Service Gas Co.
72629 Colorado Interstate Gas Co. (2 documents)
72629 Columbia Gas Transmission Corp.
72630 Columbia Gulf Transmission Co. et al.
72631, 72632 Consolidated Gas Supply Corp. et al. (4 documents)
72632 East Tennessee Natural Gas Co. (2 documents)
72633 Enserch Exploration, Inc.
72633 Florida Power & Light Co.
72633 Gas Gathering Corp.
72634 Granite State Gas Transmission, Inc.
72634 Kansas-Nebraska Natural Gas Co.
72635 Kentucky West Virginia Gas Co.
72635 Lone Star Gas Co.
72635 Michigan Consolidated Gas Co.
72636 Mid Louisiana Gas Co.
72636 Midwestern Gas Transmission Co.
72636 Montana Power Co.
72637 Mountain Fuel Supply Co.
72637 Natural Gas Pipeline Co. of America et al.
72638 New Jersey Natural Gas Co.
72638 Northern Natural Gas Co. (2 documents)
72639, 72640 Panhandle Eastern Pipe Line Co. (2 documents)
72640, 72641 Sea Robin Pipeline Co. (2 documents)
72641 South Texas Natural Gas Gathering Co.
72641 Southern Natural Gas Co.
72641 Southern Union Gas Co.
72642 Tennessee Gas Pipeline Co.
72642 Texas Eastern Transmission Corp.
72642 Transcontinental Gas Pipe Line Corp.
72643 Trunkline Gas Co.

Federal Home Loan Bank Board
RULES
Federal savings and loan system:
72578 Eurodollar deposits
PROPOSED RULES
Federal savings and loan system, etc.:
72602 Marketable certificates of deposit; brokered funds

Federal Maritime Commission
PROPOSED RULES
72616 Shipping in foreign trade of U.S., actions to adjust or meet unfavorable conditions; Ecuador; discontinuance
NOTICES
Frieght forwarder licenses;
72648 Gaynar Shipping Corp.
72700 Meetings; Sunshine Act (2 documents)
Petitions filed:
72649 Refrigerated Express Lines, Ltd.

Federal Reserve System
NOTICES
72701 Meetings; Sunshine Act (3 documents)

Fiscal Service
RULES
Bonds, U.S. savings:
72826 Series EE
72832 Series HH
NOTICES
Surety companies acceptable on Federal bonds:
72696 Cooperativa de Seguros Multiples de Puerto Rico

Food and Drug Administration
RULES
Administrative practices and procedures:
72585 Reimbursement for participation in administrative proceedings; applications
Animal drugs, feeds, and related products:
72586 Diethylcarbamazine citrate chewable tablets
72586 Levamisole hydrochloride
72587 Nifurpirinol capsules; sponsor change
PROPOSED RULES
72613 Acid casein, edible; standard; advance notice; review termination
NOTICES
Food additives, petitions filed or withdrawn:
72652 Goodyear Tire & Rubber Co.
72652 Hazardous radium sources disposal; memorandum of understanding with EPA
Meetings:
72649 Advisory committees, panels, etc.

Food and Nutrition Service
RULES
Food stamp program:
72570 Eligible household certification; thrifty food plan amounts, Guam and Virgin Islands

Food Safety and Quality Service
RULES
Fruits and vegetables (processed); inspection and certification:
72572 Maple sirup standards

PROPOSED RULES
72599 Peanuts, shelled; grade standards

Health, Education, and Welfare Department
See also Food and Drug Administration; Health Care Financing Administration.
PROPOSED RULES
Improving Government regulations:
72728 Regulatory agenda
NOTICES
72654 Education data acquisition activities for school year 1979–80; list

Health Care Financing Administration
NOTICES
Medicare:
72653 Oxygen services provided at home; policy

Interior Department
See Land Management Bureau; Surface Mining Office.

Interstate Commerce Commission
RULES
Railroad car service orders; various companies:
72598 Chicago, Milwaukee, St. Paul & Pacific Railroad Co.
72597 Detroit & Mackinac Railway Co.
NOTICES
Motor carriers:
72699 Household goods, used; transportation for DOD pack-and-crate operation; special certificate letter
72697–72699 Permanent authority applications; correction (5 documents)
72697 Temporary authority applications; correction (2 documents)
Petitions filed:
72698 Atchison, Topeka & Santa Fe Railway Co., et al.
Port equalization orders:
72697 Nueces County Navigation District No. 1, et al.; correction
Railroad car service orders; various companies:
72697 Burlington Northern Inc.
72697 Railroad car service rules, mandatory; exemptions
Railroad services abandonment;
72697 Louisville & Nashville Railroad Co.
72698 Oregon Short Line Railroad Co.

Labor Department
See also Employment and Training Administration; Employment Standards Administration.
RULES
72587 Farm labor contractor registration; hearing requests referrals
NOTICES
Adjustment assistance
72676 Clinchfield Coal Co., et al.
72679 Cohoes Fabrics Printers, Inc., et al.
72677 Cowden Manufacturing Co.
72678 Emerson Electric Co.
72678 General Tire & Rubber Co.
72679 Grandinetti, Inc.
72680 J. F. McElwain Co.
72680 Mark Mining, Inc.
72681 Molins Machine Co., Inc.
72676 National Standard Co.
72681 Neal Coal, Inc.
72675 S. Abraham and Co., Inc.
72682 Saint Laurie Ltd.
72676 Sophia Electrical Supply Shop, Inc.
72682, 72683 Wheeling-Pittsburgh Steel Corp. (2 documents)
Industry study reports for adjustment assistance eligibility:
72681 Nonelectric cooking ware

Land Management Bureau
NOTICES
Alaska native claims selections; applications, etc.:
72665 Kokhanok Native Corp.
72663 Stuyahok Ltd.
72661 White Mountain Native Corp.
Outer Continental Shelf:
72660 Oil and gas lease sales; North Atlantic
Wilderness areas; characteristics, inventories, etc.:
72659 Idaho
72659 Wyoming

Management and Budget Office
NOTICES
72992 Budget rescissions and deferrals

National Science Foundation
NOTICES
72684 Antarctic Conservation Act of 1978; permit applications (2 documents)

Navy Department
NOTICES
72625 Freedom of Information Act index of petitions for relief; availability
72624 San Diego Naval Regional Medical Center, Calif.; construction decision

Nuclear Regulatory Commission
NOTICES
72701 Meetings; Sunshine Act

Parole Commission
NOTICES
72701 Meetings; Sunshine Act

Personnel Management Office
RULES
Career and career–conditional employment:
72569 Mentally and severally physically handicapped; conversion to competitive appointments; editorial change
72570 Ethics in government; post employment conflict of interest; designation of senior employees; interim regulations; extension of time
Excepted service:
72569 Community Services Administration; correction
72569 Housing and Urban Development Department; correction
72569 Labor Department; correction
72569 State Department; correction

Securities and Exchange Commission
RULES
72583 Proxy statements; board of directors solicitations
PROPOSED RULES
72606 National market system securities; procedures and requirements for plans

72604 Registration statements and reports; review of guides for preparation and filing; advance notice
NOTICES
72688 Discretionary institutional accounts; securities transactions; survey data publication and inquiry
Hearings, etc.
72685 Ivy Fund, Inc., et al.
72687 Jersey Central Power & Light Co.
Self-regulatory organizations; proposed rule changes:
72684 Cincinnati Stock Exchange

Small Business Administration
RULES
Small business size standards:
72582 Retail heating oil dealers
PROPOSED RULES
Pollution control:
72604 Applicants; operating history
NOTICES
Applications, etc.
72694 Beacon Capital Corp.
72695 First Oklahoma Investment Capital Corp.
72695 Greater Miami Investment Service, Inc.
Disaster areas:
72694 Alabama (2 documents)
72695 Massachusetts
72696 Missouri
72695 Trust Territory of Pacific Islands

State Department
NOTICES
72696 Chile; Export-Import Bank credit extension; denial

Surface Mining Office
NOTICES
Coal mining and reclamation plans:
72668 Western Slope Carbon, Inc.

Textile Agreements Implementation Committee
NOTICES
72618 Cotton, wool and man-made textiles from Malaysia
Man-made textiles:
72617 Thailand

Treasury Department
See Customs Service; Fiscal Service.

Veterans Administration
NOTICES
Environmental statements; availability, etc.
72696 Seattle, Wash., replacement hospital
Meetings:
72696 Wage Committee

Water Resources Council
RULES
72583 Principles and Standards Manual of Procedures; procedures for revising
72892 Water and related land resources projects; national economic development (NED) benefits and costs, evaluation procedures
NOTICES
72978 Water and related land resources; principles and standards for planning

MEETINGS ANNOUNCED IN THIS ISSUE

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
Food and Drug Administration—
72649 Advisory Committees, January 1980

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES
National Council on the Arts—
72683 Media Arts Panel (Production: Radio), 1-7 and 1-8-80
72683 Music Panel (Choral Section), 1-8, 1-9, 1-10 and 1-11-80

VETERANS ADMINISTRATION
72696 Veterans Administration Wage Committee, 1-10, 1-24, and 3-20-80

CFR PARTS AFFECTED IN THIS ISSUE

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

5 CFR
213 (4 documents).....72569
315.....72569
737.....72570

7 CFR
273.....72570
907.....72571
910.....72572
1280 (3 documents).....72866, 72884, 72888
2852.....72572

Proposed Rules:
1260.....72838
2851.....72599

9 CFR
78.....72574
92.....72574
202.....72575

10 CFR
211.....72575

12 CFR
545.....72578
563.....72578

Proposed Rules:
545.....72602
563.....72602

13 CFR
121.....72582

Proposed Rules:
111.....72604

17 CFR
240.....72583

Proposed Rules:
231.....72604
240.....72606
241.....72604

18 CFR
701.....72583
713.....72892

20 CFR
676.....72584

Proposed Rules:
Ch. III.....72728

21 CFR
Ch. I.....72585
520 (2 documents).....72586
529.....72587

Proposed Rules:
Ch. I.....72728
131.....72613

29 CFR
40.....72587

31 CFR
351.....72826
352.....72838

40 CFR
51.....72589
52.....72589
53.....72589
55.....72593
58.....72589

Proposed Rules:
52 (3 documents).....72614, 72615
230.....72615

42 CFR

Proposed Rules:
Ch. I.....72728
Ch. II.....72728
Ch. III.....72728
Ch. IV.....72728

44 CFR
64 (2 documents).....72594, 72595

45 CFR

Proposed Rules:
Subtitle A.....72728
Subtitle B.....72728

46 CFR

Proposed Rules:
508.....72616

49 CFR
1033 (2 documents).....72597, 72598

Rules and Regulations

Federal Register
Vol. 44, No. 242
Friday, December 14, 1979

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 213

Excepted Service; Community Services Administration

AGENCY: Office of Personnel Management.

ACTION: Final rules.

SUMMARY: FR Document 79-34728, published by OPM on November 9, 1979, at 44 FR 65026, incorrectly added a new § 213.3373(c), a new excepted service appointing authority for the Office of the Inspector General, Community Services Administration. Since "Office of the Inspector General" had previously been designated § 213.3373(b), this document correctly designates paragraph (c)(1) to read (b)(2), and deletes the introductory text of paragraph (c).

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202-632-4533.

On position content: Felix Gloden, Community Services Administration, 202-254-5220.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

[FR Doc. 79-38287 Filed 12-13-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Housing and Urban Development

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: FR Document 79-34736, published by OPM on November 9, 1979, at 44 FR 65028, incorrectly added a new § 213.3384(d)(2), a new excepted service appointing authority for the Department of Housing and Urban Development. Since § 213.3384(d)(2) already existed, this document redesignates the paragraph to read (d)(5).

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202-632-4533.

On position content: Eleanor Coleman, Department of Housing and Urban Development, 202-755-5479.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

[FR Doc. 79-38288 Filed 12-13-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Labor

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: FR Document 79-29551, published September 25, 1979, at 44 FR 55143, incorrectly listed July 10, 1979, as the effective date of a Labor Department Schedule C appointing authority in 5 CFR § 213.3315(a)(1). This document corrects the effective date; this is an editorial change only.

EFFECTIVE DATE: The correct effective date should read: July 20, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202-632-4533.

On position content: Joyce Goins, Department of Labor 202-523-6555.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp. p. 218)

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

[FR Doc. 79-38291 Filed 12-13-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of State

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: FR Document 79-29538, published September 25, 1979, at 44 FR 55144, incorrectly listed April 23, 1979, as the effective date of a State Department Schedule C appointing authority in 5 CFR § 213.3304(aa)(2). This document corrects that effective date; this is a editorial change only.

EFFECTIVE DATE: The correct effective date should read: April 26, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202-632-4533.

On position content: R. Massey, Department of State, 202-632-5350.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp. p. 218).

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

[FR Doc. 79-38290 Filed 12-13-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 315

Career and Career-Conditional Employment

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: In FR Doc. 79-35792, published on November 20, 1979, at 44 FR 66574, the Office of Personnel Management added a new 5 CFR § 315.708, Mentally retarded and severely physically handicapped employees serving under Schedule A appointments. Since § 315.708 already existed, this document corrects the section designation to read § 315.709. This is an editorial change only.

EFFECTIVE DATE: December 20, 1979.

FOR FURTHER INFORMATION CONTACT: William Bohling, Inservice Placement Branch, Staffing Services Group, 202-632-4533.

(5 U.S.C. 3301, 3302; E.O. 12125).

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

[FR Doc. 79-38289 Filed 12-13-79; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 737

Post Employment Conflict of Interest

AGENCY: Office of Personnel Management.

ACTION: Interim regulations with comments invited for consideration in final rulemaking.

SUMMARY: The Office of Personnel Management is issuing an amendment to an interim regulation under the Ethics in Government Act of 1978, changing the date of the designation of certain positions subject to the post employment conflict of interest regulations applicable to "Senior Employees" from December 15, 1979 to February 28, 1980.

DATE: Effective December 14, 1979. Written comments will be considered if received no later than January 4, 1980.

ADDRESS: Send written comments to: Office of Government Ethics, 1900 E Street NW., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Gary Davis, (202) 632-7642.

SUPPLEMENTARY INFORMATION: Subsection 207(d)(1)(C) of title 18 U.S.C. contained in Title V of the Ethics in Government Act of 1978 ("the Act"), Pub. L. 95-521, as amended, gives the Director of the Office of Government Ethics ("OGE") authority to designate certain employee positions for purposes of the restrictions of 18 U.S.C. subsections 207(b)(ii) and 207(c). Interim regulations implementing this authority were published on April 3, 1979 (44 FR 19974) and on September 25, 1979 (44 FR 55148). Section 737.25(b)(1) of the interim regulations established the effective date of all discretionary designations as December 15, 1979.

Due to agency reorganizations OGE is unable to submit the follow-up discretionary designations for agencies not listed in our September 25 publication prior to the effective date of December 15, 1979. Accordingly, the desire to give uniform treatment to all designees as well as basic fairness dictates a change in the effective date.

Because the final regulations are scheduled for issuance in early January, 1980, it is necessary to shorten the public comment period to January 4, 1980. The Director of the Office of Personnel Management, Alan K. Campbell, acting pursuant to 5 U.S.C. Section 553, has found good cause for dispensing with the notice of proposed rulemaking.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, OPM is amending 5 CFR § 737.25(b)(1) to change the effective designation date of "Senior Employee" positions to read February 28, 1980, rather than December 15, 1979.

(18 U.S.C. 207(d)(1)(C))

[FR Doc. 79-38321 Filed 12-13-79; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 273

[Amdt. No. 157]

Certification of Eligible Households; Food Stamp Program; Thrifty Food Plan Amounts; Guam and the Virgin Islands

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment revises those parts of Appendix A of § 273.10 of the Food Stamp Program Regulations pertaining to Guam and the Virgin Islands by adding an Appendix B which updates the value of the Thrifty Food Plan amounts for Guam and the Virgin Islands.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT: Larry Carnes, Chief, Policy/Regulations Section, Family Nutrition Programs, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202)447-9818.

SUPPLEMENTARY INFORMATION: The Food Stamp Act of 1977, as amended, and its implementing regulations (43 FR 47846 et al.) require semi-annual adjustments of the Thrifty Food Plan amounts and the standard deductions for the 48 States and the District of Columbia, Alaska, Hawaii, Guam, Puerto Rico and the Virgin Islands. The standard deductions for all areas and the Thrifty Food Plan amounts for all areas except Guam and the Virgin Islands have been published. This rulemaking provides the Thrifty Food Plan amounts for Guam and the Virgin Islands only.

The Thrifty Food Plan amounts for Guam and the Virgin Islands are provided by household size only, rather than in complete allotment tables. To determine the benefits eligible households are to receive without using tables it is necessary to multiply the household's net monthly income by 30 percent and round by dropping all cents and to subtract that amount from the Thrifty Food Plan for that size household. The Department prepares tables for households with up to 8 persons and provides them to State agencies.

The Food Stamp Act of 1977, as amended, requires that the semi-annual adjustments in the Thrifty Food Plan reflect food price changes published by the Bureau of Labor Statistics (BLS). Food prices for Guam and the Virgin Islands are collected under special arrangements between the Department and BLS. The Food Stamp Act both mandates that the cost of the Thrifty Food Plan be adjusted to reflect the cost of food in the Virgin Islands and Guam and that the Thrifty Food Plan amount for the outlying areas cannot exceed the cost of food in the fifty States and the District of Columbia. Due to this statutory limit, although in the past the *actual* Thrifty Food Plan amount for Guam has exceeded that of the fifty States and the District of Columbia, Alaska's number (the highest one) has been used instead. Because of an adjustment to the Alaska Thrifty Food Plan amount to compensate for higher food costs outside the Anchorage area, the *actual* Thrifty Food Plan amount for Guam can be used for January 1, 1980.

Thrifty Food Plan—Guam and the Virgin Islands

Section 3(o) of the Food Stamp Act of 1977, as amended, requires that the Thrifty Food Plan shall be the basis for uniform allotments for all households regardless of their actual composition, except that the Secretary shall: (1) make household size adjustments taking into account economies of scale; (2) make cost adjustments in the separate Thrifty Food Plans for Guam and the Virgin Islands to reflect the cost of food in those areas, but not to exceed the cost of food in the fifty States and the District of Columbia; and (3) adjust the cost of such diet every January 1 and July 1 to the nearest dollar increment to reflect changes in the cost of the Thrifty Food Plan for the six months ending the preceding September 30 and March 31, respectively. Under this provision, an adjustment in the cost of the Thrifty Food Plan amounts by household size for Guam and the Virgin Islands appearing as Appendix B of § 273.10 of the Food Stamp Program Regulations issued pursuant to the Food Stamp Act of 1977, as amended, has been made.

An Appendix B is added to § 273.10 as follows:

§ 273.10 Determining household eligibility and benefit levels.

Appendix B—Thrifty Food Plan—Guam and the Virgin Islands.

Benefit Determination. To determine the monthly allotment to be issued to households:

(1) Multiply the household's net monthly income by 30 percent and round by dropping all cents.

(2) Subtract the result obtained in Step 1 from the Thrifty Food Plan amount shown below for that size household for the appropriate area involved. (All one and two-person households shall receive a minimum monthly allotment of $10.00):

Thrifty Food Plan Amounts—September 1979

Household size	Guam[1]	Virgin Islands[1]
1	$91	$77
2	167	142
3	239	203
4	303	258
5	360	306
6	432	368
7	477	406
8	545	464
Each add'l member	+68	+58

[1] Adjusted to reflect cost of food in this area based on September food price data, but not to exceed cost of food in the 50 States and the District of Columbia.

* * * * *

(Authority: 91 Stat. 859 (7 U.S.C. 2011–2027).

Note.—This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified as significant. Robert Greenstein, Administrator of the Food and Nutrition Service, has determined that because of the need to implement this amendment by January 1, 1980, it is in the public interest to publish this amendment as a final rule. An impact statement has been prepared and is available from Claire Lipsman, Director, Program Development Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250.

[Catalog of Federal Domestic Assistance, No. 10.551, Food Stamps]

Dated: November 29, 1979.

Carol Tucker Foreman,

Assistant Secretary.

[FR Doc. 79-38275 Filed 12-13-79; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 470; Navel Orange Reg. 469, Amdt. 1]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period December 14–20, 1979, and increases the quantity of such oranges that may be so shipped during the period December 7–13, 1979. Such action is needed to provide for orderly marketing of fresh navel oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: The regulation becomes effective December 14, 1979, and the amendment is effective for the period December 7–13, 1979.

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

SUPPLEMENTARY INFORMATION: *Findings.* This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of 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 Navel Orange Administrative Committee, and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act by tending to establish and maintain, in the interests of producers and consumers, an orderly flow of oranges to market and avoid unreasonable fluctuations in supplies and prices. The action is not for the purpose of maintaining prices to farmers above the level which is declared to be the policy of Congress under the act. This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The committee met on December 11, 1979, to consider supply and market conditions and other factors affecting the need for regulation, and recommend quantities of navel oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for navel oranges is improving over last week.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of navel oranges. 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, Fruit Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, phone (202) 447–5975.

1. Section 907.770 is added as follows:

§ 907.770 Navel Orange Regulation 470.

Order. (a) The quantities of navel oranges grown in Arizona and California which may be handled during the period December 14, 1979, through December 20, 1979, are established as follows:

(1) District 1: 783,000 cartons;
(2) District 2: 38,073 cartons;
(3) District 3: 90,000 cartons;
(4) District 4: 27,000 cartons.

(b) As used in this section, "handle," "District 1," "District 2," "District 3," "District 4," and "carton" mean the same as defined in the marketing order.

2. Paragraphs (a)(1), (a)(3), and (a)(4) in § 907, Navel Orange Regulation 469 (44 FR 70116), are hereby amended to read:

§ 907.769 Navel Orange Regulation 469.

(a) * * *

(1) District 1: 1,558,000 cartons;
(2) District 2: Unlimited Movement;
(3) District 3: 140,000 cartons;
(4) District 4: 52,000 cartons.

* * * * *

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

Dated: December 12, 1979.

D. S. Kuryloski,

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

[FR Doc. 79-38481 Filed 12-13-79; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 910

[Lemon Regulation 230]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period December 16–22, 1979. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: December 16, 1979.

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

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

The committee met on December 11, 1979, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is good.

It is further found that it is impractical and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

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

Section 910.530 is added as follows:

§ 910.530 Lemon Regulation 230.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period December 16, 1979, through December 22, 1979, is established at 200,000 cartons.

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

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

Dated: December 12, 1979.

D. S. Kuryloski,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-38550 Filed 12-13-79; 8:45 am]
BILLING CODE 3410-02-M

Food Safety and Quality Service

7 CFR Part 2852

Processed Fruits, Vegetables, Processed Products Thereof, and Certain Other Processed Food Products; United States Standards for Grades of Maple Sirup [1]

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: This rule will amend the voluntary grade standards for maple sirup to conform to the Food and Drug Administration's new Standards of Identity. This rule adopts departmental policy toward uniform, sequential grade nomenclature. The effect of this rule is to improve the standards.

EFFECTIVE DATE: January 14, 1980.

FOR FURTHER INFORMATION CONTACT: Thomas E. Crider, Processed Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–6248.

SUPPLEMENTARY INFORMATION: The current U.S. Standards for grades of Table Maple Sirup and for Grades of Maple Sirup for Reprocessing have been in effect since February 15, 1940.

Federal Food and Drug Standards of Identity for Maple Sirup, which increased the natural maple solids (Brix) requirements, made it necessary to revise the two U.S. standards for maple sirup.

Prior to proposing any revision to the two U.S. standards, letters were sent to the Secretaries of Agriculture of the major maple sirup producing States asking for their comments. The letters stated the policy toward uniform grade nomenclature and proposed dropping the term "U.S. Grade AA" from the maple sirup standards. The majority of the officials who responded favored this change in the U.S. standards.

A notice of proposed rulemaking was first published on October 28, 1975 (40 FR 50049) to:

(1) Combine the two existing maple sirup standards into a single standard;

(2) Designate table sirup and maple sirup for reprocessing as separate "Types";

(3) Change the grade names to "U.S. Grade A", "U.S. Grade B", "U.S. Grade C" and "Substandard"; and

(4) Update the lot acceptance procedure to conform with the "Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products."

Comments received to the first notice of proposed rulemaking took exception to color classification. They also indicated that standards for reprocessing were not desirable.

A second notice of proposed rulemaking was published on April 28, 1977 (42 FR 21752–21754) to:

(1) Classify Grade A maple sirup in light amber, medium amber and dark amber. This classification would correspond with an independent study conducted by USDA's Forest Service to determine consumers' preferences with respect to the color of maple sirup;

(2) Eliminate "Maple Sirup for Reprocessing" as a separate type; and

(3) Change the grade names to "U.S. Grade A", "U.S. Grade B", and "Substandard"

Two organizations of maple sirup producers cited an objection to the grade step designations of "A", "B", and "Substandard" A preference was shown for the grade step designations of "A", "C", and "Substandard".

Since the grade step designations of "A", "C", and "Substandard" are not in agreement with the Department's uniform grade designations, the exceptions, as noted, will not be considered for adoption into the standards.

[1] Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or with applicable State laws and regulations.

Accordingly, 7 CFR 2852 is hereby revised as set forth below.

§§ 2852.5921-2852.5926 [Reserved]

1. Subpart—United States Standards for Grades of Maple Sirup for Reprocessing (7 CFR 2852) is revoked in its entirety and §§ 2852.5921 through 2852.5926 are reserved. The Table of Contents is amended to reflect this change.

2. Subpart—United States Standards for Grades of Table Maple Sirup (7 CFR 2852) is revised to read "Subpart—United States Standards for Grades of Maple Sirup"; and the sections thereunder are revised, and the Table of Contents is revised accordingly, to read as follows:

Subpart—United States Standards for Grades of Maple Sirup

Sec.
2852.5961 Product description.
2852.5962 Grades.
2852.5963 Recommended fill of containers.
2852.5964 Color.
2852.5965 Classification of requirements.
2852.5966 Explanation of terms.
2852.5967 Determining the grade of a lot.
2852.5968 [Reserved]

§ 2852.5961 Product description.

(a) *"Maple sirup"* means maple sirup represented as defined in the Standards of Identity for Maple Sirup (21 CFR 168.140) issued under the Federal Food, Drug, and Cosmetic Act. The solids content of the finished maple sirup shall be not less than 66 percent by weight (Brix).

(b) Federal inspection certificates shall limit "U.S. Grade B" maple sirup to a quality suitable for reprocessing only. "U.S. Grade B" maple sirup shall be considered unsuitable for consumer labeling.

§ 2852.5962 Grades.

(a) *"U.S. Grade A"* is the quality of maple sirup that:

(1) Has good color;

(2) Has good flavor and odor;

(3) Is practically free from defects; and

(4) Is practically clear.

(b) *"U.S. Grade B for Reprocessing"* is the quality of maple sirup that:

(1) Has fairly good color;

(2) Has fairly good flavor and odor;

(3) Is fairly free from defects;

(4) Is fairly clear; and

(5) Is suitably designated or labeled as a reprocessing grade to qualify for Federal grading, inspection, or certification. Reprocessing grade maple sirup shall not be packaged in consumer size containers.

(c) *"Substandard"* is the quality of maple sirup that fails to meet the requirements for U.S. Grade B for Reprocessing.

§ 2852.5963 Recommended fill of container.

The recommended fill of container is not incorporated in the grades of the product since fill of container, as such, is not a factor of quality for the purpose of these grades. It is recommended that each container be filled with sirup as full as practicable and that the product occupy not less than 90 percent of the volume of the container.

§ 2852.5964 Color.

(a) *General.* Color has reference to the color of maple sirup when examined by means of the USDA permanent glass color standards for maple sirup.

(b) *Availability of color standards.* The color standards referred to in this section are available only from the approved supplier under a license from the U.S. Department of Agriculture: Phoenix Precision Instrument Division, The Virtis Company, Inc., Route 208, Gardiner, NY 12525.

§ 2852.5965 Classification of requirements.

(a) *"A" classification.*—(1) *"Good color"* means that the sirup color is bright and typical of maple sirup prepared from sound, properly gathered sap; and, in addition, meets the following spectral requirements:

(i) *U.S. Grade A Light Amber* is as light, or lighter, in color than the USDA Light Amber Glass Color Standard.

(ii) *U.S. Grade A Medium Amber* is darker in color than Light Amber, but is no darker than the USDA Medium Amber Glass Color Standard.

(iii) *U.S. Grade A Dark Amber* is darker in color than Medium Amber, but is no darker than the USDA Dark Amber Glass Color Standard.

(2) The sirups shall have a good maple flavor characteristic of the color; shall be clean; practically clear; practically free from damage; and shall be free from serious damage.

(b) *"B" classification.*—(1) *"Fairly good color"* means that the sirup color is darker in color than the USDA Dark Amber Glass Color Standard, but is not off-color for any reason.

(2) The sirup has fairly good characteristic maple flavor; is fairly free from damage; is fairly clear; and is free from serious damage.

(c) *Substandard classification.* Maple sirup that fails to meet the requirements of paragraph (b) of this section shall not be graded above Substandard.

§ 2852.5966 Explanations of terms.

(a) *"Cloudiness"* means the presence, in suspension, of fine particles of mineral matter, such as malate of lime, "niter," "sugar sand," calcium malate, or other substances that detract from the clearness of the sirup.

(b) *"Clean"* means that the sirup shall be practically free from foreign material such as pieces of bark, soot, dust, or dirt.

(c) *"Damage"* means any defect that materially affects the appearance, edibility, or shipping quality of the sirup.

(d) *"Serious damage"* means any defect that seriously affects the edibility or market value of the sirup. Badly scorched sirup, buddy sirup, fermented sirup, or sirup that has any distasteful foreign flavor or disagreeable odor shall be considered as seriously damaged.

(e) *"Buddy flavor, buddiness"* is an unpleasant flavor characteristic of sirup made from sap collected from maple trees as they come out of dormancy.

(f) *"U.S. Department of Agriculture Color Standards"* means the official U.S. Department of Agriculture Permanent Glass Color Standards for Maple Sirup.

§ 2852.5967 Determining the grade of a lot.

The grade of a lot of maple sirup covered by these standards is determined by the procedures set forth in the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products (7 CFR 2852.1 through 2852.83); *Provided,* That:

(a) When certifying the color of a sample that has been officially drawn and which represents a specific lot of maple sirup, the lot shall be considered as being of one color if the number of color deviants does not exceed the acceptance number in the appropriate sampling plan. Any lot of maple sirup in which the number of color deviants exceeds the acceptance number shall be designated as a lot of "mixed color."

(b) No deviants for "serious damage" shall be allowed in grades above Substandard.

§ 2852.5968 [Reserved]

(Secs. 203, 205; 60 Stat. 1087, as amended; 7 U.S.C. 1622, 1624)

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 Thomas E. Crider, Processed Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250.

Done at Washington, D.C., on: December 6, 1979.

Donald L. Houston,

Administrator, Food Safety and Quality Service.

[FR Doc. 79-38096 Filed 12-13-79; 8:45 am]

BILLING CODE 3410-DM-M

Animal and Plant Health Inspection Service

9 CFR Part 78

Brucellosis Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: These amendments add the counties of Cleveland and Searcy in Arkansas to the list of Modified Certified Brucellosis Areas and delete them from the list of Certified Brucellosis-Free Areas because it has been determined that these counties now qualify only as Modified Certified Brucellosis Areas. The effect of this action will provide for more restrictions on cattle and bison moved interstate from these areas. These amendments also add the counties of Cameron and Evangeline in Louisiana to the list of Modified Certified Brucellosis Areas and delete them from the list of Noncertified Areas because it has been determined that these counties now qualify as Modified Certified Brucellosis Areas. The effect of this action will provide for less restrictions on cattle and bison moved interstate from these areas.

EFFECTIVE DATE: December 14, 1979.

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

SUPPLEMENTARY INFORMATION: A complete list of brucellosis areas was published in the Federal Register (44 FR 36373-36375) effective June 22, 1979. These amendments add the counties of Cleveland and Searcy in Arkansas to the list of Modified Certified Brucellosis Areas in § 78.21, because it has been determined that they now come within the definition of a Modified Certified Brucellosis Area and delete such counties from the list of Certified Brucellosis-Free Areas in § 78.20 because it has been determined that they now come within the definition of a Modified Certified Brucellosis Area contained in § 78.1(m) of the regulations. These amendments add the counties of Cameron and Evangeline in Louisiana to the list of Modified Certified Brucellosis Areas in § 78.21 and delete these counties from the list of Noncertified Areas in § 78.22 because it has been determined that they now qualify as Modified Certified Brucellosis Areas as defined in § 78.1(m) of the regulations. This list is updated monthly and reflects actions taken under criteria for designating areas according to brucellosis status.

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

§ 78.20 [Amended]

1. In § 78.20, paragraph (b) is amended by deleting: *Arkansas:* Cleveland, Searcy.

§ 78.21 [Amended]

2. In § 78.21 paragraph (b) is amended by adding: *Arkansas:* Cleveland, Searcy.

§ 78.22 [Amended]

3. In § 78.22, paragraph (b) is amended by deleting: *Louisiana:* Cameron, Evangeline.

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

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

The amendment deleting areas as Noncertified Areas relieves restrictions presently imposed on cattle moved from the areas in interstate commerce.

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

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

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

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

Done at Washington, D.C., this 7th day of December 1979.

Pierre A. Chaloux, VMD,

Deputy Administrator Veterinary Services.

[FR Doc. 79-38299 Filed 12-13-79; 8:45 am]

BILLING CODE 3410-34-M

9 CFR Part 92

Importation of Certain Animals and Poultry and Certain Animal and Poultry Products; Inspection and Other Requirements for Certain Means of Conveyance and Shipping Containers Thereon; Harry S Truman Animal Import Center

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document extends the specific date for receipt of applications for special permits to be drawn on a lottery basis for the allotment of quarantine space for the second group of cattle to be imported through the Harry S Truman Animal Import Center from January 11, 1980 to February 1, 1980, and extends the date for the second drawing for allocation of quarantine space for that importation from January 28, 1980, to February 15, 1980. This action is necessary to allow additional time for interested parties to apply for permits to be drawn for the second group of cattle to be imported through the Harry S Truman Animal Import Center. The intended effect of this action is to extend the time allowed for receipt of applications for special permits for the second group of cattle to be imported through the Harry S Truman Animal Import Center from January 11, 1980 to February 1, 1980, and to extend the date for the second drawing for allocation of quarantine space for that importation from January 28, 1980, to February 15, 1980.

EFFECTIVE DATE: December 11, 1979.

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

SUPPLEMENTARY INFORMATION: On November 2, 1979, there was published in the Federal Register (44 FR 53083) an amendment to 9 CFR Part 92 which established January 11, 1980, as the last specific date on which applications would be accepted for special permits to be drawn on a lottery basis for the allotment of quarantine space for the second group of cattle to be imported through the Harry S Truman Animal Import Center, and specified January 28, 1980, as the date for the drawing of permits for allocation of quarantine space at the facility for the second group of cattle to be imported.

Delays in construction of the facility and other unforeseen circumstances have delayed the date on which the first shipment of cattle will enter the Harry S Truman Animal Import Center. This has made it possible to accept applications for the second importation of cattle through the facility for an additional period of time. Therefore, the date specified as the last date for receipt of applications for the second importation of cattle is extended from January 11, 1980, to February 1, 1980, and the date specified for the second drawing for allocation of quarantine space at the facility is extended from January 28, 1980, to February 15, 1980.

Accordingly, Part 92, Title 9, Code of Federal Regulations, is amended in the following respect:

In § 92.41, paragraph (a)(1), the second sentence is amended to read:

§ 92.41 Requirements for the importation of animals into the United States through the Harry S Truman Animal Import Center.

(a) * * *

(1) * * * Each applicant shall complete an application for importing animals into this animal import center at least 15 days prior to the date of the drawing,[5a] *Provided,* That for the second drawing on February 15, 1980, applications must be received by Veterinary Services on or before February 1, 1980, to be considered. * * *

* * * * *

(Sec. 2, 32 Stat. 792, as amended; sec. 1, 84 Stat. 202 (21 U.S.C. 111, and 135); 37 FR 28464, 28477; 38 FR 19141)

The amendment revises specified dates for receipt of applications for special permits and the drawing for allocation of quarantine space for cattle at the Harry S Truman Animal Import Center. It is in the public interest that the Department advise prospective importers of the revised dates as soon as possible in order that those affected may adjust their plans accordingly. The amendment is of an emergency nature and must be placed in effect immediately in order to serve the purpose intended.

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

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

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

Done at Washington, D.C., this 11th day of December 1979.

M. T. Goff,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79-38395 Filed 12-13-79; 8:45 am]

BILLING CODE 3410-34-M

[5a]Application forms may be obtained upon request from the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service; U.S. Department of Agriculture, Hyattsville, MD 20782.

Agricultural Marketing Service

9 CFR Part 202

Revocation of Rules of Practice Applicable to Rate Proceedings

AGENCY: Packers and Stockyards, Agricultural Marketing Service, U.S. Department of Agriculture.

ACTION: Final rule.

SUMMARY: This action revokes the rules of practice governing proceedings under the Packers and Stockyards Act (9 CFR Part 202) which apply to rate proceedings. The rules of practice are revoked because of the Department's policy, announced in October 1978, to reduce the control of rates and charges at posted stockyards. If, however, in the future it becomes necessary to institute a rate proceeding, rules will be adopted at that time.

DATE: Effective December 14, 1979.

FOR FURTHER INFORMATION CONTACT: Jack W. Brinckmeyer, Livestock Marketing Division, P&S, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-4366.

SUPPLEMENTARY INFORMATION: In a notice published at 44 FR 50847, August 30, 1979, the Department announced that it was proposing to revoke the rules of practice applicable to rate proceedings under the Packers and Stockyards Act. The public was given 60 days to file written views and comments. No comments were filed in response to the notice. Accordingly, sections 202.1 through 202.38 inclusive and section 202.60 are revoked.

§ 202.1 through 202.38 [Revoked]

§ 202.60 [Revoked]

(See section 407, 42 Stat. 169, as amended, 72 Stat. 1750, 77 Stat. 79 and 90 Stat. 1252.3 (7 U.S.C. 228)).

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 Analysis has been prepared and is available from: Jack W. Brinckmeyer, Livestock Marketing Division, P&S, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 21250, (202) 447-4366.

Done this 10th day of December 1979.

Paschal O. Drake,

Acting Deputy Administrator, Packers and Stockyards.

[FR Doc. 79-38300 Filed 12-13-79; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

10 CFR Part 211

[Docket No. ERA-R-78-20]

Mandatory Petroleum Allocation Regulations; Amendments to Special Set-Aside Procedures for Middle Distillates

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby adopts the following amendments to the special set-aside procedures for middle distillates set forth in Special Rule No. 10 to Subpart A, Part 211. These amendments are intended to clarify the provisions in Special Rule No. 10

relating to the release of set-aside volumes, the appeals process relating to State set-aside orders, and the means by which an applicant for a set-aside order presents proof of need. The amendments also delete reference to a specific base date in 1979 for the purpose of determining eligibility of wholesale purchaser-resellers for assignments of set-aside volumes.

EFFECTIVE DATE: December 10, 1979.

FOR FURTHER INFORMATION CONTACT:

William Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street, NW., Washington, D.C. 20461, (202) 634-2170.
William Caldwell (Regulations & Emergency Planning), Economic Regulatory Administration, Room 7202, 2000 M Street, NW., Washington, D.C. 20461, (202) 254-3910.
Sue D. Sheridan (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6754.

SUPPLEMENTARY INFORMATION:

I. Background
II. Amendments Adopted
III. Procedural Requirements

I. Background

On May 31, 1979, we adopted Special Rule No. 10 to Subpart A, Part 211 (44 FR 32196, June 5, 1979) amending the Mandatory Petroleum Allocation Regulations which provided for the establishment of a special middle distillate set-aside program for those states electing to participate. The special set-aside procedures permit ultimate consumers of middle distillates who have made unsuccessful efforts to obtain supplies for an emergency or hardship to acquire that volume required to meet their certified requirements. The adoption of Special Rule No. 10 followed the issuance of two predecessor Special Rules to Subpart A, Numbers 6 and 7, which extended previous special middle distillate procedures for successive, limited time periods.[1]

After reviewing the comments submitted in response to our adoption of Special Rule No. 7, we concluded that it was necessary to continue the set-aside program in order to guarantee the availability of middle distillate supplies to meet emergency and hardship situations. We therefore adopted Special Rule No. 10, which extended the special middle distillate set-aside program indefinitely.

[1] Special Rule No. 6 (44 FR 3467, January 17, 1979) reinstated special middle distillate set-aside procedures for the period January 12 through March 31, 1979. Special Rule No. 7 (44 FR 18640, March 29, 1979) extended the special set-aside program through June 30, 1979.

This final rule is being adopted to ensure the smooth operation of the middle distillate set-aside program during the upcoming winter heating season by clarifying certain provisions of the Special Rule.

II. Amendments Adopted

Paragraph eight of Special Rule No. 10 sets forth the procedures which govern applications for assignments under the set-aside program. The rule provides that applications shall be made to the appropriate State Office in accordance with the procedures set forth in Subpart Q of Part 205.

In addition, paragraph eight states that an applicant is required within five days of its application for an assignment to submit to the State Office a written certification that the application was for a valid hardship or emergency situation. We are amending paragraph eight to clarify that this requirement does not apply to written applications. A written application, however, should contain such a justification at the time of filing. In the case of an oral application for assignment, the requirement remains that the applicant follow up its initial application within five days with a written certification that a valid hardship or emergency situation existed at the time of its application.

Paragraph thirteen of the Special Rule currently provides that State Offices may at any time of the month order the release of part or all of a prime supplier's set-aside volume through the prime supplier's normal distribution system in the State. We are amending this paragraph to make explicit the State Office's implicit authority under the existing provision to respond to localized hardship and emergency situations through release of set-aside volumes in specified areas of the State. Thus, the State Office may order prime suppliers to release all or part of their set-aside volumes through their normal distribution systems to regular customers in designated areas within the State.

Paragraph fourteen of the Special Rule sets forth the procedures by which a set-aside order may be appealed. The amendments we are adopting clarify the existing rule in two respects. The first amendment to paragraph fourteen changes the provision in the existing rule which specifies that appeals of orders issued by State Offices under the Special Rule are to be filed with the DOE Regional Office. The amendment provides that appeals are to be filed with the Regional Center of the Office of Hearings and Appeals. The second amendment to paragraph fourteen resolves an ambiguity regarding the appeals procedures by making it clear that appeals will be conducted in accordance with the procedures set forth in Subpart H, rather than Subpart R, of Part 205.

The final amendment concerns paragraph six (6) of Special Rule No. 10, which designates wholesale purchaser-consumers and end-users as eligible recipients of set-aside volumes in a hardship or emergency situation. Paragraph six also provides that a wholesale purchaser-reseller may apply for an assignment in order to meet hardship or emergency requirements of wholesale purchaser-consumers and end-users with whom the wholesale purchaser-reseller had a supplier/purchaser relationship on May 1, 1979. The amendment we are adopting deletes the reference to May 1, 1979, and instead requires only that the supplier and wholesale purchaser-consumer or end-user involved in an application for an assignment have a business relationship at the time the application is filed. This change is prompted in part by the recent withdrawal of certain suppliers from the heating oil business, which has imposed on their former customers the necessity of finding new suppliers. If we were to retain the May 1 date, wholesale purchaser-consumers and end-users who have changed suppliers since that date or who have lost their May 1 suppliers would be required to file applications for assignments on their own behalf.

III. Procedural Requirements

A. Section 404 of the DOE Act

Pursuant to the requirements of section 404(a) of the Department of Energy Act, we have referred this rule to the Federal Energy Regulatory Commission (FERC) for a determination whether the proposed rule would significantly affect any matter within the Commission's jurisdiction. Following an opportunity to review this rule, the FERC has declined to determine that it may significantly affect any of its functions.

B. Section 7 of the FEA Act

Under section 7(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. 787 *et seq.*, Pub. L. 93-275 as amended), the requirements of which remain in effect under section 501(a) of the DOE Act, the delegate of the Secretary of Energy shall, before promulgating proposed rules, regulations, or policies affecting the quality of the environment, provide a period of not less than five working days during which the Administrator of the Environmental Protection Agency (EPA)

may provide written comments concerning the impact of such rules, regulations, or policies on the quality of the environment.

A copy of the notice was sent to the EPA Administrator. The Administrator commented that he does not foresee these actions having an unfavorable impact on the quality of the environment as related to the duties and responsibilities of the EPA.

C. National Environmental Policy Act

It has been determined that this rule does not constitute a "major Federal action significantly affecting the quality of the human environment" within the meaning of the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, and therefore an environmental assessment or an environmental impact statement is not required by NEPA and the applicable DOE regulations for compliance with NEPA. These amendments are procedural and interpretative in nature, and otherwise do not alter the existing rule so as to affect the environment. Therefore, an environmental assessment or an environmental impact statement is not required by NEPA or the applicable DOE regulations for compliance with NEPA.

D. Section 501 of the DOE Act

Under section 501(c) of the DOE Act we are not bound by the prior notice and hearing requirements of subsections (b)-(d) with respect to a rule upon our determination that no substantial issue of fact or law exists and that the rule is unlikely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses. Where no such substantial issue or impact is foreseen, the proposed rule may be promulgated in accordance with section 553 of Title 5, U.S.C.

For the reasons discussed below, we believe that none of the amendments raise substantial issues of law or fact. Specifically, the amendment to paragraph six of Special Rule No. 10 does not expand the class of firms which ultimately receive relief. The amendments to paragraphs eight and thirteen are procedural, and the amendment to paragraph fourteen is interpretive. In addition, none of the amendments are likely to have a substantial impact on large numbers of individuals or businesses. Therefore, the rule shall be promulgated in accordance with section 553 of Title 5 U.S.C., pursuant to section 501(c) of the DOE Act.

E. Section 553 of the Administrative Procedure Act

Section 553(b) of the Administrative Procedure Act requires that general notice of a proposed rulemaking be published in the Federal Register, except in regard to interpretative or procedural rules, or when the agency for good cause finds that notice and public procedure thereon is impracticable, unnecessary, or contrary to the public interest.

The amendment to paragraph thirteen of Special Rule No. 10 is interpretative in nature, in that it makes explicit the existing authority of State Offices to order the release of part or all of a prime supplier's set-aside volume through the prime supplier's normal distribution system in part or all of the State. The amendments to paragraphs eight and fourteen are rules of agency procedure, since they amend existing DOE regulations which govern applications for set-aside orders and appeals from such orders.

Moreover, in view of the urgent need for Special Rule No. 10 to function smoothly during the winter heating season, it would be contrary to the public interest to delay the implementation of these amendments. We therefore find that the advance notice and public comment procedures of section 553(b) are unnecessary.

Subsections (d) (2) and (3) of section 553 provide that the required publication of a rule be made at least 30 days before the effective date of the rule, unless it is either an interpretative rule or the agency otherwise finds for good cause. The amendment to paragraph thirteen is interpretative. With regard to the entire rule, we find that good cause exists under section 553(d)(3) for its exemption from the advance publication requirement, in view of the urgent need to implement this rule during the current heating season in order to be able to respond effectively to any localized shortages that may develop.

F. Executive Order 12044

Executive Order 12044 (43 FR 12661, March 23, 1978) requires the agencies subject to it to publish all proposed "significant" regulations for public comment for a minimum of 60 days. Section 2(e) of the Executive Order directs the agencies to establish criteria to identify which regulations are significant. DOE's implementing procedures are contained in DOE Order 2030 (44 FR 1032, January 3, 1979). The DOE procedures define "insignificant" regulations as those which are not expected to affect important policy concerns or to engage much public interest.

These amendments to Special Rule No. 10 are procedural and interpretative in nature, and otherwise do not alter the essential features of the existing rule. Hence, they do not affect important policy concerns and are not expected to engage much public interest. We find, therefore, that the proposed amendments are not "significant" under the definition set forth in DOE's implementing procedures, and do not invoke the 60 day advance public comment requirement of Executive Order 12044.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. 751 *et seq.*, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, 15 U.S.C. 787 *et seq.*, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, 42 U.S.C. 6201 *et seq.*, Pub. L. 94-163, as amended, Pub. L. 94-385, and Pub. L. 95-70; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Part 211 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below.

Issued in Washington, D.C., December 10, 1979.

Douglas G. Robinson,

Acting Administrator, Economic Regulatory Administration.

1. Special Rule No. 10 to Subpart A of Part 211 is amended in paragraphs 6, 8, 13 and 14 to read as follows:

Special Rule No. 10

Special Set-Aside Procedures for Middle Distillates

* * * * *

6. *Eligible recipients of set-aside volumes.* The set-aside provided for by this Special Rule shall be utilized by participating State Offices in issuing authorizations to applicants for designated middle distillates to be supplied by a prime supplier to meet hardship and emergency requirements of wholesale purchaser-consumers and end-users. To facilitate relief of the hardship and emergency requirements of wholesale purchaser-consumers and end-users, the State Office may also direct that a wholesale purchaser-reseller be supplied from the set-aside to enable the wholesale purchaser-reseller to supply the emergency and hardship needs of wholesale purchaser-consumers and end-users with whom the wholesale purchaser-reseller had a prior supplier/purchaser relationship.

* * * * *

8. *Application for assignment.* All applications for assignment under this Special Rule shall be made to the State Office having jurisdiction over the State in which the applicant conducts his business operations, in accordance with the

procedures set forth in Sections 205.211–218 of Subpart Q of Part 205 of this chapter with respect to the State set-aside, except as otherwise provided in this Special Rule. Within five (5) days of making an oral application for assignment of middle distillates under these special procedures, an applicant shall submit to the State Office a written certification that such application was for a valid hardship or emergency situation.

* * * * *

13. *Release of set-aside.* At any time during the month, the State Office may order the release of part or all of a prime supplier's set-aside volume through the prime supplier's normal distribution system in part or all of the State.

14. *Orders issued by State Offices.* Authorizing documents and other orders issued pursuant to this Special Rule shall be in writing and effective immediately upon presentation to the prime supplier's designated State representative. Authorizing documents shall represent a call on the prime supplier's set-aside volumes for the month of issuance irrespective of the fact that delivery cannot be made until the following month. Any order issued by a State Office pursuant to this Special Rule may be appealed to the Office of Hearings and Appeals, in accordance with the procedures set forth in Subpart H of Part 205 of this chapter.[1] Such appeals shall be filed with the Office of Hearings and Appeals Regional Center having jurisdiction over the State involved. Any appeal from such an order shall be filed within ten (10) days of service of the order from which the appeal is taken. If a State Office fails to take action on an application within ten (10) days of filing, the applicant may treat the application as having been denied in all respects and may appeal therefrom as provided in this section.

[FR Doc. 79-38436 Filed 12-13-79; 8:45 am]

BILLING CODE 6450-01-M

[1] Notwithstanding § 205.100(a)(1) of Subpart H under Part 205 of this chapter, appeals of State set-aside orders issued pursuant to Special Rule No. 10 shall be in accordance with Subpart H.

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 545 and 563

[No. 79-615]

Eurodollar Deposits

Dated: December 5, 1979.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rules.

SUMMARY: These amendments authorize Federal savings and loan associations, and state-chartered insured institutions where authorized by state law, to give security for Eurodollar deposits. The rules also govern unsecured Eurodollar deposits. Eurodollar deposits are deposits by persons who are not United States nationals or residents of the United States of America, its territories and possessions, including any corporation or other entity organized under the laws thereof or any political subdivision thereof. The giving of security for such deposits will assist those associations which cannot feasibly market unsecured instruments to take advantage of international financing sources.

EFFECTIVE DATE: December 5, 1979.

FOR FURTHER INFORMATION CONTACT: Walter M. Strick, Attorney, Federal Home Loan Bank Board, 1700 G Street, NW, Washington, DC 20552. (202–377–6412).

SUPPLEMENTARY INFORMATION: The Federal Home Loan Bank Board, by Resolution No. 79–401, dated July 25, 1979, proposed to amend Part 545 of the rules and regulations of the Federal Savings and Loan System and Part 563 of the rules and regulations for Insurance of Accounts (12 CFR Parts 545 and 563) to govern Eurodollar deposits.

Under the proposed regulations, savings and loan associations could issue certificates of deposit in denominations of $100,000 or more to a foreign purchaser, who, in turn, could issue to non-United States purchasers only, through intermediaries, interests or participations in smaller denominations. The minimum participation interest level would be $10,000, and participations would mirror the characteristics of the certificates of deposit with respect to maturity, interest rate, and the nature of the secured interest.

The proposed regulations provided rules related to the nature of the collateral securing the certificates, and also set forth procedures for limiting the beneficial ownership of the certificates to non-resident aliens.

The proposed regulations provided that, as savings accounts, the certificates of deposit would be insured but only to the extent of $40,000. Each participation would not be a separately insurable account. As insured accounts, the Eurodollar deposits would be subject to the payment of insurance premiums, and also to the limitation that only 5 percent of the total of all savings accounts in an institution may be solicited by use of any broker or brokers.

The proposed regulations demonstrated the Board's continuing commitment to assist the savings and loan industry develop new capital markets to meet its capital needs. By permitting the securing of Eurodollar deposits, the proposal would permit the industry to reach new capital market at a cost-competitive rate and thereby raise new funds for housing.

Thirty responses were received on the proposal. Twenty-seven of the responses recommended adoption of the proposed regulation, nineteen of which recommended modifications. Three respondents opposed adoption of the proposal. The Board has determined to adopt final rules on this subject, with changes from the proposed amendments as described below.

Discussion of Major Comments

Two respondents suggested that the regulations specifically apply to unsecured as well as secured Eurodollar deposits; the proposed regulations only applied to secured Eurodollar deposits. The Board agrees that the policy considerations with repect to secured Eurodollar deposits apply as wellto unsecured Eurodollar deposits, and the final regulations have incorporated this suggestion.

Two respondents suggested that sales to underwriters or depositaries incorporated in the United States be expressly permitted, provided such underwriters or depositaries agree the resell participation interests only to non-resident alien purchasers. The Board is concerned that such change could more readily result in the obtaining of participation interests by United States persons and for that reson has rejected this suggestion.

Two respondents have suggested that § 545.24 be amended to make it clear that it applies to state-chartered share associations as well as deposit associations. Since share associations cannot guarantee a fixed rate of return, they cannot issue marketable certificates of deposit, and consequently they cannot issue Eurodollar certificates. However, an association with both share and deposit accounts would be eligible to issue Eurodollar certificates provided they are issued as deposit certificates.

Three respondents have suggested that Eurodollar deposits not be subject to the brokerage regulations, since they would not involve deposits that are highly sensitive to interest rate differentials, and consequently to sudden withdrawal. After careful consideration the Board has determined that the minimum maturity for Eurodollar certificates issued under new § 545.24–4 shall be five years. The Board believes this limitation will assure that the new authority provided by these amendments will be used to facilitate the acquisition of stable, long-term funds at reasonable cost. Thus, because Eurodollar certificates will not represent volatile short-term funds, the Board has

determined to exclude Eurodollar deposits from the limitation in the brokerage regulations restricting brokered funds to five percent of savings. In a companion resolution, the Board proposes to exempt all certificates of deposit having a term of five years or more from such limitation.

Three respondents have suggested that the regulations permit Eurodollar certificates to contain "gross-up" and redemption provisions. In conventional Eurodollar offerings, because of the risk of a change in the applicable tax treaty provisions, European and other non-U.S. investors require contractual assurance that they will continue to receive the same "net" (i.e., after withholding tax, if any) interest payments throughout the term of a security as is promised upon its issuance. This assurance takes the form of a covenant by the issuer to pay such "additional interest" as is necessary to assure the promised "net" interest payment. This covenant, which amounts to an assumption by the issuer, rather than the investor, of the risk of a change in the applicable tax laws could, of course, impose a substantial expense on an issuer were the highly infrequent situation to occur in which withholding was increased on already outstanding obligations. To avoid this problem, a typical Eurodollar offering provides that the issuer may, at its option, redeem the issue rather than incur the cost of additional interest. However, the present regulations pertaining to marketable certificates of deposit require that the return on the certificates shall be "fixed when the certificate is issued" and that a marketable certificate "shall not, by its terms or otherwise * * * be subject to redemption or repurchase, or acceleration by the association * * *." Therefore, in order for Eurodollar deposits to be viable investment instruments in the Eurodollar market, the final regulations authorize Federal associations to include "gross-up" and redemption provisions in Eurodollar certificates.

The final regulations also provide for redemption financed through the issuance of other certificates with a lower rate of interest. The Board believes that redemption under such circumstances would permit management flexibility while assuring that an institution's cost of funds would not increase during the original term of the certificate.

One respondent was concerned that the "gross-up" provision would destroy the negotiability of the certificate since it would not be for a sum certain. The Board has determined that no useful purpose is served by the negotiability requirement and accordingly has deleted it from the final regulations.

In a companion resolution, the Board proposes to delete the negotiability requirement and permit redemption through issuance of a certificate with a lower rate of interest, with regard to marketable certificates of deposit in general, not only Eurodollar certificates of deposit.

One respondent suggested that the regulations permit the payment of interest at the certificate rate beyond the maturity date in the event of default, notwithstanding the provision in § 545.1-4(e)(4) that no interest shall accrue after the fixed term of the certificate. It was also suggested that acceleration be permitted in the event of non-payment of interest or principal. The Board understands that such provisions are customary in both the Eurodollar and domestic markets, and therefore the final regulations authorize such provisions. In a companion resolution the Board proposes to authorize such provisions for marketable certificates of deposits in general.

One respondent proposed that the regulations provide that each holder of a participation interest be separately insured up to $40,000. The Board is of the view that such a change would be consistent with the legislative intent of section 401(b) of the National Housing Act, as amended, and accordingly has rejected this suggestion. The final regulations specifically provide that holders of participations are not separately insured.

One respondent recommend that the regulations make it clear that an association accepting Eurodollar deposits could have contractual relations with the underwriter and the depository without violating the Board's pooling policy. In the Board's view, the Eurodollar market is separate and distinct from the domestic market, so that it would not be appropriate to exclude Eurodollar deposits from the pooling policy, and the regulation clearly states this exception.

Several respondents expressed concern that the securing of Eurodollar deposits would increase the insurance risk and the risk to creditors. The Board clearly prefers unsecured to secured deposits, and in this regard is encouraged by the success of some larger associations in obtaining funds through the issuance of unsecured commercial paper. Although some associations may be able to successfully market Eurodollar certificates on an unsecured basis, it is doubtful, in view of the unfamiliarity of most international investors with the United States savings and loan industry, whether smaller associations could do so. Thus, the authority to collateralize Eurodollar deposits is necessary in order for the smaller associations not to be at a competitive disadvantage in the Eurodollar market. Moreover, the final regulations are actually more restrictive than the current regulations in that they specifically limit total collateral for secured deposits plus outside borrowings to 20 percent of an institution's total assets. Present regulations provide no such limit.

Two respondents objected to allowing foreign investors a higher rate of return than United States persons on accounts under $100,000. Rate control limits generally do not apply to deposits in foreign offices of U.S. financial institutions. The Board also notes that institutions generally enter the Eurodollar market only when rates are lower in that market than domestic rates. Therefore the Board perceives no significant advantage for foreign investors with respect to rate of return.

Six respondents recommended that the minimum denomination of participations be reduced from $10,000 to $5,000 or lower, in order to make them more attractive to smaller investors.

After full consideration of the respondent's comments and the nature of the Eurodollar market, the Board has determined that at the present time, and until the Board has acquired more experience with this type of certificate, it would not be appropriate to reduce the minimum denomination of the participations.

In order that the Board may study and evaluate the use and effectiveness of the authority provided by these amendments, the final regulations require that information necessary for those purposes be submitted to the Board upon issue of any certificate under authority of § 545.24-4.

Finally, in view of the general 20-percent collateralization limitation included in the final amendments, the Board has decided that the specific requirements included in the proposal regarding establishment and maintenance of security are unnecessary and that they should be deleted.

Because advantageous conditions in the Eurodollar market tend to occur intermittantly and because the Board believes that a delay of the effective date of these amendments could unnecessarily prevent institutions from taking advantage of favorable conditions that may occur during the period of delay, the Board believes that publication of the amendments for the period of time specified in 12 CFR 508.14

and 5 U.S.C. 553(d) prior to the effective date of the amendments is unnecessary and contrary to the public interest.

Accordingly, the Federal Home Loan Bank hereby amends §§ 545.1–4 and 545.24 (12 CFR 545.1–4 and 545.24) of the Rules and Regulations for the Federal Savings and Loan System and §§ 563.3–3, 563.7–2, and 563.25 (12 CFR 563.3–3, 563.7–2 and 563.25) of the Rules and Regulations for Insurance of Accounts; and adds new § 545.24–4 (12 CFR 545.24–4) to the Rules and Regulations for the Federal Savings and Loan System, as set forth below.

PART 545—OPERATIONS

1. Amend paragraphs (b), (d), (e)(4), and (f)(1) of § 545.1–4, to read as follows:

§ 545.1–4 Marketable certificates of deposit.

* * * * *

(b) *Return.* The return shall conform to Part 526 of this chapter. The return shall be in the form of interest and/or discount, and fixed when the certificate is issued, except that a Eurodollar certificate issued in conformity with § 545.24–4 of this Part may provide that in the event any tax assessment or governmental charge is imposed on the holder of a certificate or participation therein, which is required to be withheld on or with respect to any payment of principal of or interest on such Eurodollar certificate, the issuing association will pay as additional interest such amounts as are necessary in order that every net payment after deduction of any such tax, assessment or governmental charge will be not less than the amounts otherwise specified as payable under the certificate.

* * * * *

(d) *Limitations.* (1) The certificate shall not have a face amount (inclusive of discount, whether or not arrived at partly or wholly by add-on calculation) of less than $100,000 ($50,000 if the association's home office is in Puerto Rico).

(2) The certificate shall not, by its terms or otherwise, (i) permit the certificate amount to be increased by payment on or transfer to the certificate; (ii) permit principal to be withdrawn or transferred from the certificate or the deposit it evidences, before the certificate expires; (iii) permit extension or renewal of the certificate; (iv) be subject to repurchase; (v) be subject to redemption, except that a Eurodollar certificate issued in conformity with § 545.24–4, that includes a provision as described in paragraph (b) of this section, may provide for the association at its option, to redeem the certificate in lieu of payment of an increased rate of interest, and such certificate may provide for redemption financed by the issuance of another such certificate at a lower rate of interest; or (vi) be subject to acceleration, except that a Eurodollar certificate may provide for acceleration in the event of nonpayment of principal or interest on the certificate.

(3) Compounding of interest or other return on the certificate does not violate paragraphs (d)(2)(i) and (ii) of this section, and a certificate silent as to extension or renewal does not violate paragraphs (d)(2)(v) and (vi) of this section.

(e) *Required provisions.* The certificate shall include in its provisions the following:

* * * * *

(4) A statement that no interest shall accrue on or be credited to the certificate for any time after the fixed term expires; except that a Eurodollar certificate in conformity with § 545.24–4 of this Part may provide that interest shall accrue on or be credited to such certificate after expiration of the fixed term if the issuing association defaults in its obligation to pay the principal amount of such certificate at the expiration of its term.

* * * * *

(f) *Form.* (1) The certificate shall be written in a form that (i) would be a negotiable instrument (other than a draft or check) under Article 3 of the 1972 Official Text of the Uniform Commerical Code ("the Uniform Commerical Code") or (ii) would be so except that it is not "payable to order or to bearer" as specified in section 3–104 of Article 3 but is issued in "registered form" (a form which is registered form under section 8–102 of the Uniform Commercial Code or would be such except that any part of interest thereon is not in such registered form). The certificate shall not be incorporated in a passbook. If it is offered or described as a negotiable instrument, it must be such under the law of the State or other jurisdiction in which the home office of the Federal association is located. However, a Eurodollar certificate issued in conformity with section 545.24–4 of this Part need not be in negotiable form as otherwise required by this paragraph.

* * * * *

2. Amend the last sentence of § 545.24 by inserting immediately after the word "writing" the following: "and § 545.24–4".

3. Add new § 545.24–4 as follows:

§ 545.24–4 Eurodollar deposits.

(a) *Definitions.* As used in this section:

(1) "Eurodollar certificate" means a certificate of deposit, denominated in United States dollars, evidencing a Eurodollar deposit;

(2) "Eurodollar deposit" means a deposit by a person who is not a United States person;

(3) "United States person" means any national or resident of the United States of America, its territories and possessions, including any corporation, trust, estate, or other entity organized under the laws thereof or of any political subdivision thereof; and

(4) "Participation" means an interest or participation in a Eurodollar certificate.

(b) *Scope of section.* The provisions of this section shall be applicable to both secured and unsecured Eurodollar certificates.

(c) *General.* (1) Unless otherwise provided, Eurodollar deposit issuance shall follow the rules set forth in § 545.1–4.

(2) A Federal association which is a deposit association within the meaning of that term as used in § 545.1–2 may give security for Eurodollar deposits.

(3) For purposes of Part 564 of this chapter, Eurodollar certificates shall be insured up to $40,000; participations therein shall not be separtely insured.

(d) *Limitations.* (1) A Federal association issuing a Eurodollar certificate may secure it under this section only if the total of assets securing all deposits and borrowings from sources other than the Federal Home Loan Banks and state-chartered central reserve institutions does not exceed 20% of the association's total assets at the time of certificate issuance.

(2) Eurodollar certificates issued under this section shall have an original maturity of five years or more.

(3) The minimum denomincation of all participations in a Eurodollar certificate shall be $10,000.

(4) The collateral pool securing a Eurodollar certificate shall be subject to sale or other disposition by or on behalf of the secured Eurodollar certificate holder only after the Federal Savings and Loan Insurance Corporation has received prompt written notification of any default on the Eurodollar certificate and, before a sale or other disposition of all or any portion of the collateral, has had 30 days after written notice of a proposed sale or other disposition to exercise a right to purchase the collateral at the price to be paid at the sale or to acquire the collateral at the value to be assigned to it in such other disposition.

(5) In exercising authority under this section, a Federal association shall require in writing an undertaking from purchasers of a Eurodollar certificate or participations therein who are dealers or underwriters, to the effect that each dealer or underwriter will not knowingly purchase or allot any Eurodollar certificates or participations therein for the account of United States persons and that it has not knowingly offered or sold, and agrees that it will not knowingly offer, sell or deliver, any Eurodollar certificates or participations therein purchased by it or alloted to it in the United States of America or to any United States person. Each dealer or underwriter shall further agree that it will not, as principal or agent, knowingly make any offers, sales or deliveries of any Eurodollar certificates or participations therein in the United States of America or to any United States person or to others for offering, resale or delivery, directly or indirectly, in the United States or to any United States person.

(6) Each underwriter shall also agree to deliver to each purchaser of one or more Eurodollar certificates or participations therein a written confirmation stating substantially the following:

Eurodollar certificate(s) are issued pursuant to a regulation of the Federal Home Loan Bank Board, an agency of the United States government, which requires that a Eurodollar certificate or any interest or participation therein be sold only to purchasers who are not U.S. persons. Accordingly, if you are not a dealer, you agree that you will not offer, sell or deliver such Eurodollar certificate(s) or participations therein directly or indirectly in the United States of America or its territories or possessions or to nationals or residents thereof, including any corporation, trust, estate or other entity organized under the laws thereof or of any political subdivision thereof. If you are a dealer, you represent that you have not offered, sold or delivered, and agree that you will not offer, sell or deliver, any such Eurodollar certificate(s) or participations therein directly or indirectly in the United States of America or its territories or possessions or to nationals or residents thereof and you are not purchasing any such Eurodollar certificate(s) or participations therein for the account of any such nationals or residents. Further, if you are a dealer, you agree that you will include on any confirmation delivered to purchasers of such Eurodollar certificate(s) or participations therein (a) if such purchaser is not a dealer, the first two sentences of this paragraph, and (b) if such purchaser is a dealer, this entire paragraph.

(7) Upon completion of the distribution of any Eurodollar certificates or participations therein, the lead or managing underwriter shall deliver to the issuing association a certification as to the sale stating substantially the following:

This is to certify that to the knowledge of the undersigned no beneficial owner or owners of the Eurodollar certificate(s) or participations therein is a United States person; and, further, that the undersigned has not knowingly sold or offered for sale and will not sell or offer for sale, the Eurodollar certificate(s) or participations therein to any United States person.

(8) To the extent beneficial ownership of a Eurodollar certificate or participation therein is acquired by a United States person, the return payable thereon will be the maximum permissible rate of return payable on a regular account from the time ownership is acquired by the United States person. Each underwriter, dealer, trustee and agent, if any, shall undertake in writing, prior to issuance of any Eurodollar certificates or participations therein, that it will promptly inform the issuing association of any such beneficial ownership which comes to its attention. The issuing association shall take the necessary and appropriate action to insure that the interest paid on a Eurodollar certificate, or that portion of a Eurodollar certificate attributable to a participation, beneficially owned by a United States person, is at the maximum permissible rate of return payable on a regular account of the issuing association.

(9) Upon issue of any certificate under this section, the issuing association shall provide to the Board such information as the Board's Office of General Counsel and Office of Economic Research deem necessary for the Board to effectively monitor the use of the authority provided by this section.

(e) *Requirements as to Eurodollar certificates.* Each Eurodollar certificate and participation, including a temporary Eurodollar certificate or participation, shall bear on its face, in boldface type, a legend substantially in the following form:

This Eurodollar certificate has been issued pursuant to a regulation of the Federal Home Loan Bank Board, an agency of the United States government, which requires that the Eurodollar certificate be sold, and interest at the amount stated hereon paid, only to purchasers who are not United States nationals or residents, and may not be directly or indirectly offered or sold in the United States of America, its territories or possessions, or to persons who are nationals or residents thereof.

(f) *Requirements as to coupons.* Each coupon attached to a Eurodollar certificate or participation shall bear a legend substantially in the following form:

To the extent beneficial ownership of the Eurodollar certificate or the participation therein to which this coupon appertains is acquired by a United States national or resident of the United States of America or its territories and possessions, including any corporation or other entity organized under the laws thereof or any political subdivision thereof, the return payable thereon will be the maximum permissible rate of return payable on a regular account of the Association.

(g) *Relationship to other provisions.* (1) Notwithstanding the provisions of §§ 545.24 and 545.1–2, a Federal association may give security for a Eurodollar certificate which is issued in conformity with this section.

(2) Notwithstanding the provisions of § 531.11 of this chapter, a Federal association may engage in pooling or participate in pooling funds, or soliciting or promoting pooled accounts, in connection with the issuance of a Eurodollar certificate in conformity with this section.

PART 563—OPERATIONS

4. Amend § 563.3–3 by revising paragraphs (b), (d)(2), (e)(4), and (f)(1), and by amending the last sentence of paragraph (g) and inserting thereafter an additional sentence, to read as follows:

§ 563.3–3 Marketable fixed-rate, fixed term accounts.

* * * * *

(b) *Return.* The return shall conform to Part 526 of this chapter. The return shall be in the form of interest and/or discount, and fixed when the certificate is issued, except that a Eurodollar certificate issued in conformity with § 545.24–4 of this chapter may provide that in the event any tax assessment or governmental charge is imposed on the holder of a certificate or participation therein, which is required to be withheld on or with respect to any payment of principal of or interest on such Eurodollar certificate, the issuing association will pay as additional interest such amounts as are necessary in order that every net payment after deduction of any such tax, assessment or governmental charge will be not less than the amounts otherwise specified as payable under the certificate.

* * * * *

(d) *Limitations.* In acting under the approval granted by this section, an insured institution shall not issue any certificate:

* * * * *

(2) Which by its terms or otherwise, is subject (i) to repurchase; (ii) to redemption, except that a Eurodollar certificate issued in conformity with § 545.24–4 of this chapter that includes a

provision as described in paragraph (b) of this section may provide for the association, at its option, to redeem the certificate in lieu of payment of an increased rate of interest, and such certificate may provide for redemption financed by the issuance of another such certificate at a lower rate of interest; or (vi) be subject to acceleration, except that a Eurodollar certificate may provide for acceleration in the event of nonpayment of principal or interest on the certificate.

* * * * *

(e) *Required provisions.* The certificate shall include in its provisions the following:

* * * * *

(4) A statement that no interest shall accrue on or be credited to the certificate for any time after the fixed term expires, except that a Eurodollar certificate issued in conformity with § 545.24-4 of this chapter may provide that interest shall accrue on or be credited to such certificate after expiration of the fixed term if the issuing association defaults in its obligation to pay the principal amount of such certificate at the expiration of its term.

* * * * *

(f) *Form.* (1) The certificate shall be written in a form that (i) would be a negotiable instrument (other than a draft or check) under Article 3 of the 1972 Official Text of the Uniform Commercial Code ("the Uniform Commercial Code") or (ii) would be so except that it is not "payable to order or to bearer" as specified in section 3-104 of Article 3 but is issued in "registered form" (a form which is registered form under section 8-102 of the Uniform Commercial Code or would be such except that any part of interest thereon is not in such registered form). The certificate shall not be incorporated in a passbook. If it is offered or described as a negotiable instrument, it must be such under the law of the State or other jurisdiction in which the home office of the Federal association is located. However, a Eurodollar certificate issued in conformity with § 545.24-4 of this chapter need not be in negotiable form as otherwise required by this paragraph.

* * * * *

(g) *Ancillary provisions.* * * * No savings account shall be accepted pursuant to the approval granted by this section and no certificate shall be issued pursuant to such approval, except as provided in the last sentence of this paragraph, if such acceptance or such issuance is accompanied by the giving by the insured institution of security for such savings account or such certificate or by any contract or agreement for the giving of any such security by such institution. An insured institution may accept an account which complies, as if it were a Federal association, with the requirements of § 545.24-4 of this chapter.

* * * * *

§ 563.7-2 [Amended]

5. Amend § 563.7-2(a) by inserting, after the phrase "or with § 563.24", the phrase "or § 545.24-4".

* * * * *

6. Revise paragraph (c) of § 563.25 to read as follows:

§ 563.25 Sales commissions.

* * * * *

(c) *Use of brokers.*—(1) *General provisions.* The provisions of this section shall not prohibit the payment by an insured institution, within the limitations of this paragraph (c), of sales commissions to brokers, but no insured institution shall accept the opening or any increase of any account as a result of services of any broker or brokers or pay any sales commission pursuant to the permission granted by this paragraph (c) at any time when the outstanding balances of all accounts in such institution which were opened or increased as a result of services of any broker or brokers, excluding Eurodollar certificates issued in conformity with § 545.24-4 aggregate a total in excess of 5 percent of the total of all accounts in such institution at the close of the next preceding December 31 or the next preceding June 30, whichever is later.

* * * * *

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Secs 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended; 12 U.S.C. 1725, 1726, 1730. Reorg. Plan No. 3 of 1947, 12 FR 7981, 3 CFR, 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 79-38344 Filed 12-13-79; 8:45 am]

BILLING CODE 6720-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

[Rev. 13, Amdt. 34]

Establishing a New Size Standard for Retail Heating Oil Dealers for Purposes of SBA Financial Assistance

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This rule changes the size standard for retail heating oil dealers from $6 million in annual sales to 100 employees. It is necessary because at any given dollar size standard, the proportion of firms in the industry that are classified as small is constantly shrinking due to increases in costs which result in a higher dollar volume of sales without an increase in the real scale of operations.

EFFECTIVE DATE: December 14, 1979.

FOR FURTHER INFORMATION CONTACT: Robert N. Ray, Jr. (202) 653-6373.

SUPPLEMENTARY INFORMATION: On August 10, 1979 (44 FR 47039), the SBA published a final rule which raised the small business size standard from $2 million to $6 million for retail heating oil dealers (SIC 5983). Since that time, however, declines in the supply of oil from the Middle East appear imminent and therefore the industry faces the likelihood of increased prices for its products. Thus, in a very short time period, the new size standard will require upward revision. This suggests that a dollar size standard is too volatile to meet the needs of the fuel oil industry.

In order to appraise the situation in the fuel oil industry, the SBA has had representives from its Size Standards Division attend task force meetings of the oil industry in the Northeast, Middle Atlantic, and Midwest Regions. From these meetings, the following perceptions relating to the fuel oil industry have evolved:

(1) That the industry faces immediate cash-flow problems relating to seasonal demand and the relatively high inventory levels which must be maintained. Dislocations in the industry will be exacerbated in future months due to the availability and higher price of private credit.

(2) That the industry faces substantial hardship due to the vertical pattern of concentration within the oil supply chain. Dealers, for example, generally provide a product which is highly competitive with a single dominant price within any particular region. However, the majority of dealers have contractual arrangements whereby they receive their supply of fuel oil from a single refiner. Thus, when a refiner's price of fuel oil rises, the retail firm is unable to pass along its higher costs in the form of higher prices. This tends to depress profit margins for those dealers with relatively high costs.

(3) That a size standard based on dollar volume of sales is less preferable to one based on real economic activity, such as gallons of fuel oil or numbers of workers. Two factors adversely impact on dollar volume as a size standard. The first is that when costs in a particular industry rise, prices have to rise to keep pace and some firms will then be placed in a large size category in spite of no

change being present in their scale of operations. The second factor is that when broad based inflation is present, dealers have to raise prices to maintain a constant real level of profits. Again, firms will at times be placed in a large category without any change in their scale of operations. Thus, factors both general to the economy as a whole (such as inflation) and those specific to the fuel oil industry (such as foreign related supply shortfalls) imply a change to a new size standard which is more closely related to the real scale of operations within the industry.

One promising solution is to convert the present $6 million size standard to a comparable size standard based on number of employees. This would require an estimate of the number of workers employed by the typical firm with $6 million in annual sales.

Data provided to the SBA through a special survey provide estimates of total sales and total numbers of employees in the Retail Fuel Oil Industry of *$2.3 Billion* and *27,000* employees respectively. This is the equivalent of $86,000 in annual sales for each employee in the industry. Dividing this figure into the present $6 million size standard provides a conversion to 70 employees which, when rounded upward, results in a size standard of 100 employees. The SBA believes that such a size standard would provide a constant reference level within this highly volatile industry and would thus stabilize over time the proportion of firms within the industry which are considered small. Due to the immediate need which is present in the industry, these regulations are not issued for proposed rulemaking because such delay would be contrary to the public interest. Interested persons, however, are invited to submit comments regarding these regulations. Material thus submitted will be appraised and acted upon in the same manner as if this document were a proposal. Accordingly, pursuant to authority contained in Section 5(b)(6) of the Small Business Act, as amended, 15 U.S.C. 634, Schedule D of Part 121, Chapter I of Title 13, Code of Federal Regulations is amended by changing Major Group 59 to read as follows:

PART 121—SMALL BUSINESS SIZE STANDARDS

Schedule D—Annual Receipts Size Standards for Concerns Primarily Engaged in Retailing

* * * * *

Major Group 59—Miscellaneous Retail

5961	Mail Order Houses	7.5.
5983	Fuel Oil Dealers	100 employees.

* * * * *

Dated: December 7,1979.

A. Vernon Weaver,

Administrator.

[FR Doc. 79-38435 Filed 12-13-79; 8:45 am]

BILLING CODE 8025-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-16409]

Technical Amendments to Proxy Rules

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: This release further amends the proxy regulations, Regulation 14A and 14C and Schedules 14A and 14C, by substituting the word "issuer" for the word "management" to acknowledge the fact that it is the board of directors, and not management, which solicits proxies. Technical amendments negating previous changes are also announced in order to make Rule 14a-3 and Rule 14c-3 consistent in their use of the term "management."

EFFECTIVE DATE: December 13, 1979.

FOR FURTHER INFORMATION CONTACT: Amy L. Goodman (202) 272-2597, G. Michael Stakias (202) 272-2589, or Gregory H. Mathews (202) 272-2644, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: Since these amendments are technical in nature and do not make any changes in the regulations and schedules that have not been previously announced in Securities Exchange Act Release No. 16104 (August 13, 1979), 44 FR 48938, and Securities Exchange Act Release 16357 (November 21, 1979), notice of proposed rulemaking is unnecessary under the Administrative Procedure Act [5 U.S.C. 552]. Accordingly, Part 240 of Chapter II of Title 17 of the Code of Federal Regulations is amended as follows:

(1) In § 240.14a-3 paragraphs (b)(1) and (2) are amended by deleting the word "issuer" wherever it appears and inserting the word "management" in its place.[1]

(2) In § 240.14a-3 paragraph (b)(4) Note 1 [2] paragraph (5), and the Note of paragraph (6) are amended by deleting the words " the issuer" wherever they appear and inserting the word "management" in their place.[3]

(3) In § 240.14a-3 paragraph (b)(9) is amended by deleting the words "the issuer" and inserting the word "management" in their place to read "In the discretion of management . . ." [4]

(4) In § 240.14a-3 paragraphs (b)(10) and (11) are amended by deleting the words "the issuer" wherever they appear and inserting the word "management" in their place.[5]

(5) Section 240.14a-3 is amended by reinserting the words "managements of" in the Note to paragraph (c).[6]

(6) In § 240.14a-101 Item 3 paragraph (a) is amended by deleting the words "management of the" wherever they appear.[7]

(7) In § 240.14a-101 Item 6 is amended in the initial paragraph by deleting the word "management" and inserting the word "the issuer" in its place.[8]

(8) Section 240.14b-1 paragraph (a) is amended by deleting the words "whose management is".

(9) In § 240.14c-2 paragraph (a) is amended by deleting the words "management of the".

By the Commission.

George A. Fitzsimmons,

Secretary.

December 6, 1979.

[FR Doc. 79-38419 Filed 12-13-79; 8:45 am]

BILLING CODE 8010-01-M

WATER RESOURCES COUNCIL

18 CFR Part 701

Procedures for Revising Principles and Standards Manual of Procedures

AGENCY: U.S. Water Resources Council.

ACTION: Final rule.

SUMMARY: This rule establishes procedures for revising rules and regulations promulgated by the Water Resources Council for the Principles and Standards Manual of Procedures. This action is needed to provide for an orderly and timely revision process.

EFFECTIVE DATE: January 14, 1980.

[1] See Securities Exchange Act Release No. 16357 (November 21, 1979), 44 FR 68456 (November 29, 1979), paragraph 2. This amendment returns these paragraphs to their original form.

[2] Id., paragraph 3. This amendment, which returns this paragraph to its original form, was incorrectly cited as Note 2.

[3] Id., paragraph 3. This amendment returns this paragraph and Note to its original form.

[4] Id., paragraph 4.

[5] Id., paragraph 5.

[6] Id., paragraph 6.

[7] Id., paragraph 29.

[8] Id., paragraph 30. Item 6(b)(7) and its Note were not intended to be amended by this paragraph 30.

FOR FURTHER INFORMATION CONTACT: Lewis D. Walker, U.S. Water Resources Council, 2120 L Street, NW, Washington, DC 20037 (202/254-6453).

SUPPLEMENTAL INFORMATION: At its May 9, 1979, meeting, the Water Resources Council directed that its operating procedures (18 CFR Part 701) be amended to include procedures for Council Members to revise rules and regulations promulgated by the Council for the Principles and Standards Manual of Procedures. The final rule in this announcement was adopted by the Water Resources Council at its October 25, 1979 meeting.

Accordingly, the Water Resources Council amends its operating procedures as follows:

(1) The authority citation for Part 701 reads as follows:

Authority: Sec. 402, Pub. L. 89-80; 79 Stat. 244, as amended (42 U.S.C. 1962-1962d-5).

(2) Section 701.60 is added to read as follows:

§ 701.60 Procedures for revision of rules and regulations.

Revisions proposed by the Water Resources Council Members to the Principles and Standards Manual of Procedures promulgated as rules and regulations by the Water Resources Council are to be submitted in writing by one or more Members of the Water Resources Council to the Director, Water Resources Council, to be handled as an action item in accordance with § 701.53. Proposed revisions adopted by the Council in accordance with § 701.53 will be published in the Federal Register as proposed, interim, or final changes. Proposed or interim changes shall be subject to a minimum 60-day public comment period; after the comment period, the Water Resources Council will publish notice that the revision is final as written or as changed to reflect comment or is revoked. Final changes will not be subject to a public comment period following publication in the Federal Register and will become effective when published or at a specified date.

Dated: November 29, 1979.

Leo M. Eisel,

Director.

[FR Doc. 79-38432 Filed 12-13-79; 8:45 am]

BILLING CODE 8410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 676

Comprehensive Employment and Training Act: Regulations Concerning Self-Insured Workers' Compensation

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: This document revises the regulation at 20 CFR 676.27(a)(1), published on April 3, 1979, at 44 FR 20017, which requires that under the Comprehensive Employment and Training Act (CETA) where workers' compensation coverage of similarly employed, non-CETA employees is provided through a self-insurance system, coverage of any CETA participants shall also be provided through that system. The purpose of this document is to delete that requirement from the regulations in order to insure consistency with the Federal Cost Principles.

EFFECTIVE DATE: December 14, 1979.

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: Proposed Rules for Programs under Titles I, II, VI, and VII of CETA were published at 20 CFR Parts 675-679 on January 19, 1979. Comments were invited to be considered for final rulemaking at that time. After considering these comments, the CETA regulations were published as final on April 3, 1979. The Department of Labor has subsequently received comments regarding the provision on self-insured workers' compensation stating that the regulation is contrary to the Federal Cost Principles set forth in Federal Management Circular (FMC)74-4, Attachment B. Therefore, the provision which states "where coverage of similarly employed, non-CETA employees is provided through a self-insurance system, coverage of any CETA participants shall also be provided through that system" is being dropped. In addition, language is being added to 20 CFR § 676.27(a)(1) specifying that CETA prime sponsors which continued to provide coverage of CETA participants under separate policies or contracts after April 1, 1979, may use CETA funds for such coverage. Furthermore, costs incurred in reliance on the provision being deleted shall be considered allowable under the appropriate CETA grant for the period of the provisions effective prior to its deletion.

Since this change is in response to comments on the self-insurance provision, relaxes a prior restriction and is intended to insure consistency with the Federal Cost Principles, the Department finds that it is in the public interest to publish the revised regulation in final form effective upon publication. The Department is therefore waiving the regulations at 29 CFR § 2.7.

Accordingly, § 676.27(a)(1) of Chapter V of Title 20, Code of Federal Regulations, is revised to read as follows:

§ 676.27 Benefits and working conditions for participants.

(a) *General.* (1)(i) 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)).

(ii) When originally published in the Federal Register on April 3, 1979 (effective April 1, 1979) 20 CFR § 676.27(a)(1) required that CETA participants be covered under a self-insured workers compensation system where similarly employed, non-CETA employees were covered under such a system. This requirement was subsequently deleted. CETA prime sponsors which provided workers compensation coverage for CETA participants under separate policies or contracts, rather than under a self-insurance system, between April 1, 1979, and the deletion of the self-insurance requirement may use CETA funds for such coverage.

* * * * *

Signed at Washington, D.C. the 10th day of December, 1979.

Ray Marshall,

Secretary of Labor.

[FR Doc. 79-38417 Filed 12-13-79; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Chapter I

[DOCKET NO. 76P-0126]

Administrative Practices and Procedures; Reimbursement for Participation

AGENCY: Food and Drug Administation.

ACTION: Effective Date of Final Rule, Notice of Acceptance of Applications, Availability of Reimbursement in Ongoing Proceedings, and Maximum Allowable Rates of Reimbursement.

SUMMARY: This notice informs interested persons that the Food and Drug Administation (FDA) has received notification from the Office of Management and Budget (OMB) that the reporting and recordkeeping requirements contained in its final rule on reimbursing public participants in agency proceedings comply with the Federal Reports Act of 1942. The final rule therefore became effective October 25, 1979, and FDA will, in accordance with the final rule, accept applications for reimbursement for participation in certain administrative proceedings of the FDA. This notice also specifies ongoing formal evidentiary hearings and proceedings before Public Boards of Inquiry for which interested persons may submit applications for reimbursement.

Furthermore, this notice sets forth the maximum rates of reimbursement allowable for particular expenditures.

DATES: Effective October 25, 1979. In proceedings where only participants may apply, applications shall be submitted to FDA by December 31, 1979; in proceedings where participants and others may apply, by January 8, 1980.

FOR FURTHER INFORMATION CONTACT: Ronald Wylie, Office of Consumer Affairs (HF-7), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2932.

SUPPLEMENTARY INFORMATION: In the Federal Register of October 12, 1979 (44 FR 59174), FDA issued a final rule establishing a pilot program for providing reimbursement to applicants in certain administrative proceedings of the FDA. That document explained that the reporting and recordkeeping requirements contained in the final rule had been submitted for approval by the OMB in accordance with the Federal Reports Act of 1942 and that as soon as OMB approval was obtained FDA would publish a notice in the Federal Register stating that applications for reimbursement would be accepted.

FDA received OMB approval on October 25, 1979, for a period of 9 months, during which FDA will evaluate its experience with the reporting and recordkeeping requirements in order to assess whether any modifications in these requirements are warranted. Therefore, the final rule providing for reimbursement of participants in certain administrative proceedings became effective October 25, 1979. For those future proceedings in which applications for reimbursement may be filed, a notice of availability of reimbursement funds will be published in the Federal Register as part of the notice of hearing or notice of opportunity for hearing. Applications complying with § 10.210 (21 CFR 10.210) will be accepted for those proceedings.

The final rule also stated that FDA would publish a Federal Register notice alerting participants to the availability of reimbursement in those ongoing proceedings in which the agency would consider applications for reimbursement. Accordingly, FDA has concluded that reimbursement shall be available in the following ongoing proceedings:

1. 76N-0239 Dexamyl Spansule Capsules and Tablets. A notice of hearing was published in the Federal Register of September 14, 1979 (44 FR 53574).
2. 75F-0355 Aspartame (Public Board of Inquiry). A notice of hearing was published in the Federal Register of June 1, 1979 (44 FR 31716).
3. 78N-0124 Depo-Provera (Public Board of Inquiry). A notice of hearing was published in the Federal Register of July 27, 1979 (44 FR 44274).

The agency has received a request for reimbursement from a participant in the proceeding before a Public Board of Inquiry concerning the approval of the food additive petition for aspartame. That proceeding is far along and extending an invitation to the general public to apply for reimbursement for participation in the hearing could well unjustifiably delay the proceeding. Therefore, in the aspartame proceeding, the agency has decided to limit applications to present participants. A participant who wishes to request reimbursement shall submit an application to FDA by December 31, 1979.

Because the proceedings are in the early stages in the following two matters, participants and other interested persons may submit applications by January 8, 1980.

1. 76N-0239 Dexamyl Spansule Capsules and Tablets.
2. 78N-0124 Depo-Provera (Public Board of Inquiry).

This notice should not be construed as a waiver of any of the requirements of Parts 12 and 13 (21 CFR Parts 12 and 13), including those dealing with appearance and participation. Persons other than existing participants in the Dexamyl and Depo-Provera proceedings are required to comply specifically with all requirements for late participation including the requirements of § 12.45(f) (21 CFR 12.45(f)). That section provides that, upon a showing of good cause, the presiding officer may permit a person to file a late written notice of participation after expiration of the time period for the filing of such notices.

Applications are required to comply with § 10.210 of the final rule. Application forms are not yet available from the agency; applicants may submit the required information in whatever format they wish. When application forms become available, the agency will publish a notice of that fact in the Federal Register.

Applicants shall submit four copies of the application to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Department of Health, Education, and Welfare, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, under § 10.20 (21 CFR 10.20). The outside envelope of each application shall include the statement "Application for Reimbursement" and the docket number of the proceeding in which the applicant desires to apply for reimbursement.

In the Federal Register of April 17, 1979 (44 FR 23044), FDA published its proposed regulation for a pilot reimbursement program and stated that guidelines listing the maximum rates of reimbursement allowable for particular expenditures would be published should the pilot reimbursement program be established. In accordance with that commitment, the agency has established the following guidelines.

Attorney and Other Professional Rates

Years related experience	Related GS grade	Base salary plus 8.5 pct benefits	Hourly rate[1]
0-2	11-10	$29,072	$17
2-4	12-10	34,839	20
4-6	13-10	41,432	24
6-8	14-10	48,962	28
Over 8	15-10	[2]54,372	31

[1] All personal whose reimbursement is based on hourly rates must divide their actual annual salary by 1,750 hours. The actual cost up to the maximum allowable rate may be billed.

[2] This figure represents the maximum GS salary allowed by Congress and is subject to change.

These maximum rates of reimbursement reflect the salaries

received by government employees for services similar to those that will be provided by applicants under the reimbursement program. In order for the maximum rates of reimbursement to most accurately reflect government salaries, the agency has added 8.5 percent to each rate of reimbursement. This percentage represents the dollar value of benefits, such as pension and health insurance, provided by the government to Federal employees. It is important to note that the agency will not make direct payments to applicants for fringe benefits, such as an applicant's health insurance or life insurance. (See 21 CFR 10.250(a)(1).) The inclusion of the 8.5 percent in setting the ceiling is not an attempt to pay applicants for benefits, but rather an attempt to set the ceiling at a level that most accurately reflects the salaries paid to Federal employees.

Secretarial Rates—Actual hourly rate not to exceed $6.00 per hour.

Expert Witness Preparation Time—Actual hourly rate not to exceed $16.00 per hour.

Expert Witness Testimony Time—$128.00 per day.

Travel—Reimbursement is limited to Government rates. Commercial transportation is required to be coach class, and auto mileage is reimbursed at a rate of 18.5 cents per mile, not to exceed coach class air fares. The per diem rate is the average cost of lodging plus $16.00 not to exceed $35.00, unless travel is performed in a designated high-rate geographical area where expenses are those actually incurred, not to exceed $50.00 per day. Washington, DC, is a designated high-rate area (a list of other designated high-rate areas may be obtained from the Office of Consumer Affairs whose address is given elsewhere in this notice). Subsistence includes lodging and meals. A subsistance claim must be accompanied by lodging receipts. When conducting business in Washington, DC, and other high-rate areas, all meals must be listed separately. For assistance, call Elizabeth Levitt, Division of Financial Management (HFA-120), 301-443-1768.

Dated: December 10, 1979.

Jere E. Goyan,

Commissioner of Food and Drugs.

[FR Doc. 79-38285 Filed 12-11-79; 11:31 am]

BILLING CODE 4110-03-M

---

21 CFR Part 520

Animal Drugs; Levamisole Hydrochloride for Use in Drinking Water

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The agency amends the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed for Cyanamid Agricultural de Puerto Rico, Inc. The supplement provides for the safe and effective use of a new bottle size of levamisole hydrochloride containing 9.075 grams of soluble powder for use in swine drinking water.

EFFECTIVE DATE: December 14, 1979.

FOR FURTHER INFORMATION CONTACT: Charles E. Haines, Bureau of Veterinary Medicine (HFV-138), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3410.

SUPPLEMENTARY INFORMATION: Cyanamid Agricultural de Puerto Rico, Inc., Manati, PR 00701, is the sponsor of a supplemental NADA (45-513) filed by the American Cyanamid Co. in its behalf. This supplement provides for the safe and effective use of a 9.075-gram dose of levamisole hydrochloride soluble powder to prepare 250 milliliters (ml) of concentrate solution. The concentrate is diluted 10 ml per gallon for swine drinking water used for treating large roundworm, nodular worm, lungworm, intestinal threadworm, and swine kidney worm infections. This dose is in addition to the currently approved 18.15-gram dose, which is used to prepare 500 ml of concentrate and also diluted 10 ml per gallon for swine drinking water for treating the same infections. The regulations are amended to include use of the 9.075-gram product. In addition, the anthelmintic warning statement as required by § 500.25 (21 CFR 500.25) is added.

Under the proposed Bureau of Veterinary Medicine supplemental approval policy (see the Federal Register of December 23, 1977 (42 FR 64367)), this is a Category II approval. Approval of this application does not change use of the product. Thus, it poses no increased human risk from exposure to residues of the new animal drug and does not require reevaluation of the safety and effectiveness data in the parent application.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), part 520 is amended in § 520.1242a by revising paragraph (f)(3) (i) and (iii), to read as follows:

§ 520.1242a Levamisole hydrochloride drench and drinking water.

* * * * *

(f) * * *

(3) *Swine*—(i) *Amount.* 9.075 or 18.15 grams per bottle.

* * * * *

(iii) *Limitations.* Dissolve in water to provide 9.075 grams per 250 milliliters or 18.15 grams per 500 milliliters. Add 10 milliliters (2 teaspoons) of this concentrate solution to each gallon of drinking water. Allow 1 gallon of medicated drinking water for each 100 pounds of body weight of pigs to be treated. No other source of water should be offered. After pigs have consumed medicated water, resume use of regular water. Pigs maintained under conditions of constant exposure to worms may require retreatment within 4 to 5 weeks after the first treatment. Consult your veterinarian before administering to sick swine. Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism. Do not administer within 72 hours of slaughter for food.

Effective date. December 14, 1979.

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

Dated: December 6, 1979.

Terence Harvey,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 79-38292 Filed 12-13-79; 8:45 am]

BILLING CODE 4110-03-M

---

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Diethylcarbamazine Citrate Chewable Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a supplemental new animal drug application (NADA) providing for use of an additional size anthelmintic tablet for the prevention of heartworm disease and as an aid in the treatment of ascarid infections in dogs. The supplement was filed by Norden Laboratories, Inc.

EFFECTIVE DATE: December 14, 1979.

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

SUPPLEMENTARY INFORMATION: Norden Laboratories, Inc., Lincoln, NE 68501, filed a supplemental NADA (104-493)

providing for use of 120 milligram (mg) diethylcarbamazine citrate chewable tablets in dogs for the prevention of infections of *Dirofilaria immitis* (heartworm disease) and as an aid in the treatment of ascarid infections (*Toxocara canis* and *Toxascaris leonina*) in addition to the currently approved use of 60 and 180 mg tablets for these purposes. The regulations are amended to reflect approval of this supplement.

Under the proposed Bureau of Veterinary Medicine's supplemental approval policy published in the Federal Register of December 23, 1977 (42 FR 64367), this is a Category II approval. Approval of this supplement provides for use of larger size tablets to be used at the same dosage (mg per kilogram (kg)) as in the existing approval. Accordingly, approval of this supplement does not require reevaluation of the safety and effectiveness data in the parent application.

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

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))); and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), § 520.622c is amended by revising paragraph (b)(2) to read as follows:

§ 520.622c Diethylcarbamazine citrate chewable tablets.

* * * * *

(b) *Specifications.* * * *

(2) For 011519: 60, 120, or 180 milligrams of the drug per tablet.

* * * * *

Effective date. This regulation is effective December 14, 1979.

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

Dated: December 5, 1979.

Terence Harvey,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 79-38070 Filed 12-13-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 529

Certain Other Dosage Form New Animal Drugs Not Subject to Certification; Change of Sponsor

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect the change of sponsor for nifurpirinol capsules from Abbott Laboratories to Zoecon Industries, Inc. A supplemental new animal drug application (NADA) filed on behalf of Zoecon Industries, Inc., provides for this change.

EFFECTIVE DATE: December 14, 1979.

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

SUPPLEMENTARY INFORMATION: Abbott Laboratories filed a supplement to NADA 99-568 providing for a change of sponsor to Zoecon Industries, Inc., 12200 Denton Dr., Dallas TX 75234. The regulations are amended to reflect the change.

This action, the change of sponsor of an NADA, does not involve changes in manufacturing facilities, equipment, procedures, or personnel. Under the proposed Bureau of Veterinary Medicine's supplemental approval policy (December 23, 1977, 42 FR 64367), this is a Category I approval. Accordingly, approval of this action did not require a reevaluation of the safety and effectiveness data in the parent application.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), § 529.1526 *Nifurpirinol capsules* is amended in paragraph (b) by deleting sponsor number "043731" and inserting in its place "011536."

Effective date. This regulation is effective December 14, 1979.

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

Dated: December 6, 1979.

Terence Harvey,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 79-38069 Filed 12-13-79; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 40

Farm Labor Contractor Registration

AGENCY: Wage and Hour Division, Labor.

ACTION: Final rule.

SUMMARY: The processing of Farm Labor Contractor Registration Act hearings is being revised in the interest of more expeditious enforcement. As a result our regulations are being amended to provide that the Associate Solicitor for General Legal Services or the Regional Solicitors/Regional Attorneys may refer matters for hearing directly to the Chief Administrative Law Judge.

EFFECTIVE DATE: December 14, 1979.

FOR FURTHER INFORMATION CONTACT: Paul E. Myerson, Counsel for Employment Standards, General Legal Services, Office of the Solicitor, Room N2458, New Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, telephone No. 202-523-8244.

SUPPLEMENTARY INFORMATION: The Department of Labor is revising its procedures for processing FLCRA hearings. Under present procedures requests for hearings are submitted to the Administrator who refers the request to the Associate Solicitor for General Legal Services or to the appropriate Regional Solicitor/Regional Attorney for review. This part of the procedure is unchanged. Presently, upon completion of the review the Associate Solicitor for General Legal Services or the Regional Solicitor/Regional Attorney returns the request to the Administrator who refers it to the Chief Administrative Law Judge. The change in procedure made by this document authorizes the Associate Solicitor for General Legal Services or the Regional Solicitor/Regional Attorney to forward the request directly to the Chief Administrative Law Judge, thus reducing paperwork and expediting the hearing.

To accomplish this § 40.210 is amended to authorize referral of the request for hearing to the Chief Administrative Law Judge by the Associate Solicitor for General Legal Services or by the Regional Solicitor/Regional Attorney in the Regional Office in which the matter arose. Section 40.202 is amended to provide a revised numbering system which will expedite the processing of such matters. Section 40.2(i) is revised to include a definition for the Associate Solicitor for General

Legal Services and the Regional Solicitors/Regional Attorneys.

As these are procedural changes, this document is effective upon publication. This is not a significant regulation within the meaning of Executive Order 12044.

Accordingly, Title 29 CFR Part 40 is amended as follows:

1. Section 40.2(i) is revised to read as follows:

§ 40.2 Definitions.

* * * * *

(i)(1) "Solicitor of Labor" means the Solicitor, United States Department of Labor, and includes attorneys designated by the Solicitor to perform functions of the Solicitor under this part.

(2) "Associate Solicitor for General Legal Services" means the Associate Solicitor who among other duties, is in charge of litigation for FLCRA, Office of the Solicitor, U.S. Department of Labor, Washington, D.C. 20210.

(3) "Regional Solicitors/Regional Attorneys" means attorneys in charge of the various regional offices of the Office of the Solicitor.

* * * * *

2. The introductory clause in § 40.202(a) is revised to read as follows:

§ 40.202 Designation of record.

(a) Each administrative proceeding instituted under the Act and these regulations shall be identified of record by a number which is preceded by a number identifying the year, followed by the letters FLCRA, and by one or more of the following four designations:

* * * * *

3. Section 40.210(a) is amended by revising the first sentence to read as follows:

§ 40.210 Referral to Administrative Law Judge.

(a) Upon timely receipt of a request for a hearing filed pursuant to and in accordance with §§ 40.113, 40.123, 40.133, or 40.152, the Associate Solicitor for General Legal Services, or the Regional Solicitors/Regional Attorneys, by Order of Reference, shall promptly refer an authenticated copy of the notice of administrative determination complained of, and the original or a duplicate copy of the request for hearing signed by the person requesting such hearing or by the authorized representative of such person, to the Chief Administrative Law Judge, for a final determination in an administrative proceeding as provided herein. * * *

* * * * *

(Sec. 14, 78 Stat. 924 and Sec. 17, 88 Stat. 1659, 7 U.S.C. 2053).

Signed at Washington, D.C. on this 3rd day of December 1979.

Donald Elisburg,

Assistant Secretary for Employment Standards.

[FR Doc. 79-38268 Filed 12-13-79; 8:45 am]

BILLING CODE 4510-27-M

ENVIRONMENTAL PROTECTION AGENCY
40 CFR Parts 51, 52, 53, and 58
Air Programs; Ambient Air Quality Monitoring, Data Reporting, and Surveillance Provisions

In the Federal Register, appearing at page 65066, in the issue for Friday, November 9, 1979, the corrections to 40 CFR Parts 51, 52, 53 and 58, which were published in the Federal Register DOC 79-14488, at page 27558, in the issue of Thursday, May 10, 1979, are hereby rescinded.

The following corrections are to be made to 40 CFR Parts 51, 52, 53 and 58, published in the Federal Register, DOC 79-14438, appearing at page 27558, in the issue for Thursday, May 10, 1979.

Corrections:

1 - On page 27576:

(a) In the next to the last line of the first column, change "(d_j)" to "($\overline{d}_j$)".

(b) In the third line of paragraph 4.1.1(b) change the "(D)" to read "($\overline{D}$)".

(c) Revise the two equations at the end of paragraph 4.1.1(b) to read:

$$\text{Upper 95 Percent Probability Limit} = \overline{D} + 1.96S_a \quad (6)$$

$$\text{Lower 95 Percent Probability Limit} = \overline{D} - 1.96S_a \quad (7)$$

(d) Change the "(D)" in the first equation of the third column to read "($\overline{D}$)".

(e) Change the "(D)" in the third line of paragraph (b) in the third column to "($\overline{D}$)".

2 - On page 27577:

(a) Change the letter "(D)" in the first equation of the first column to "($\overline{D}$)".

(b) In the next to the last line of paragraph 4.2.1(a), change "(d_j)" to "($\overline{d}_j$)".

(c) In the third line of paragraph 4.2.1(b), change "(D)" to "($\overline{D}$)".

(d) Change the two equations in paragraph 4.2.1(b) to read:

$$\text{Upper 95 Percent Probability Limit} = \overline{D} + 1.96S_a/\sqrt{2} \quad (10)$$

$$\text{Lower 95 Percent Probability Limit} = \overline{D} - 1.96S_a/\sqrt{2} \quad (11)$$

(e) In the third line of 4.2.2(b) change the letter "(D)" to "($\overline{D}$)".

(f) In the second line of paragraph 4.2.2(d) change the "(D)" to read "($\overline{D}$)".

3 - Pages 27580 and 27581 are republished to read as follows:

OMB NO 158–R0012
Expires 3/80

DATA ASSESSMENT REPORT

STATE	REPORTING ORGANIZATION	YEAR	QUARTER
1 2	3 4 5	6 7	8

SEND COMPLETED FORM TO REGIONAL OFFICE WITH COPY TO EMSL/RTP

NAME OF REPORTING ORGANIZATION

AUTOMATED ANALYZERS

PRECISION

		NO OF ANALYZERS [1] (15–17)	NO OF PRECISION CHECKS (18–21)	PROBABILITY LIMITS LOWER (22–27)	PROBABILITY LIMITS UPPER (22–27)
A CO	C 4 2 1 0 1 (9–14)			+/-	+/-
B NO_2	C 4 2 6 0 2 (9–14)			+/-	+/-
C O_3	C 4 4 2 0 1 (9–14)			+/-	+/-
D SO_2	C 4 2 4 0 1 (9–14)			+/-	+/-
E ___	C (9–14)			+/-	+/-

ACCURACY

		SOURCE OF AUDIT GAS [2] (34–35)	NO OF AUDITS (36–38)	LEVEL 1 LOWER (39–44)	LEVEL 1 UPPER (39–44)	LEVEL 2 LOWER (45–50)	LEVEL 2 UPPER (45–50)	LEVEL 3 LOWER (51–56)	LEVEL 3 UPPER (51–56)	LEVEL 4 LOWER (57–62)	LEVEL 4 UPPER (57–62)
A CO	C 4 2 1 0 1 (28–33)			+/-	+/-	+/-	+/-	+/-	+/-	+/-	+/-
B NO_2	C 4 2 6 0 2 (28–33)			+/-	+/-	+/-	+/-	+/-	+/-	+/-	+/-
C O_3	C 4 4 2 0 1 (28–33)			+/-	+/-	+/-	+/-	+/-	+/-	+/-	+/-
D SO_2	C 4 2 4 0 1 (28–33)			+/-	+/-	+/-	+/-	+/-	+/-	+/-	+/-
E ___	C (28–33)			+/-	+/-	+/-	+/-	+/-	+/-	+/-	+/-

[1] COUNT ONLY REFERENCE OR EQUIVALENT MONITORING METHODS

[2] CODE USING THE FOLLOWING:

A. NBS SUPPLIED SRM
B. EMSL REFERENCE GAS
C. OTHER (IDENTIFY VENDOR) CO
D. OTHER (IDENTIFY VENDOR) NO_2
E. OTHER (IDENTIFY VENDOR) O_3
F. OTHER (IDENTIFY VENDOR) SO_2

FIGURE 1 FORM 1 (FRONT)

OMB No. 158–R0012
Expires 3/80

DATA ASSESSMENT REPORT

STATE	REPORTING ORGANIZATION	YEAR	QUARTER	SEND COMPLETED FORM TO REGIONAL OFFICE WITH COPY TO EMSL/RTP
1 2	3 4 5	6 7	8	

NAME OF REPORTING ORGANIZATION _____

MANUAL METHODS

PRECISION

		NO OF SAMPLERS [1]	NO. OF COLLOCATED SITES	NO OF COLLOCATED SAMPLES < LIMIT	PROBABILITY LIMITS LOWER	PROBABILITY LIMITS UPPER
A TSP	110101 (9–14)	(15–17)	(18–19)	(20–23)	(24–29)	
B SO_2	142401 (9–14)	(15–17)	(18–19)	(20–23)	(24–29)	
C NO_2	142602 (9–14)	(15–17)	(18–19)	(20–23)	(24–29)	
D Pb	110128 (9–14)	(15–17)	(18–19)	(20–23)	(24–29)	

LIMITS APPLICABLE TO BLOCKS 20–23

TSP	20 μg TSP/m³
SO_2	40 μg SO_2/m³
NO_2	30 μg NO_2/m³
Pb	0 07 μg Pb/m³

ACCURACY

		TYPE OF SAMPLER [2]	NO OF AUDITS	PROBABILITY LIMITS LEVEL 1 LOWER	LEVEL 1 UPPER	LEVEL 2 LOWER	LEVEL 2 UPPER	LEVEL 3 LOWER	LEVEL 3 UPPER
A TSP	110101 (30–35)	(36)	(37–39)	(40–45)		(46–51)		(52–57)	
B SO_2	142401 (30–35)	(36)	(37–39)	(40–45)		(46–51)		(52–57)	
C. NO_2	142602 (30–35)	(36)	(37–39)	(40–45)		(46–51)		(52–57)	
D Pb	110128 (30–35)	(36)	(37–39)	(40–45)		(46–51)		(52–57)	

[1] COUNT ONLY REFERENCE OR EQUIVALENT MONITORING METHODS.

[2] CODE USING THE FOLLOWING:

A WITH AUTOMATIC FLOW CONTROL
B WITHOUT AUTOMATIC FLOW CONTROL
C WITH CRITICAL OFFICE FLOW CONTROL

FIGURE 1 FORM 1 (BACK)

4 - On page 27583:

(a) In paragraph 4.1 in the fifth sentence, change the "(a_J)" to read "($\overline{d}_J$)".

(b) Change the last two equations of 4.1 to read:

$$\text{Upper 95 Percent Probability Limit} = \overline{d}_J + 1.96S_J \quad (4)$$

$$\text{Lower 95 Percent Probability Limit} = \overline{d}_J - 1.96S_J \quad (5)$$

(c) In the second paragraph of 5.1, line 8, change "(d_j)" to read "($\overline{d}_J$)".

(d) Change the two equations in paragraph 5.1 to read:

$$\text{Upper 95 Percent Probability Limit} = \overline{d}_j + 1.96S_j/\sqrt{2} \quad (6)$$

$$\text{Lower 95 Percent Probability Limit} = \overline{d}_J - 1.96S_j/\sqrt{2} \quad (7)$$

5 - On page 27591, insert a heading over the table at the bottom of the page to read as follows: "Table 4. - Summary of Spatial Scales for SLAMS and Required Scales for NAMS".

6 - On page 27592, in the first line of paragraph 2.3, change "108" to "1-8".

7 - On page 27594, third column, first column of Table 1, change "≤ 60,000" to "≥ 60,000".

8 - On page 27595:

(a) In the second column, first column of Table 3, change "≥ 10,000" to "≤ 10,000".

(b) In the third line of paragraph 7, change "14018" to "14-18".

(c) In the fifth line of the third column, change "21022" to "21-22".

9 - On page 27599 change the equation "PSI = max (120,0,0,20,30) = 120Q02" to read:

"PSI = max (120,0,0,20,30) = 120"

10 - On page 27601 in Table 1, in the sixth column, change the first figure from "18" to "118".

BILLING CODE 1505-01-C

40 CFR Part 55

[FRL 1374-1]

Federal Administrative Orders for Certain Fuel Switching Facilities; Revision to Subpart Designation

AGENCY: Environmental Protection Agency.

ACTION: Revision of Subpart Designation.

SUMMARY: The Federal Register contains a number of *Compliance Date Extensions* (CDE) which were promulgated under authority of Section 119 of the Clean Air Act (the Act) in effect prior to the 1977 amendments and published under 40 CFR Part 55. The 1977 amendments to the Act repealed Section 119 and added Section 113(d)(5) which provided for *Delayed Compliance Orders* (DCO). Both CDE's and DCO's are administrative mechanisms for granting a facility which has been prohibited by the Department of Energy from burning oil or gas, an extended period within which to achieve compliance with applicable air pollution requirements. Under old Section 119 of the Act, nine facilities were issued CDE's. The numerical scheme for publication of the CDE's then in use was sufficient for a small number of facilities. However, due to an expected increase in the numbers of facilities being prohibited by the Department of Energy from burning oil or gas, EPA anticipates that a larger number of DCO's will be promulgated. We are therefore revising the numerical scheme to accommodate this increase, facilitate publication and enhance public access. The numbering of the subparts under which CDE's were published will also be changed to accommodate this revision.

DATES: This redesignation takes effect on December 14, 1979.

FOR FURTHER INFORMATION CONTACT: Weldon Blake, Attorney-Advisor, Environmental Protection Agency, Division of Stationary Source Enforcement, 401 M Street, S.W., Washington, D.C. 20460, (202) 755-2542.

SUPPLEMENTARY INFORMATION: This revision in no way affects the validity of any order which has been promulgated in 40 CFR Part 55, but merely revises the numbering of the subsections under which CDE's and DCO's issued under the authority of Section 113(d)(5) of the Act and Section 119 of the Act prior to the 1977 amendments will be promulgated. The Agency has therefore determined that this action falls within the exception of 5 U.S.C. 553(b)(a) (which exempts rules of Agency procedure or practice from the informal rulemaking requirements of the Administrative Procedure Act). Thus, the notice and comment rulemaking procedures of 5 U.S.C. 563 have not been followed prior to this revision. In addition, under 5 U.S.C. 553(d) (which allows certain Agency Rules to be effective before 30 days have passed from the date of their publication), EPA has determined that this revision shall be effective upon publication because of the need to immediately expand the numerical scheme of 40 CFR Part 55 to accommodate future DCO's. (42 U.S.C. 7413, 7601).

In consideration of the foregoing, chapter I of Title 40 of the Code of Federal Regulations is amended by redesignating sections in Part 55 as follows:

1. For CDE's published under authority of Section 119 of the Act prior to the 1977 amendments the new designations are as follows:

Subpart L—Georgia

Section 55.570 is redesignated 55.250.

Subpart Q—Iowa

Section 55.820 is redesignated 55.350.
Section 55.821 is redesignated 55.351.

Subpart R—Kansas

Section 55.870 is redesignated 55.370.
Section 55.871 is redesignated 55.371.
Section 55.872 is redesignated 55.372.

Subpart AA—Missouri

Section 55.1320 is redesignated 55.550.
Section 55.1320 is redesignated 55.551.

Subpart II—North Carolina

Section 55.1770 is redesignated 55.710.

2. The following table of contents shows the range of section numbers that are assigned to each State to accommodate existing and future regulations. Section numbers for regulations which have not yet been promulgated are marked "[Reserved]".

40 CFR PART 55 DELAYED COMPLIANCE ORDERS

Subpart A—General Provisions

Secs. 55.01 to 55.09

Subpart B—Alabama

55.50 to 55.69 [Reserved]

Subpart C—Alaska

55.70 to 55.89 [Reserved]

Subpart D—Arizona

55.90 to 55.109 [Reserved]

Subpart E—Arkansas

55.110 to 55.129 [Reserved]

Subpart F—California

55.130 to 55.149 [Reserved]

Subpart G—Colorado

55.150 to 55.169 [Reserved]

Subpart H—Connecticut

55.170 to 55.189 [Reserved]

Subpart I—Delaware

55.190
55.191 to 55.209 [Reserved]

Subpart J—District of Columbia

55.210 to 55.229 [Reserved]

Subpart K—Florida

55.230
55.231 to 55.249 [Reserved]

Subpart L—Georgia

55.250
55.251 to 55.269 [Reserved]

Subpart M—Hawaii

55.270 to 55.289 [Reserved]

Subpart N—Idaho

55.290 to 55.309 [Reserved]

Subpart O—Illinois

55.310 to 55.329 [Reserved]

Subpart P—Indiana

55.330 to 55.349 [Reserved]

Subpart Q—Iowa

55.350
55.351
55.352 to 55.369 [Reserved]

Subpart R—Kansas

55.370
55.371
55.372
55.373 to 55.389

Subpart S—Kentucky

55.390 to 55.409 [Reserved]

Subpart T—Louisiana

55.410 to 55.429 [Reserved]

Subpart U—Maine

55.430 to 55.449 [Reserved]

Subpart V—Maryland

55.450 to 55.469 [Reserved]

Subpart W—Massachusetts

55.470
55.471 to 55.489 [Reserved]

Subpart X—Michigan

55.490 to 55.509 [Reserved]

Subpart Y—Minnesota

55.510 to 55.529 [Reserved]

Subpart Z—Mississippi

55.530 to 55.549 [Reserved]

Subpart AA—Missouri

55.550
55.551
55.552 to 55.569 [Reserved]

Subpart BB—Montana

55.570 to 55.589 [Reserved]

Subpart CC—Nebraska

55.590 to 55.609 [Reserved]

Subpart DD—Nevada

55.610 to 55.629 [Reserved]

Subpart EE—New Hampshire

55.630 to 55.649 [Reserved]

Subpart FF—New Jersey

55.650 to 55.669 [Reserved]

Subpart GG—New Mexico

55.670 to 55.689 [Reserved]

Subpart HH—New York

55.690 to 55.709 [Reserved]

Subpart II—North Carolina

55.710
55.711 to 55.729 [Reserved]

Subpart JJ—North Dakota

55.730 to 55.749 [Reserved]

Subpart KK—Ohio

55.750 to 55.769 [Reserved]

Subpart LL—Oklahoma

55.770 to 55.789 [Reserved]

Subpart MM—Oregon

55.790 to 55.809 [Reserved]

Subpart NN—Pennsylvania

55.810 to 55.829 [Reserved]

Subpart OO—Rhode Island

55.830 to 55.849 [Reserved]

Subpart PP—South Carolina

55.850 to 55.869 [Reserved]

Subpart QQ—South Dakota

55.870 to 55.889 [Reserved]

Subpart RR—Tennessee

55.890 to 55.909 [Reserved]

Subpart SS—Texas

55.910 to 55.929 [Reserved]

Subpart TT—Utah

55.930 to 55.949 [Reserved]

Subpart UU—Vermont

55.950 to 55.969 [Reserved]

Subpart VV—Virginia

55.970
55.971
55.972 to 55.989 [Reserved]

Subpart WW—Washington

55.990 to 55.1009 [Reserved]

Subpart XX—West Virginia

55.1010 to 55.1029 [Reserved]

Subpart YY—Wisconsin

55.1030 to 55.1049 [Reserved]

Subpart ZZ—Wyoming

55.1050 to 55.1069 [Reserved]

Dated: November 14, 1979.

Richard D. Wilson,

Acting Assistant Administrator for Enforcement.

[FR Doc. 79-38260 Filed 12-13-79; 8:45 am]
BILLING CODE 6560-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 5750]

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

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

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

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

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

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

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

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

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

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

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

§ 64.6 List of eligible communities.

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Alabama	Lauderdale	Killen, town of	010338	Nov. 27, 1979, emergency.	June 18, 1976.
Kansas	Marshall	Unincorporated areas	200210-A	Nov. 29, 1979, emergency.	June 28, 1977.
Do	Stafford	Stafford, city of	200532	do	Mar. 26, 1976.
New York	Steuben	Troupsburg, town of	361436	do	Feb. 21, 1975.
North Carolina	Duplin	Unincorporated areas	370083	do	Feb. 24, 1978.
Do	Warren	do	370396	do	Aug. 11, 1978.
New York	Yates	Italy, town of	360958A	Nov. 30, 1979, emergency.	June 28, 1974 and, Aug. 20, 1976.
Pennsylvania	Clinton	Wayne, township of	420336B	June 3, 1974, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended, Nov. 29, 1979, reinstated.	Oct. 26, 1973 and, Dec. 24, 1976.

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

Issued: December 5, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-38037 Filed 12-13-79; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 64

[Docket No. FEMA 5751]

Suspension of Community Eligibility under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities where the sale of flood insurance, as authorized under the National Flood Insurance Program (NFIP), will be suspended because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATES: The third date ("Susp.") listed in the fifth column.

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

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirements for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date subsidized flood insurance is no longer available in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amend, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elapsed since identification of the community as having flood prone areas, as shown on the Office of Federal Insurance and Hazard Mitigation's initial flood insurance map of the community. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

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

In each entry, a complete chronology of effective dates appears for each listed community.

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

§ 64.6 List of suspended communities.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Alabama	Escambia	Brewton, city of	010072B	Apr. 4, 1975, emergency, Dec. 18, 1979, regular, Dec. 18, 1979, suspended.	Dec. 12, 1973 Dec. 26, 1975	Dec. 18, 1979.
California	San Luis Obispo	Morro Bay, city of	060307B	Feb. 15, 1974, emergency, Dec. 18, 1979, regular, Dec. 18, 1979, suspended.	May 31, 1974 Dec. 5, 1975	Do.
Do	Los Angeles	Torrance, city of	060165B	June 26, 1975, emergency, Dec. 18, 1979, regular, Dec. 18, 1979, suspended.	Aug. 2, 1974 Dec. 5, 1975	Do.
Florida	Putnam	Crescent City, city of	120408A	Nov. 28, 1975, emergency, Dec. 18, 1979, regular, Dec. 18, 1979, suspended.	Dec. 3, 1976	Do.
Indiana	Lake	St. John, town of	180141B	Jan. 20, 1975, emergency, Nov. 1, 1979, regular, Dec. 18, 1979, suspended.	Nov. 30, 1973 Apr. 9, 1976	Do.
Idaho	Latah	Troy, city of	160091B	Jan. 30, 1975, emergency, Dec. 18, 1979, regular, Dec. 18, 1979, suspended.	May 10, 1974 Dec. 26, 1975	Do.
Illinois	Cook	Northfield, village of	170133B	Sept. 18, 1974, emergency, Dec. 18, 1979, regular, Dec. 18, 1979, suspended.	Mar. 29, 1974 Mar. 21, 1975	Do.
Kansas	Shawnee	Rossville, city of	200334B	Aug. 11, 1975, emergency, Dec. 18, 1979, regular, Dec. 18, 1979, suspended.	Jan. 9, 1974 June 4, 1976	Do.
Louisiana	Ouachita	Monroe, city of	220136B	Sept. 6, 1974, emergency, Dec. 18, 1979, regular, Dec. 18, 1979, suspended.	Sept. 6, 1974 Oct. 8, 1976	Do.
Maine	York	Parsonfield, town of	230154B	Oct. 13, 1976, emergency, Dec. 18, 1979, regular, Dec. 18, 1979, suspended.	June 28, 1974 May 17, 1977	Do.
Massachusetts	Middlesex	Waltham, city of	250222B	July 1, 1975, emergency, Dec. 18, 1979, regular, Dec. 18, 1979, suspended.	June 28, 1974 Apr. 15, 1977	Do.
Michigan	Clinton	Dewitt, city of	260631B	Aug. 25, 1975, emergency, Dec. 18, 1979, regular, Dec. 18, 1979, suspended.	June 17, 1977 Mar. 8, 1974 June 17, 1977	Do.
Do	Allegan	Ganges, township of	260005B	Oct. 24, 1973, emergency, Dec. 18, 1979, regular, Dec. 18, 1979, suspended.	June 28, 1974 June 25, 1976	Do.
Minnesota	Itasca	Grand Rapids, city of	270204B	May 22, 1974, emergency, Dec. 18, 1979, regular, Dec. 18, 1979, suspended.	Oct. 26, 1973 June 4, 1976	Do.
Do	Norman	Hendrum, city of	270325B	July 5, 1974, emergency, Dec. 18, 1979, regular, Dec. 18, 1979, suspended.	Aug. 9, 1974 Mar. 26, 1979	Do.
Do	Brown	New Ulm, city of	270036B	Feb. 11, 1974, emergency, Dec. 18, 1979, regular, Dec. 18, 1979, suspended.	Nov. 2, 1973 Apr. 2, 1976	Do.
Missouri	Platte	Unincorporated areas	290475A	Mar. 25, 1974, emergency, Dec. 18, 1979, regular, Dec. 18, 1979, suspended.		Do.
Montana	Teton	do	300168A	Apr. 11, 1978, emergency, Dec. 18, 1979, suspended.	Nov. 22, 1977	Do.
New Jersey	Burlington	Maple Shade, township of	340101B	July 11, 1975, emergency, Dec. 18, 1979, regular, Dec. 18, 1979, suspended.	Mar. 15, 1974 Apr. 16, 1976	Do.
Do	Middlesex	Perth Amboy, city of	340272B	June 25, 1975, emergency, Dec. 18, 1979, regular, Dec. 18, 1979, suspended.	June 21, 1974 June 4, 1976	Do.
Do	Morris	Randolph, township of	340358C	June 23, 1973, emergency, Dec. 18, 1979, regular, Dec. 18, 1979, suspended.	Feb. 15, 1974	Do.
Do	Middlesex	Spotswood, borough of	340282B	Oct. 31, 1973, emergency, Dec. 18, 1979, regular, Dec. 18, 1979, suspended.	July 6, 1973 Mar. 5, 1976	Do.
Do	Union	Westfield, town of	340478B	Sept. 24, 1974, emergency, Dec. 18, 1979, regular, Dec. 18, 1979, suspended.	Dec. 18, 1974 Jan. 26, 1979	Do.
North Carolina	Rowan	Unincorporated areas	370351A	Aug. 23, 1976, emergency, Nov. 1, 1979, regular, Dec. 18, 1979, suspended.	July 28, 1978	Do.
Pennsylvania	Allegheny	Aspinwall, borough of	420005B	April 11, 1975, emergency, Dec. 18, 1979, regular, Dec. 18, 1979, suspended.	Dec. 28, 1973 May 15, 1979	Do.
Do	Berks	Birdsboro, borough of	420127B	Dec. 29, 1972, emergency, Dec. 18, 1979, regular, Dec. 18, 1979, suspended.	Oct. 26, 1973 Aug. 6, 1976	Do.
Do	Perry	Duncannon, borough of	420749	Oct. 20, 1972, emergency, Dec. 18, 1979, regular, Dec. 18, 1979, suspended.	July 20, 1973 Sept. 24, 1976	Do.
Do	Clinton	Chapman, township of	420323B	Aug. 29, 1973, emergency, Dec. 18, 1979, regular, Dec. 18, 1979, suspended.	Mar. 1, 1974 June 10, 1977	Do.
Do	Washington	Houston, borough of	422594B	Oct. 24, 1974, emergency, Dec. 18, 1979, regular, Dec. 18, 1979, suspended.	Apr. 12, 1974 June 11, 1976	Do.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Do	Lancaster	Lancaster, township of	420553B	Mar. 9, 1973, emergency, Dec. 18, 1979, regular, Dec. 18, 1979, suspended.	July 13, 1973 Aug. 6, 1976	Do.
Do	Bucks	Newtown, Township of	421084B	Mar. 16, 1976, emergency, Dec. 18, 1979, regular, Dec. 18, 1979, suspended.	Mar. 10, 1978	Do.
Do	Allegheny	Ross, township of	420979B	Oct. 24, 1973, emergency, Dec. 18, 1979, regular, Dec. 18, 1979, suspended.	June 7, 1974 Oct. 3, 1975	Do.
Do	Wyoming	Tunkhannock, borough of	420917B	April 18, 1973, emergency, Dec. 18, 1979, regular, Dec. 18, 1979, suspended.	Sept. 7, 1973 Feb. 11, 1977	Do.
Do.	Perry	Wheatfield, township of	421035B	Oct. 29, 1971, emergency Dec. 18, 1979, regular, Dec. 18, 1979, suspended.	July 26, 1974 June 18, 1976	Do.
Do.	York	Wrightsville, borough of	420943B	June 6, 1973, emergency, Dec. 18, 1979, regular, Dec. 18, 1979, suspended.	Sept. 14, 1973 Jan. 14, 1977	Do.
Washington	Cowlitz	Long View, city of	530034B	May 26, 1972, emergency, Dec. 18, 1979, regular, Dec. 18, 1979, suspended.	June 28, 1974 Dec. 10, 1976	Do.
West Virginia	Berkeley	Martinsburg, city of	540006B	Nov. 14, 1974, emergency, Dec. 18, 1979, regular, Dec. 18, 1979, suspended.	June 7, 1974 June 18, 1976	Do.

[1] Date certain Federal assistance no longer available in special flood hazard area.

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

Issued: December 5, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-38038 Filed 12-13-79; 8:45 am]

BILLING CODE 6718-03-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[S.O. 1414]

Detroit & Mackinac Railway Co.; Authorization To Unload Steel Shelving on Hand at West Branch, Mich.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order Service Order No. 1414.

SUMMARY: Authorizes Detroit and Mackinac Railway Company to unload PW 60133 steel shelving on hand at West Branch, Michigan.

EFFECTIVE DATE: 12:01 a.m., December 11, 1979, and continuing in effect until December 21, 1979.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter (202) 275-7840.

SUPPLEMENTARY INFORMATION:

Decided: December 10, 1979.

There is one car of steel shelving being held by the Detroit and Mackinac Railway Company at West Branch, Michigan, since October 15, 1979. This car has been on hand for an unreasonable length of time, and this delay to the car impedes its use by other shippers.

It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people; that notice and public procedure are impracticable, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, that:

§ 1033.1414 Service Order No. 1414.

Detroit and Mackinac Railway Company shall unload one car of steel shelving held at West Branch, Michigan. The Detroit and Mackinac Railway Company (DM), its agents or employees, shall unload PW 60133 Steel Shelving held at West Branch, Michigan.

(b) The DM, its agents or employees, shall complete the unloading of this car by 11:59 p.m., December 21, 1979.

(c) The DM shall notify the shipper and Joel E. Burns, Chairman, Railroad Service Board, Interstate Commerce Commission, Washington, D.C., when it has completed the unloading of this car. Such notice shall specify when, where, and by whom such unloading was performed.

(d) *Rules and Regulations Suspended.* The operation of all rules, regulations, or tariff provisions is suspended insofar as they conflict with the provisions of this order.

(e) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(f) *Effective date.* This order shall become effective at 12:01 a.m., December 11, 1979.

(g) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., December 21, 1979, unless otherwise modified, amended, or vacated by order of this Commission.

(49 U.S.C. (10304–10305 and 11121–11126))

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-38315 Filed 12-13-79; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1033

[S.O. 1341-A]

Chicago, Milwaukee, St. Paul & Pacific Railroad Co. Authorized To Operate Over Tracks of Chicago & North Western Transportation Co.

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1341-A.

SUMMARY: Authorized the Chicago, Milwaukee, St. Paul and Pacific Railroad Company to operate over the tracks of the Chicago and North Western Transportation Company at Winnebago, Minnesota. The Commission's order served September 17, 1979, permitted the abandonment by the Chicago and North Western Transportation Company, and the acquisition by the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, of the track serving Winnebago, Minnesota. Since an emergency no longer exists, Service Order No. 1341 is vacated effective 11:59 p.m., December 5, 1979.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter, (202) 275-7840.

SUPPLEMENTARY INFORMATION:

Decided December 5, 1979.

Upon further consideration of Service Order No. 1341 (43 FR 45587 and 44 FR 20437), and good cause appearing therefor:

It is ordered, that § *1033.1341, Service Order No. 1341 Chicago, Milwaukee, St. Paul and Pacific Railroad Company authorized to operate over tracks of Chicago and North Western Transportation Company* is vacated effective 11:59 p.m., December 5, 1979.

(49 U.S.C. (10304-10305 and 11121-11126))

A copy of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-38314 Filed 12-13-79; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 44, No. 242
Friday, December 14, 1979

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

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

7 CFR Part 2851

U.S. Standards for Grades of Shelled Peanuts[1]

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would issue new U.S. grade standards applicable to all types of shelled peanuts. This standard would replace (1) U.S. Standards for Shelled Runner Type Peanuts, (2) U.S. Standards for Grades of Shelled Spanish Type Peanuts, and (3) U.S. Standards for Shelled Virginia Type Peanuts, which are currently in effect. This action is being taken at the request of the Southeastern Peanut Association, the Southwestern Peanut Shellers Association, and the Virginia-Carolina Peanut Association. The proposed standard would provide industry with a compatible and uniform basis for trading.

DATE: Comments must be received on or before February 12, 1980.

ADDRESSES: Comments should be sent to: Executive Secretariat, Attn: Annie Johnson, Food Safety and Quality Service, U.S. Department of Agriculture, Room 3807 South Building, Washington, DC 20250. (For additional information on comments, see supplementary information.

FOR FURTHER INFORMATION CONTACT: Michael A. Canon, Fresh Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-5410.

[1] Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or with applicable State laws and regulations.

SUPPLEMENTARY INFORMATION:

Comments

Interested persons are invited to submit comments concerning this proposal. Comments must be sent in duplicate to the Office of the Executive Secretariat and should bear reference to the date and page number of this issue of the Federal Register. All comments submitted pursuant to this notice will be made available for public inspection in the Office of the Executive Secretariat during regular business hours (7 CFR 1.27(b)).

Background

In January 1974 industry-developed grade standards for shelled Runner type peanuts were published in the Southeastern Peanut Association Sheller Rules. These industry standards were developed to provide kernel size classifications compatible with current marketing practices. The quality requirements of the Southeastern grades were the same as the requirements of the Marketing Agreement for Peanuts, No. 146. The industry grades were evaluated for three years by Georgia, Alabama and Florida shellers, representing more than 60 percent of national production. The grades received wide industry support, including acceptance by sheller members of the Southwestern and Virginia-Carolina peanut associations. Based on the success of these industry grades, the Southeastern Peanut Association requested that the Department revise the U.S. Standards for Runner Type Peanuts to conform to the requirements of the Sheller Rules.

The Southwestern Peanut Shellers Association and the Virginia-Carolina Peanut Association supported the Southeastern request to revise the Runner standards and at the same time requested the Department revise U.S. Standards for shelled Spanish and Virginia type peanuts to promote uniformity of requirements in the standards.

The Department, in an effort to provide industry with a uniform basis for trading, offered to develop a single standard for all peanuts in lieu of revising the three standards currently in effect. Industry accepted this approach and a single standard was developed which would provide for uniform quality requirements, standardization definitions of terms, and tolerances for the grades applicable to each peanut type.

Recognizing the importance of kernel size in peanut marketing, the size classifications established under the proposal are patterned after those now used by the industry. Although different for each type of peanut, this approach is essential to continued orderly marketing. For example, Spanish type peanuts are not marketed in the same size categories as either the Runner or Virginia types.

The tolerance for sound peanuts which are split or broken would increase from 3.00 percent to 4.00 percent in grades other than U.S. No. 2 and U.S. Splits. The tolerance for damaged kernels would be reduced from 1.50 percent to 1.25 percent, representing a decrease in the tolerance currently permitted in the Runner and Spanish standards.

Export grades and a grade designation of "with splits" would be established for each peanut type. Proposed minimum export requirements would be U.S. No. 1 quality with an additional provision for determining size based on kernel count per pound or count per ounce. Size is normally specified on the basis of kernel count rather than minimum screen size in export shipments. Grades of peanuts designated "with splits," such as "U.S. No. 1 Spanish with Splits," would heve a 15 percent tolerance for sound split kernels.

The proposed standards, as do the current standards, would apply to shelled peanuts in the raw state, prior to final processing into food products. Therefore, the Uniform Grade Nomenclature Policy for Fresh Fruits, Vegetables and Nuts, which exempts raw products for processing, would not apply. These standards would be used solely as a basis for trading before processing and grade designations do not carry through to the consumer.

This proposed new standard would provide industry with a uniform basis for trading which would be in line with current marketing practices.

In consideration of the foregoing, §§ 2851.2540 through 2851.2556 of the United States Standards for Grades of Shelled Peanuts would read as follows:

§§ 2851.2710-2851.2721 [Reserved]

1. Subpart—United States Standards for Shelled Runner Type Peanuts (7 CFR 2851), §§ 2851.2710 through 2851.2721, would be revoked and reserved, and the

Table of Contents would be amended to reflect this change.

§§ 2851.2730-2851.2741 [Reserved]

2. Subpart—United States Standards for Grades of Shelled Spanish Type Peanuts (7 CFR 2851), §§ 2851.2730 through §§ 2851.2741, would be revoked and reserved, and the Table of Contents would be amended to reflect this change.

§§ 2851.2750-2851.2763 [Reserved]

3. Subpart—United States Standards for Shelled Virginia Type Peanuts (7 CFR 2851), §§ 2851.2750 through 2851.2763, would be revoked and reserved, and the Table of Contents would be amended to reflect this change.

4. A new Subpart—United States Standards for Grades of Shelled Peanuts (7 CFR 2851), §§ 2851.2540 through 2851.2556, would be added, and the Table of Contents would be amended accordingly, to read as follows:

Subpart—U.S. Standards for Grades of Shelled Peanuts

General

Sec.
2851.2540 Method of identification.

Grades

2851.2541 Grades.
2851.2542 Table I, Size Requirements and Tolerances for U.S. Grades of Shelled Peanuts.
2851.2543 Table II, Size Reguirements and Tolerances for U.S. Grades of Shelled Peanuts.
2851.2544 Table III, Size Reguirements and Tolerances for Grades of Shelled Peanuts.
2851.2545 Table IV, Size Reguirements and Tolerances for U.S. Splits Grades of Shelled Peanuts.
2851.2546 U.S. Grades "with splits."

Application of Tolerances

2851.2547 Application of tolerances.

Definitions

2851.2548 Similar in appearance.
2851.2549 Undersize.
2851.2550 Oversize.
2851.2551 Whole.
2851.2552 Split.
2851.2553 Broken.
2851.2554 Foreign material.
2851.2555 Minor defects.
2851.2556 Damage.

General

§ 2851.2540 Method of identification.

Shelled peanuts shall be positively identified as to type by container tags, seals, markings or other suitable identification in order to be certified in accordance with the following grades.

Grades

§ 2851.2541 Grades.

U.S. grades of shelled peanuts shall consist of shelled peanuts similar in appearance to that of the designated type (Runner, Spanish or Virginia) which are whole, with the exceptions of "U.S. Splits," U.S. grades "with splits" and "U.S. No. 2" grades, and which are free from foreign material, damage and minor defects and which meet the tolerances and size requirements of each grade as specified in § 2851.2542 Table I, § 2851.2543 Table II, § 2851.2544 Table III, § 2851.2545 Table IV, and § 2851.2546.

§ 2851.2542 Table I—Size Requirements and Tolerances for U.S. Grades of Shelled Peanuts [1]

GRADE	SIZE			QUALITY
	Minimum Slot Screen Size	Undersize	Oversize	
U.S. Jumbo Runner	21/64 x 3/4"	5% incl. not more than 3% which pass through 18/64 x 3/4" screen.	No requirements.	(a) 1.00% for peanuts not similar in appearance;
U.S. Medium Runner	18/64 x 3/4"	5% incl. not more than 3% which pass through a 16/64 x 3/4" screen.	25% for kernels riding the 21/64 x 3/4"screen.	(b) 4.00% for sound peanuts which are split or broken;
U.S. Select Runner	16/64 x 3/4"	3%	25% for kernels riding the 21/64 x 3/4" screen.	(c) 2.00% for minor defects and damaged peanuts, including not more than 1.25% damaged peanuts; and
U.S. No. 1 Standard Runner	16/64 x 3/4"	3%	25% for kernels riding an 18/64 x 3/4" screen.	(d) 0.1% for foreign material.
U.S. No. 1 Export Runner 2/	16/64 x 3/4"	3%	No requirements.	
U.S. Mill Run Runner	16/64 x 3/4"	3%	No requirements.	
U.S. No. 1 Spanish	15/64 x 3/4"	3%	No requirements.	
U.S. No. 1 Export Spanish 2/	15/64 x 3/4"	3%	No requirements.	

1/ Tolerances by weight are provided in order to allow for variations incident to proper grading and handling.
2/ Count per ounce or count per pound must be specified.

§ 2851.2543 Table II—Size Requirements and Tolerances for U.S. Grades of Shelled Peanuts [1]

GRADE	SIZE			QUALITY
	Minimum slot Screen Size	Undersize	Count per Pound	
U.S. Extra Large Virginia	20/64 x 1"	3%	512	(a) 0.75% for peanuts not similar in appearance; (b) 4.00% for sound peanuts which are split or broken; (c) 1.75% for minor defects and damage including not more than 1.00% damaged peanuts; and (d) 0.1% for foreign material.
U.S. Medium Virginia	18/64 x 1"	3%	640	(a) 1.00% for peanuts not similar in appearance; (b) 4.00% for sound peanuts which are split or broken;
U.S. No. 1 Virginia	15/64 x 3/4"	3%	864	(c) 2.00% for minor defects & damaged peanuts, including not more than 1.25% damaged peanuts; and
U.S. No. 1 Export Virginia	15/64 x 3/4"	3%	Count per oz./lb. shall be specified.	(d) 0.1% for foreign material.

1/ Tolerances by weight are provided in order to allow for variations incident to proper grading and handling.

§ 2851.2544 Table III—Size Requirements and Tolerances for U.S. Grades of Shelled Peanuts [1]

GRADE	SIZE			QUALITY
	Minimum Screen Size	Undersize		
U.S. No. 2 Runner	Split or broken kernels; 17/64" (round)	3%	Not to exceed total of 4%	(a) 2.00% for peanuts not similar in appearance; (b) 3.00% for minor defects and damaged peanuts, including not more than 1.50% damaged peanuts; and,
	Whole kernels: 14/64 x 3/4" (slot)	3%		
U.S. No. 2 Spanish	Split or broken kernels: 16/64 x 3/4" (round)	3%	Not to exceed total of 4%	(c) 0.2% for foreign material.
	Whole kernels: 13/64 x 3/4" (slot)	3%		
U.S. No. 2 Virginia	Split, broken and whole kernels: 17/64" (slot)	4%		

§2851.2545 TABLE IV - SIZE REQUIREMENTS AND TOLERANCES FOR U.S. SPLITS GRADES OF SHELLED PEANUTS 1/

GRADE	SIZE		QUALITY
	Minimum Round Screen Size	Undersize	
U.S. Runner Split	17/64"	2%	(a) 2.00% for peanuts not similar in appearance;
U.S. Spanish Split	16/64"	2%	(b) 2.00% for minor defects and damaged kernels, including not more than 1.50% for damaged peanuts;
U.S. Virginia Split	20/64"	2%	(c) 4.00% for sound whole kernels except Virginia type may consist of 10% whole kernels; and, (d) 0.2% for foreign material.

1/ Tolerances by weight are provided in order to allow for variations incident to proper grading and handling.

§ 2851.2546 U.S. Grades "with splits."

U.S. grades designated "with splits" shall conform to the quality requirements of the designated grade and shall contain not less than 4 percent or more than 15 percent sound split or broken kernels.

Whole Kernels shall conform to the minimum screen size and undersize tolerance of the designated grade, § 2851.2542, Table I, or § 2851.2543, Table II. A tolerance of 3 percent shall apply for undersize split or broken kernels in accordance with minimum screen sizes specified by peanut type for U.S. Splits, § 2851.2545, Table IV.

Application of Tolerances.

§ 2851.2547 Application of tolerances.

The tolerances provided in these standards are on a lot basis and shall be applied to a composite sample representative of the lot. However, any container or group of containers in which the peanuts are obviously of a quality materially different from that in the majority of containers shall be considered a separate lot, and shall be sampled separately.

Definitions

§ 2851.2548 Similar in appearance.

"Similar in appearance" means that the peanuts in a lot are characteristic of the designated type.

§ 2851.2549 Undersize.

"Undersize" means those sound whole kernels or portions of kernels which pass through the minimum screen size specified in connection with the grade.

§ 2851.2550 Oversize.

"Oversize" means those whole kernels which ride the maximum screen size specified in connection wih the grade.

§ 2851.2551 Whole.

"Whole" means that the peanut kernel is not split or broken.

§ 2851.2552 Split.

"Split" means a separated half of a peanut kernel.

§ 2851.2553 Broken.

"Broken" means that more than one-fourth of the peanut kernel is broken off.

§ 2851.2554 Foreign material.

"Foreign material" means pieces or loose particles of any substance other than peanut kernels or skins.

§ 2851.2555 Minor defects.

"Minor defects" means that the peanut kernel is affected by one or more of the following, or an equally objectionable variation of any one of these minor defects, or any other minor defect, or any combination of minor defects which noticeably detracts from the apparance, or the edible or marketing quality of the peanut:

(a) Skin discoloration which is dark brown, dark blue, dark gray or black and covers more than one-fourth of the surface;

(b) Flesh discloration which is darker than a light yellow color or consists of more than a slight yellow pitting of the flesh;

(c) Sprout extending more than one-eighth of an inch from the tip of the kernel; and,

(d) Adhering material when the surface of the kernel is lightly coated, flecked or smeared with any substance and its appearance is materially affected.

§ 2851.2556 Damage.

"Damage" means that the peanut kernel is affected by one or more of the following, or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects which materially detracts from the appearance, or the edible or marketing quality of the peanut:

(a) Unshelled peanut kernels with part or all of the hull (shell) attached;

(b) Rancidity or decay;

(c) Mold;

(d) Insects, worm cuts, web or frass;

(e) Freezing injury causing hard, translucent or discolored flesh; and,

(f) Adhering material when the surface is heavily coated, thickly flecked or smeared with any substance, seriously affecting its apperance.

(Secs. 203, 205, 60 Stat. 1087, as amended, 1090 as amended; 7 U.S.C. 1622, 1624)

Note.—This proposal has been reviewed under the USDA criteria implementing Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Draft Impact Analysis has been prepared and is available from Mr. Michael A. Canon, Fresh Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250.

Done at Washington, DC, on: December 6, 1979.

Donald L. Houston,

Administrator, Food Safety and Quality Service.

[FR Doc. 79-38097 Filed 12-13-79; 8:45 am]

BILLING CODE 3410-DM-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 545 and 563

Federal Savings and Loan System; Federal Savings and Loan Insurance Corporation; Marketable Certificates of Deposit; Brokered Funds

Dated: December 5, 1979.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: These proposed changes would modify or delete certain requirements applicable to (1) the issuance of marketable certificates of deposit, and (2) the acceptance of savings accounts opened or increased through the services of brokers, by institutions insured by the Federal Savings and Loan Insurance Corporation. The changes are intended to remove unnecessary obstacles to institutions' efforts to attract funds.

DATES: Comments must be received on or before February 12, 1980.

ADDRESS: Send comments to the Office of the Secretary, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552.

FOR FURTHER INFORMATION CONTACT: Douglas P. Faucette, Associate General Counsel (202-377-6410), or John R. Hall, Attorney (202-377-6445), at the above address.

SUPPLEMENTARY INFORMATION: By Board Resolution No. 79-615, the Federal Home Loan Bank Board today adopted regulations regarding issuance of Eurodollar certificates of deposits by insured institutions. Included in those regulations were certain exceptions to the general limitations applicable to the issuance of marketable certificates of deposit and an exception to the general limitation on acceptance of brokered funds by insured institutions. Those exceptions were included in the final amendments in response to comments received on the Board's proposed amendments regarding Eurodollar certificates (44 FR 45635-45637, August 3, 1979).

On the basis of those comments and other information available to it, the Board believes that certain of the exceptions made for Eurodollar deposits should be made more generally applicable or the limitation should be deleted entirely. The Board believes that these actions would increase the usefulness of present authority to issue marketable certificates of deposit and would permit acquisition of additional funds through the use of brokers under certain circumstances.

These proposed changes reflect the Board's continuing effort to remove unnecessary obstacles to acquisition of funds by Federal associations.

The Board is proposing the following changes:

(1) A marketable certificate of deposit could be subject to redemption if redemption were financed by the issuance of other certificates at a lower rate of interest. The Board believes that redemption under such circumstances would permit management flexibility while assuring that the association's cost of funds would not increase during the original term of the certificate. Associations would continue to have authority to redeem a Eurodollar certificate in lieu of paying increased interest to compensate for changes in tax treaties.

(2) A marketable certificate of deposit could be subject to acceleration in the event of nonpayment of principal or interest on the certificate. The Board believes such provision for acceleration would increase the marketability of certificates by assuring that in case of a default the depositor would have an immediate claim for the deposit amount. Such an acceleration provision, while not increasing the issuing association's overall risk, should be attractive to potential depositors.

(3) A marketable certificate of deposit could provide for continued accrual and crediting of interest on the certificate after expiration of the fixed term, if the issuing association defaults in its obligation to pay the principal amount of the certificate at the expiration of the term. The Board believes that such a provision would be equitable for the depositor and would increase the marketability of certificates.

(4) A marketable certificate of deposit would not be required to be in a form that would be a negotiable instrument under the Uniform Commercial Code. An association's board of directors could prescribe the form, subject to agreement with the depositor. However, if the instrument were offered or described as a negotiable instrument, it would be required to comply with the law of the State or other jurisdiction regarding the form of negotiable instruments. The Board believes that the form of large marketable certificates can be adequately determined by requirements of the marketplace, without imposition of regulatory requirements.

(5) All certificate accounts with a term of five years or more would be exempted from the present limitation on acceptance by insured institutions of brokered funds. The primary purpose of the present limitation, which permits an insured institution to receive only five percent of its total accounts through the services of a broker, is to prevent institutions from holding large deposits of funds that are sensitive to change in market interest rates and subject to early withdrawal. The Board believes that use of brokers to obtain long term deposits will increase the ability of institutions to obtain increased accounts without increasing institutions' dependence on unstable funds.

Accordingly, the Board hereby proposes to amend § 545.1-4 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR 545.1-4) by revising paragraphs (d)(2), (e)(4), and (f) thereof, and Part 563 of the Rules and Regulations for Insurance of Accounts (12 CFR Part 563) by revising paragraphs (d)(2), (e)(4), and (f) of § 563.3-3 and § 563.25 thereof, to read as follows:

PART 545—OPERATIONS

§ 545.1-4 Marketable certificates of deposit.

* * * * *

(d) *Limitations*

* * * * *

(2) The certificate shall not, by its terms or otherwise, (i) permit the certificate amount to be increased by payment on or transfer to the certificate; (ii) permit principal to be withdrawn or transferred from the certificate or the deposit it evidences, before the certificate expires; (iii) permit extension or renewal of the certificate; (iv) be subject to repurchase; (v) be subject to redemption, except that a certificate may provide for a redemption financed by the issuance of another certificate at a lower rate of interest, or a Eurodollar certificate that includes a provision as described in paragraph (b) of this section may provide for the association, at its option, to redeem the certificate in lieu of payment of an increased rate of interest; or (vi) be subject to acceleration, except in the event of nonpayment of principal and interest on the certificate.

* * * * *

(e) *Required provisions.* The certificate shall include in its provisions the following:

* * * * *

(4) A statement that no interest shall accrue on or be credited to the certificate for any time after the fixed term expires, except that a certificate may provide that interest shall accrue on or be credited to the certificate after expiration of the fixed term if the issuing association defaults in its obligation to pay the principal amount of such certificate at the expiration of its term; and

* * * * *

(f) *Form.* (1) The board of directors shall determine the form of the certificate.

(2) The certificate shall not be incorporated in a passbook.

(3) If the certificate is offered or described as a negotiable instrument, it must be such under the law of the state or other jurisdiction in which the home office of the Federal association is located.

(4) Notwithstanding any other provision of this section, the certificate may be interchangeable as between denominations or any form permitted by this paragraph (f); it may refer to such interchangeability and include anything that this Part or other applicable regulation or statute expressly permits or requires to be included.

* * * * *

PART 563—OPERATIONS

§ 563.3-3 Marketable fixed-rate, fixed-term accounts.

* * * * *

(d) *Limitations.* In acting under the approval granted by this section, an insured institution shall not issue any certificate:

* * * * *

(2) Which by its terms or otherwise is subject to (i) repurchase; (ii) redemption, except that a certificate may provide for a redemption financed by the issuance of another certificate at a lower rate of interest, and a Eurodollar certificate that includes a provision as described in paragraph (b) of this section may provide for the institution, at its option, to redeem the certificate in lieu of payment of an increased rate of interest; or (iii) acceleration, except in the event of nonpayment of principal or interest on the certificate.

* * * * *

(e) *Required provisions.* The certificate shall include in its provisions the following:

* * * * *

(4) A statement that no interest shall accrue on or be credited to the certificate for any time after the fixed term expires, except that a certificate may provide that interest shall accrue on or be credited to the certificate after expiration of the fixed term if the issuing association defaults in its obligation to pay the principal amount of such certificate at the expiration of its term; and

* * * * *

(f) *Form.* (1) The board of directors shall determine the form of the certificate.

(2) The certificate shall not be incorporated in a passbook.

(3) If the certificate is offered or described as a negotiable instrument, it must be such under the law of the state or other jurisdiction in which the principal office of the institution is located.

(4) Notwithstanding any other provision of this section, the certificate may be interchangeable as between denominations or any form permitted by this paragraph (f); it may refer to such interchangeability and include anything that this Part or other applicable regulation or statute expressly permits or requires to be included.

* * * * *

§ 563.25 Sales commissions.

* * * * *

(c) *Use of brokers.* (1) *General provisions.* The provisions of this section shall not prohibit the payment by any insured institution, within the limitations of this paragraph (c), of sales commissions to brokers, but no insured institution shall accept the opening or any increase of any account as a result of services of any broker or brokers or pay any sales commission pursuant to the permission granted by this paragraph (c) at any time when the outstanding balances of all accounts in such institution with original maturities of less than 5 years which were opened or increased as a result of services of any broker or brokers aggregate a total in excess of 5 percent of the total of all accounts in such institution at the close of the next preceding December 31 or the next preceding June 30, whichever is later.

* * * * *

(Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730). Reorg. Plan No. 3 of 1947, 12 F.R. 7981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 79-38345 Filed 12-13-79; 8:45 am]

BILLING CODE 6720-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 111

Pollution Control; Proposed Amendment To Provide That History of Operations of Predecessor Concern May be Considered as Part of Applicant Concern's History

AGENCY: Small Business Administration

ACTION: Proposed rule.

SUMMARY: As presently written, § 111.4(d) requires an applicant to have a 5 year history of operations. this rule has caused problems when a concern with a pollution problem has elected to sell its operations to a new concern, rather than comply with pollution control regulations. In some cases the new concerns may not survive if SBA's guarantee is not available to aid in acquiring pollution control facilities. For this reason SBA is proposing that a predecessor concern's history of operations may be considered when the sucessor concern conducts substantially the same activity at the same or on expanded location.

DATE: Comments must be received on or before January 14, 1980.

ADDRESS: Comments should be sent in duplicate to Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Vincent A. Fragnito, Chief, Pollution Control Guarantees, Magazine Building, Rosslyn, Virginia 22209, (703) 235–2902.

SUPPLEMENTARY INFORMATION: Some new concerns needing the assistance do not have the requisite five year operating record with three years of profitable operations because they have recently purchased concerns with such operations either without knowing of the pollution control problems of the predecessor concern, or with that knowledge and an intent to comply with pollution control regulations. SBA proposes to amend § 111.4(d) to permit consideration of the predecessor concern's history of operations as part of the applicant's history of operations when the applicant is carrying on substantially the same activity at the same or an expanded location. This proposal is not designed to permit refinancing of a perdecessor concern's indebtedness which many have been assumed by the applicant.

Notice is hereby given that pursuant to the authority contained in section 5(b)(6) of the Small Business Act, 15 U.S.C. 634, it is proposed to amend, as set forth below, Part 111, Chapter 1, Title 13 of the Code of Federal Regulations.

1. Section 111.4(d) is proposed to be amended to read as follows:

§ 111.4 Eligibility

* * * * *

(d) Have been in operation for at least five years and have a history of profitable operations during any three of the five years preceding the date of the application; provided, a predecessor concern's operations may be considered when the successor concern is engaged in substantially the same activity at the same or an expanded location.

* * * * *

(Catalog of Federal Domestic Assistance Programs No. 59.031, Small Business Polution control Financing Guarantee).

Dated: December 7, 1979

A. Vernon Weaver,

Administrator.

[FR Doc. 79-38434 Filed 12-13-79; 8:45 am]

BILLING CODE 8025-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 231 and 241

[Releases Nos. 33-6163 and 34-16405; File No. S7-813]

Review of Guides for the Preparation and Filing of Registration Statements and Reports

AGENCY: Securities and Exchange Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Commission has authorized the Division of Corporation Finance to request public comment to assist it in its re-evaluation of the Guides for the Preparation and Filing of Registration Statements and Reports. The Division intends to re-examine the Guides to determine if they are current and effective and to consider what action, if any, would be appropriate to increase their usefulness and to eliminate any inconsistencies or out-of-date material.

DATE: Comments must be received on or before February 29, 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. Comment letters should refer to File No. S7-813. All comments received 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: Bruce S. Mendelsohn or Catherine Collins, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202-272-2589).

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today authorized the Division of

Corporation Finance (the "Division") to request public comment on the concept of an overall re-evaluation of the Guides for the Preparation and Filing of Registration Statements under the Securities Act of 1933 (the "Securities Act") [15 U.S.C. 77a et seq.] [1] and of the Guides for the preparation and Filing of Reports and Proxy and Registration Statements under the Securities Exchange Act of 1934 (the "Exchange Act"). [15 U.S.C. 78a et seq.]. The present Guides are not Commission rules nor do they bear the Commission's official approval; they represent policies and practices followed by the Division in administering the disclosure requirements of the Securities Act and the Exchange Act.

The Commission believes that monitoring the effectiveness and operation of its existing rules, forms, and Guides is an essential part of its responsibilities in administering the federal securities laws. The Advisory Committee on Corporate Disclosure included in its recommendations to the Commission that the consequences and costs of new disclosure requirements be monitored after adoption and encouraged the Commission to re-evaluate periodically all of its outstanding rules.[2] The Advisory Committee felt that such monitoring would "keep the disclosure requirements current and effective and prevent the development of an encrusting layer of unnecessary and irrelevant information in disclosure documents."

In the Division's view, a thorough study of the Guides is consistent with and necessary to its objective of increasing uniformity and integration of the disclosure requirements under the Securities Act and the Exchange Act. The Division therefore intends to examine the Guides particularly in light of the creation and development of Regulation S-K.[3] Additionally, the Division plans to review all aspects of the Securities Act rules. It should be noted, however, that the review of the Guides will precede the study of the rules, specifically Regulation C.[4]

The Commission is continuing its efforts to develop and improve upon specific industry disclosure guides, as was recommended by the Advisory Committee. In this regard, the Commission has sought comment on the quality and desirability of disclosure made under existing Guide 61, relating to statistical disclosure for bank holding companies,[5] and published for comment proposed staff guidelines on disclosure by electric and gas utility companies.[6] The Division intends to address specific industry guides individually, rather than as part of the overall re-evaluation of the Guides. Accordingly, commentators are requested not to include suggestions or views with respect to industry guides in whatever comments they may submit in response to this release.

Inquiries

Comment is invited on all aspects of the Guides, a comprehensive list of which is appended hereto; with particular attention directed to the following points:

1. The effectiveness of the Guides, individually and as a whole;
2. Any portions of the Guides which may no longer be current or necessary in light of changes in statutes, Commision regulations, case law, securities markets or financial practices;
3. Any portions of the Guides which may be inconsistent with Commission rules, regulations or forms;
4. Any changes in disclosure requirements which may be necessary to make the guides more helpful to registrants and to provide meaningful disclosure for investors;
5. The optimum relationship of the Guides with Regulation S-K; and
6. The costs and other burdens occasioned by the Guides.

In addition, recognizing its limited staff resources, the Division requests that commentators indicate which areas, if any, they feel should receive immediate attention and which areas they feel are of less pressing concern.

By the Commission.

George A. Fitzsimmons,

Secretary.

December 5, 1979.

Appendix

The following is a list of the Guides under the Securities Act of 1933 and the Securities Exchagne Act of 1934. Brief descriptions of subject matter have been added where titles are not self-explanatory.

Guides for the Preparation and Filing of Registration Statements Under the Securities Act of 1933:

1. Pre-filing Conferences with Registrants.
2. Letter of Comment.
3. Applicability of Amended Rules and Forms to Previously Filed Statements.
4. Registration of Securities for Delayed Offerings. Guide 4 describes those types of deferred or extended offerings for which registration under the Securities Act is permitted despite the provisions of Section 6(a) thereof, which prevents registration without the intention to offer the securities in the proximate future.
5. Preparation of Prospectuses. Guide 5 encourages registrants to keep prospectuses readable and gives specific guidelines as to cover page content and presentation.
6. Introductory Statements. Guide 6 provides guidelines indicating when and where disclosure is appropriate as to risk factors, disparity between public offering price and effective cost to affiliated persons, and dilution of invesor's equity.
7. Dating of Prospectuses.
8. Pictorial or Graphic Representations in Prospectuses.
9. Promoters. Guide 9 refers registrants to Rule 405 (17 CFR 230.405), the Securities Act definitional rule, and discusses the conditions for using synonymous terms.
10. Registration of Options, Warrants or Rights and Other Securities Issued or Sold to Underwriters. Guide 10 points out that such securities issued to underwriters in connection with a public offering are considered part of the offering and, therefore, must be registered. The Guide also discusses such registration.
11. Finders. Guide 11 deals with appropriate cover page disclosure of finder's fees or similar payments.
12. Over-the-Counter Trading in Rights or Warrants. Guide 12 discusses the Uniform Practice Code of the National Association and Securities Dealers, Inc., approach to this subject and the appropriate disclosure of the basis for trading.
13. Market Quotations—Absence of Established Market. Guide 13 addresses the appropriateness of disclosing historical market prices of securities where there is an established market therefor and, where there is none, disclosing that fact.
14. Underwriters' Compensation from Conversion of Funds into Foreign Currency.
15. Expenses of Issuance and Distribution. Guide 15 discusses disclosure with respect to expenses incurred in the issuance and distribution of offerings of securities.
16. Underwriter's Experience and Due Diligence Inquiry. Guide 16 indicates that, where a new or speculative issue of securities is being requistered, the underwriter may be asked to explain to the staff its efforts to verify the prospectus disclosure.
17. Disclosure of Underwriting Discounts and Commissions.
18. Original Issue Discount of Debt Securities.
19. Distribution of Preliminary Prospectus. Guide 19 discusses adequate preliminary prospectus delivery as a condition to acceleration of effectiveness of a registration statement.
20. Mailing of Amended Preliminary Prospectus to Regional Offices.
21. Use of Proceeds. Guide 21 addresses acceptable content and presentation of use of proceeds disclosure.

[1] Securities Act Release No. 4936, December 9, 1968 [33 FR 18671], as amended.

[2] Report of the Advisory Committee on Corporate Disclosure to the Securities and Exchange Commission ("Report"), House Committee on Interstate and Foreign Commerce, 95th Cong., 1st Sess. (1977), Committee Print 95-29 at 328-342.

[3] 17 CFR Part 229, first adopted in Securities Exchange Act Release No. 14306, December 23, 1977 [42 FR 65554].

[4] 17 CFR 230.400 to 230.494.

[5] Securities Act Release No. 6115, August 30, 1979.

[6] Securities Act Release No. 6085, June 25, 1979.

22. Summary of Earnings. Because the Commission staff is currently re-evaluating Guide 22 in connection with a separate rule-making project, specific comments need not be addressed to this guide.

23. Current Financial Statements and Related Data. Guide 23 assists in determining the need for updating financial statements and related data in registration statements.

24. Currencies in Which Amounts Are to be Stated by Foreign Issuers.

25. Manner of Showing Distributions by Real Estate Syndicates and Real Estate Investment Trusts.

26. Statement of Dividend Policy. Guide 26 also is currently being considered by the staff and therefore should not be included in specific comments.

27. Names of Customers and Competitors.

28. Disclosure of Extractive Reserves and Natural Gas Supplies. Guide 28 addresses technical matters arising from the application of the disclosure requirements in various forms to oil and gas reserves and supplies.

29. Disclosure of Material Long-Term Leases.

30. Disclosure of Principal Sources of Electric Revenues.

31. Disclosure of Recent Developments—Backlog. Guide 31 points out that a material change in the trend of sales or earnings of the registrant, and the reason for the change, as well as information with respect to backlog level, should be adequately disclosed in the prospectus.

32. Liability of Shareholders to Laborers, Servants or Employees Under State Law.

33. Notice of Redemption of Convertible Securities or Callable Warrants.

34. Executive Committee.

35. Identification of Members of Board of Directors Selected by the Underwriters.

36. Effect of Issuance of Options or Warrants to Certain Persons. Guide 36 indicates certain disclosures which should be made if a material amount of options or warrants has been or is to be issued to promoters, underwriters, finders, principal stockholders, officers or directors.

37. Consents of Accountants.

38. Consents of Attorneys.

39. Charter Amendments Authorizing New Securities.

40. Underwriting Agreements.

41. Specimen Bond.

42. Reports or Memoranda Concerning the Registrant. Guide 42 specifies documents which should be furnished to the staff as supplemental information when a registration statement is filed.

43. Representations from Selling Security Holders. Guide 43 indicates that, where securities are registered to be sold for the accounts of individual selling security holders, those holders will be expected to provide the staff with letters stating the reasons for selling and that they are aware of the disclosure contained in the registration statement.

44. Securities Act Exemption for Shares Subject to Options. Guide 44 states that, where registrants with employee stock option plans have not registered the underlying stock, they should inform the staff by letter whether they intend to register stock issued upon exercise of the options and, if not, upon what exemption from registration they intend to rely.

45. Information as to Over-the-Counter Market for Securities to be Registered.

46. Statement as to Indemnification. Guide 46 deals with disclosure appropriate where provisions are made for indemnification by the registrant of any of its directors, officers or controlling persons.

47. Enforceability of Civil Liabilities Under the Act Against Foreign Persons. Guide 47 discusses the need for foreign private registrants to disclose how civil liability under the Securities Act may be enforced by investors.

48. Annual Reports to Security Holders. Guide 48 states that registrants should disclose whether or not annual reports will be furnished to security holders and whether or not such will contain certified financial statements.

49. Revision of Prospectuses Where a Company and its Employee Plan have Different Fiscal Years.

50. Disclosure of Confidential Material to Other Government Agencies.

51. Release of Price Data on Subscription Offerings by Listed Companies. Guide 51 indicates that price information on subscription rights offerings may be disseminated through exchange facilities or the Dow Jones broad tape prior to the time a registration statement becomes effective so that such data is announced before trading is commenced.

52. Disclosure as to Listings on an Exchange. Guide 52 points out that disclosure of intent to apply for listing on a securities exchange may be misleading unless there is reasonable assurance that such application would be accepted.

53. Secondary Distribution "at the Market." Guide 53 describes various arrangements that should be entered into and disclosed, as protections against possible market manipulation, when a registration statement covers a non-underwritten offering "at the market" of a large block of securities held by a number of selling security holder.

54. Misleading Character of Certain Registrants' Names.

55. Prospectuses Relating to Interests in Oil and Gas Programs. Guide 55 sets forth the specific items of disclosure, and the order of presentation thereof, appropriate in prospectuses relating to the offering of interests in oil and gas drilling programs.

56. Interests of Counsel and Experts in the Registrant.

57. Registration Statements Relating to "Insurance Premium Funding" Programs. Guide 57 discusses registration fee calculation as well as prospectus presentation of summary, tabular, and hypothetical data in registration statements relating to insurance premium funding programs.

58. Disclosure in Prospectus of Registrant's Business Address and Telephone Number.

59. Summary of Disclosure in the Prospectus. Guide 59 states that in registration statements on certain forms there should be presented in the forepart of the prospectus a summary of its contents and sets forth that information which should be included in such summary.

60. Preparation of Registration Statements Relating to Interests in Real Estate Limited Partnerships. Guide 60 sets forth in detail the disclosure, and the order of presentation thereof, deemed appropriate in prospectuses relating to interests in real estate limited partnerships.

61. Statistical Disclosure by Bank Holding Companies. The Commission sought public comment on Guide 61 in Securities Act Release No. 6115 (August 30, 1979) and is now considering the comments received. Accordingly, commentators need not specifically re-address Guide 61 at this time.

62. Disclosure of Projections of Future Economic Performance.

Guides for the Preparation and Filing of Reports and Proxy and Registration Statements under the Securities Exchange Act of 1934:

1. Summary of Operations. Guide 1 also is currently being re-evaluated by the staff in connection with a separate rule-making project and therefore should not be included in specific comments.

2. Disclosure of Extractive Reserves and Natural Gas Supplies. (Same as Securities Act Guide 28.)

3. Statistical Disclosure by Bank Holding Companies. (Same as Securities Act Guide 61.)

4. Integrated Reports to Shareholders. Guide 4 also is being considered in connection with a separate rule-making project and therefore should not be addressed in specific comments.

5. Disclosure of Projections of Future Economic Performance. (Same as Securities Act Guide 62.)

[FR Doc. 79-38418 Filed 12-13-79; 8:45 am]

BILLING CODE 8010-01-M

---

17 CFR Part 240

[Release No. 34-16410; File No. S7-814]

Procedures and Requirements for National Market System Plans

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission proposes to adopt a rule establishing procedures and requirements for plans governing planning, developing, operating or regulating a national market system or one or more facilities thereof. The proposal, if adopted, would establish procedures relating to Commission approval of national market system plans and amendments to such plans and would require competitive bidding in connection with certain aspects of the development or operation of facilities contemplated by national market system plans.

DATES: Comments should be submitted on or before March 14, 1980.

ADDRESSES: Persons wishing to submit written views should file ten copies thereof with George A. Fitzsimmons,

Secretary, Securities and Exchange Commission, Room 892, 500 North Capitol Street, Washington, D.C. 20549. All submissions should refer to File No. S7-814 and will be available for public inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street, N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Brandon Becker, Division of Market Regulation, Securities and Exchange Commission, Room 321, 500 North Capitol Street, Washington, D.C. 20549, (202) 272-2829.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission announced today that it is publishing for comment Rule 11Aa3-2 [17 CFR § 240.11Aa3-2] under the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)] (the "Act") which, if adopted, would establish procedures relating to the filing and approval of plans governing planning, developing, operating or regulating a national market system (or a subsystem thereof) or one or more facilities thereof ("NMS Plans"). The rule would also specify procedures for filing and amending NMS Plans (including amendments initiated by the Commission) and would establish certain substantive requirements relating to NMS Plans, including the requirement that competitive bidding be conducted in connection with certain aspects of the development or operation of facilities contemplated by NMS Plans.

I. Background

The Commission and the Congress have long recognized that joint industry action would provide a significant means of achieving the goals and facilities of a national market system. In 1972, in proposing Rule 17a-15 under the Act, which governs the operation of the consolidated transaction reporting system ("consolidated system"),[1] the Commission explicitly included a provision permitting self-regulatory organizations and non-member broker-dealers to establish joint procedures by which last sale information would be collected, processed and made available to vendors.[2] In including this provision, the Commission noted:

> Many of the commentators on Rule 17a-15 as initially proposed, as well as the Advisory Committee [on Disclosure], stressed the need for the central collection, processing and dissemination of the information covered by the Rule in order to ensure, among other things, the uniform sequencing of trade reports. The Commission concurs in this view.[3]

Consistent with the foregoing, in 1974 the Commission approved a joint industry plan ("CTA Plan") filed by various self-regulatory organizations to meet the requirements of Rule 17a-15, which currently provides for collecting, processing and disseminating a consolidated data stream of last sale reports relating to completed transactions in certain securities traded on national securities exchanges ("reported securities").[4] In addition, in 1974 the Commission requested the Amex and the Chicago Board Options Exchange, Incorporated ("CBOE") to file amendments to their respective option plans, pursuant to former Rule 9b-1 under the Act, to establish a joint plan for collecting, processing and disseminating in a consolidated data stream last sale reports relating to completed transactions in options.[5]

Moreover, the significance of joint industry action with respect to the implementation of a national market system was recognized by the Congress in the enactment of the Securities Acts Amendments of 1975 ("1975 Amendments").[6] Section 11A(a)(3)(B) of the Act authorizes the Commission, in furtherance of its statutory directive to facilitate the development of a national market system,

> By rule or order, to authorize or require self-regulatory organizations to act jointly with respect to matters as to which they share authority under [the Act] in planning, developing, operating, or regulating a national market system (or a subsystem thereof) or one or more facilities thereof;

Since the 1975 Amendments, the Commission has continued to urge joint industry action to facilitate the development of a national market system. On March 9, 1978, the Amex, BSE, NYSE, PSE and Phlx jointly filed with the Commission a "Plan for the Purpose of Creating and Operating an Intermarket Communications Linkage" ("ITS Plan").[7] On April 14, 1978, the Commission issued a temporary order pursuant to Section 11A(a)(3)(B) approving the ITS Plan for a period of 120 days.[8] In its order, the Commission stated:

> We believe it is important for the Commission to be able to proceed flexibly to encourage the development, and, where appropriate, immediate implementation, of facilities designed to meet the national market system objectives and to respond to the needs detailed in our January 1978 statement on the national market system. [Securities Exchange Act Release No. 14416 (January 26, 1978), 43 FR 4354.] The

---

[1] *See* Securities Exchange Act Release No. 9731 (August 14, 1972), 37 FR 19148. Rule 17a-15 under the Act [17 CFR § 240.17a-15], adopted in November 1972, Securities Exchange Act Release No. 9850 (November 8, 1972), 37 FR 24172, required every national securities exchange and national securities association (and every broker-dealer not an exchange or association member who effected transactions in securities registered or admitted to unlisted trading privileges on an exchange) to file a plan with the Commission with respect to collecting, processing and disseminating last sale reports in securities registered or admitted to unlisted trading priviledges on an exchange. The Commission has proposed to amend Rule 17a-15 and redesignate it as Rule 11Aa3-1. *See* Securities Exchange Act Release No. 15250 (October 20, 1978), 43 FR 50606.

[2] Rule 17a-15(b).

[3] Securities Exchange Act Release No. 9731 (August 14, 1972), at 2, 37 FR 19148.

[4] The current participants in the CTA Plan are the New York Stock Exchange, Inc. ("NYSE"), American Stock Exchange, Inc. ("Amex"), Midwest Stock Exchange, Incorporated ("MSE"), Pacific Stock Exchange, Incorporated ("PSE"), Philadelphia Stock Exchange, Inc. ("Phlx") and the National Association of Securities Dealers, Inc. ("NASD"). In addition, individual plans filed by the Boston Stock Exchange, Incorporated ("BSE"), Cincinnati Stock Exchange ("CSE") and Institutional Networks Corporation have been declared effective by the Commission upon the condition that each entity operate under the CTA Plan as an "other reporting party." Securities Exchange Act Release No. 11255 (February 18, 1975), 40 FR 8397.

[5] *See* Amex and CBOE, Proposed Plan for Reporting of Options Last Sale Price Information (November 5, 1974), 39 FR 39615. The current participants in the plan are the Amex, CBOE, MSE, PSE and Phlx. On July 5, 1979, the participants in the plan refiled the plan to extend its coverage to collecting, processing and disseminating quotation information and to obtain Commission approval of the plan under Section 11A(a)(3)(B) of the Act.

[6] Pub. L. No. 94-29 (June 4, 1975). For example, the Committee of Conference of both Houses of Congress, in discussing the implementation of a national market system, stated:

> It is the intent of the conferees that the national market system evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed. The conferees expect, however, in those situations where competition may not be sufficient, such as the creation of a composite quotation system or a consolidated transaction reporting system, the Commission will use the power granted to it in [the 1975 Amendments] to act promptly and effectively to ensure that the essential mechanisms of an integrated secondary trading system are put into place as rapidly as possible.

Committee of Conference, *Report to Accompany S. 249*, H.R. Rep. No. 94-249, 94th Cong., 1st Sess., at 92, *reprinted in*, [1975] U.S. Code Cong. & Ad. News 321, 323.

[7] The ITS Plan was filed in connection with the implementation of the Intermarket Trading System ("ITS"), an experimental market linkage system designed to permit commitments to trade multiply-traded securities to be routed between market centers.

[8] Securities Exchange Act Release No. 14661 (April 14, 1978) ("ITS Order"), 43 FR 17419. On August 11, 1978, the Commission extended that approval for an additional year and, on August 7, 1979, the Commission extended that approval for an additional three years. Securities Exchange Act Release Nos. 15058 (August 11, 1978) and 16214 (September 21, 1979), 43 FR 36732, 44 FR 56069. Currently, all self-regulatory organizations reporting stock transaction information other than the CSE and NASD are participating in the ITS. In addition, the Commission understands that discussions are continuing between the ITS participants and the NASD contemplating an ITS linkage with "third market" makers and between the ITS participants and the CSE contemplating a linkage with the CSE automated multiple dealer trading system, recently renamed the National Securities Trading System of the CSE.

Commission believes that, as a general matter, detailed plans contemplating joint development and operation of such facilities submitted to the Commission by self-regulatory organizations seeking Commission approval under Section 11A(a)(3)(B) of the Act would provide the Commission with a desirable degree of flexibility in that regard, particularly if such plans incorporate any joint procedures or methods of operation agreed to by plan sponsors which are to govern their conduct (both within their discrete markets and otherwise).[9]

In addition, the Commission has encouraged self-regulatory organizations to consider joint implementation of Rule 11Ac1-1 under the Act.[10] In its release announcing the adoption of that rule, the Commission noted that "any arrangement between all of the various exchanges and associations leading to centralized processing, sequencing and validation of quotations would be beneficial. . . ."[11] Moreover, the Commission delayed effectiveness of the rule for three months in part to permit its joint implementation. In doing so, the Commission stated:

The Commission continues to believe that joint implementation of Rule 11Ac1-1 would be in the public interest and would further the purposes of the Act by facilitating the development of an important facility of a national market system—a composite quotation system. It also appears that the creation of a single data stream would result in reduced costs for both the self-regulatory organizations and the vendors by eliminating the necessity for duplicative facilities, data transmission lines and personnel and by resolving potential timing and sequencing problems.[12]

On July 25, 1978, various self-regulatory organizations filed a "Plan for the Purpose of Implementing Rule 11Ac1-1 Under the Securities Exchange Act of 1934" ("CQ Plan") with the Commission. The CQ Plan provides for collecting, processing and disseminating a consolidated data stream of quotations and quotation sizes in reported securities. On July 28, 1978, the Commission issued a temporary order pursuant to Section 11A(a)(3)(B) approving the CQ Plan for a period of six months.[13] On January 24, 1979, the Commission extended that approval for an additional year.[14]

In addition to these currently effective NMS Plans, the Commission has recently announced other market structure initiatives which contemplate the submission of further NMS Plans. On March 22, 1979, the Commission issued a status report ("Status Report") on the development of a national market system[15] in which it stated its intention to establish a nationwide price protection for all public limit orders. In order to facilitate this goal, the Commission requested.

each self-regulatory organization to inform the Commission in writing by May 1, 1979, of its commitment to work actively with other such organizations to develop in concert and submit to the Commission by September 1, 1979, a joint plan specifying a series of planned steps by which the mechanisms to provide price protection for all public limit orders will be developed and implemented, at least on a pilot basis, no later than the end of calendar year 1980.[16]

In addition, the Commission has recently proposed for comment Rule 11Aa2-1 under the Act, which would establish procedures by which securities or classes of securities would be designated as qualified for trading in a national market system ("national market system securities").[17] Paragraph (d) of that rule would require that, by December 31, 1979, self-regulatory organizations act jointly in filing with the Commission a designation plan to specify (1) procedures for applying the designation standards set forth in the rule; (2) criteria for designating certain national market system securities; (4) revocation and suspension procedures for national market system securities which fail to meet those maintenance standards; and (5) maximum time limits to implement various designation standards.

II. Discussion

While Section 11A(a)(3)(B) now provides the Commission with explicit authority to approve joint industry action with respect to the establishment of a national market system, that Section does not create procedures for filing or amending national market system plans or specify the minimum content of those plans. Therefore, the Commission has determined to propose for comment Rule 11Aa3-2 under the Act ("Rule"), which would establish uniform procedures in connection with the approval and amendment of NMS Plans and would specify certain minimum procedural and substantive requirements which would be applicable to NMS Plans.

The procedural aspects of proposed Rule 11Aa3-2 are primarily derived from the filing, amendment and appeals procedures contained in proposed Rule 11Aa3-1, the Commission's proposal to amend and redesignate Rule 17a-15.[18] The Commission has received limited comment on those provisions of proposed Rule 11Aa3-1[19] and has addressed certain of those comments in the text of proposed Rule 11Aa3-2 and in this release.[20] In addition to those aspects of the Rule which parallel the filing, amendment and appeals procedures set forth in proposed Rule 11Aa3-1, proposed Rule 11Aa3-2 contains two provisions which were not addressed in proposed Rule 11Aa3-1.

A. Commission Initiation of Amendments to NMS Plans

Paragraph (b)(1)(iii) of the Rule provides that the Commission may propose amendments to an NMS Plan on its own initiative.[21] No effective NMS

[9] ITS order, *supra* note 8, at 1-2, 43 FR at 17420 (footnotes omitted).

[10] Rule 11Ac1-1 under the Act [17 CFR § 240.11Ac1-1], which became effective August 1, 1978, requires each self-regulatory organization to collect, process and make available to securities information vendors quotations and quotation sizes for all securities as to which last sale information is reported pursuant to the CTA Plan. *See* Securities Exchange Act Release No. 14415 (January 26, 1978), 43 FR 4342.

[11] *Id.*, at 51, 43 FR at 4349. In contrast to Rule 17a-15, Rule 11Ac1-1 did not explicitly require self-regulatory organizations to file plans providing for collecting, processing and disseminating quotation information. *See* note 1, *supra*.

[12] Securities Exchange Act Release No. 14711 (April 26, 1978), 43 FR 18557.

[13] Securities Exchange Act Release No. 15009 (July 28, 1978), 43 FR 34851.

[14] Securities Exchange Act Release No. 15511 (January 24, 1979), 44 FR 6230. Currently, all self-regulatory organizations reporting transactions in reported securities other than the CSE are disseminating quotations to vendors pursuant to the CQ Plan. On November 15, 1979, the CSE became a participant in the CQ Plan. The CSE anticipates that it will disseminate quotations pursuant to the CQ Plan in the near future.

[15] Securities Exchange Act Release No. 15671 (March 22, 1979), 44 FR 20360.

[16] Status Report, *supra* note 15, at 23-24, 44 FR at 20363. In addition, the Commission indicated that it contemplated proposing a rule which would require protection for all displayed public limit orders against executions at inferior prices. *Id.* at 24-25, 44 FR at 20363. In April 1979, the Commission proposed such a rule, Rule 11Ac1-3, for comment. *See* Securities Exchange Act Release No. 15770 (April 26, 1979), 44 FR 26692.

[17] *See* Securities Exchange Act No. 15926 (June 15, 1979), 44 FR 36912.

[18] *See* note 1, *supra*. These procedures are also derived from Section 19(b) of the Act. Paragraphs (d) and (e) of proposed rules 11Aa3-1 and 11Aa2-1 contain procedures relating to the joint plan filed pursuant to those rules which are redundant with certain of the procedures contained in proposed Rule 11Aa3-2. If Rule 11Aa3-2 is adopted, these redundant provisions in Rules 11Aa3-1 and 11Aa2-1 would be deleted.

[19] *See* letter from Joseph W. Sullivan, President, CBOE, to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, dated December 19, 1978, at 3-4, and letter from Robert C. Hall, Chairman, Consolidated Tape Association, to George A. Fitzsimmons, Secretary Securities and Exchange Commission, dated January 11, 1979, Appendix, at 5-6, 10-11, contained in File No. S7-758.

[20] The Commission expects to take further regulatory action on proposed Rule 11Aa3-1 in the near future.

[21] Rule 11Aa3-2(b)(1)(iii). The Rule also permits the "sponsors" of a plan to proposed amendments in accordance with the procedures set forth in the plan. For purposes of the Rule, a "sponsor" is defined in paragraph (a)(8) of the Rule to mean, when used in connection with an NMS Plan, any self-regualatory organization or any nonmember

Footnotes continued on next page

Plan currently contains procedures relating to the adoption of amendments initiated by the Commission.

To date, the Commission has not felt that the operation of those NMS Plans which have been approved by the Commission has necessitated the exercise of Commission authority to modify the terms of those plans. However, the Commission believes that, in unusual circumstances, it may become necessary for the Commission to take the initiative in seeking amendment of an effective NMS Plan. As a result, the Commission believes that the Rule should specifically provide for Commission initiated amendments to NMS Plans.[22] The procedures applicable to Commission initiated amendments would be similar to the procedures applicable to the original filing of NMS Plans or amendments to NMS Plans filed by NMS Plan sponsors.[23]

B. Competitive Bidding in Connection With Certain Aspects of the Development or Operation of Facilities Contemplated by NMS Plans

Paragraph (b)(6) of the Rule would impose the requirement, not contained in any currently effective NMS Plan, that the selection of any person either (1) to supply hardware or software in connection with the development of any facility contemplated by an NMS Plan, or (2) to act as "plan processor" [24] in connection with the operation of any such facility, shall be conducted through competitive bidding.[25] However, in those instances in which competitive bidding would be required, the Rule would not mandate the selection of the lowest bidder provided that the NMS Plan specifies other reasonable criteria which may be considered by the person or persons making the selection.

In addition, the competitive bidding requirements would not apply to an NMS Plan which has been approved on a temporary or permanent basis as of the effective date of the Rule, or to any amendment to such an NMS Plan which is approved by the Commission after the effective date of the Rule.[26] Thus, the CTA, ITS and CQ Plans, which specifically provide for the initial selection of the Securities Industry Automation Corporation ("SIAC") as the processor for those plans,[27] would be permitted to retain SIAC in that capacity.[28] The Rule does, however, provide two exceptions to this provision. First, the competitive bidding requirement would apply in the event of the replacement of SIAC as plan processor for any of those plans.[29] In addition, in order to preclude circumvention of the competitive bidding requirement of the Rule, the competitive bidding requirement would apply in the event of an amendment to any of those plans which contemplates a new facility or a facility which was not operational as of the effective date of the Rule.[30]

Section 23(a)(2) of the Act, added by the 1975 Amendments, requires the Commission, in adopting rules under the Act, to

> consider among other matters the impact any such rule or regulation would have on competition. The Commission shall not adopt any such rule or regulation which would impose a burden on competition not necessary or appropriate in furtherance of the purposes of [the Act].

Thus, Section 23(a)(2) requires the Commission to evaluate its regulatory proposals in light of the fundamental national economic policy of furthering competition.[31]

As a preliminary matter, the Commission is concerned that the absence of competitive bidding in connection with the development and operation of facilities contemplated by an NMS Plan may have anticompetitive effects which may not be justified by the purposes of the Act.[32] In this connection, the Commission specifically requests comment on the competitive effects of, and purposes under the Act which may be served by, the absence of competitive bidding in this context.

As noted, paragraph (b)(6) of the Rule provides an exception to the general competitive bidding requirement with respect to the development of technical specifications for any facility contemplated by an NMS Plan. This exception is intended to reflect the possibility that it may not be feasible for NMS Plan sponsors to prepare the detailed technical specifications which would form the basis for a request for bids. However, the Commission specifically requests comment on whether the exception would effectively undermine the significance of the compeititive bidding requirement.

C. Description of Proposed Rule 11Aa3-2

The Rule would provide that a "national market system plan" [33] or

---

Footnotes continued from last page
broker or dealer which is a signatory to the NMS Plan and has agreed to act in accordance with the terms of the NMS Plan.

[22] Certain questions concerning the Commission's authority to initiate amendments to a joint industry plan were raised in the context of the Commission's approval of the CTA Plan. *See* Securities Exchange Act Release Nos. 10218 (June 13, 1973), 10671 (March 8, 1974), 10087 (May 10, 1974), and 15250 (October 30, 1978), 38 FR 15999, 39 FR 10034, 39 FR 17799 and 43 FR 50606. However, any such questions would appear to have been eliminated by the addition of Sections 11A(a)(3)(B), 11A(c) [15 U.S.C. 78k-1(a)(3)(B) and (c)] and other provisions of the 1975 Amendments.

[23] *See* text accompanying notes 33–47, *infra*.

[24] The term "plan processor" is defined in paragraph (a)(5) of the Rule to mean any self-regulatory organization or securities information processor acting as a sole processor in connection with the development, implementation and/or operation of any facility contemplated by an effective NMS Plan.

[25] The paragraph contains an exception for the selection of any person in connection with the development of technical specifications with respect to any such facility.

[26] Rule 11Aa3-2(b)(7).

[27] SIAC is a joint subsidiary of the Amex and NYSE. The United States General Accounting Office, in its recent report to Congress on the Commission's efforts to facilitate the establishment of a national market system, called into question whether SIAC was acting in a neutral manner as a securities information processor and recommended that the Commission develop an evaluation program to assess, on a continuing basis, the status of SIAC's neutrality. United States General Accounting Office, *Report to the Congress*, Improvements Needed in the Securities and Exchange Commission's Efforts to Establish a National Market 20–21, September 19, 1979 ("GAO Report"). While the Commission has declined to establish such a program, the GAO Report implicitly raises significant questions regarding the selection of SIAC as processor of all facilities of a national market system without any competitive bidding procedures.

[28] The Commission specifically requests comment on whether the competitive bidding requirement of the Rule should be extended to NMS Plans which have been approved as of the effective date of the Rule. In this connection, the Commission anticipates that, if the competitive bidding requirement were made applicable to those plans, the Commission would require the plan processor to be selected by competitive bidding within one year after the effective date of the Rule.

[29] Rule 11Aa3-2(b)(7)(ii)(B). *See* CTA Plan, § IV(e), at 11; ITS Plan, § 6, at 38–39; CQ Plan, § V(d) & (e), at 14–15.

[30] Rule 11Aa3-2(b)(7)(ii)(A).

[31] *See* Senate Commission on Banking, Housing & Urb. Affs., *Report to Accompany S. 249*, S. Rep. No. 94–75, 94th Cong., 1st Sess. 13 (1975), [1975] U.S. Code Cong. & Ad. News at 192. S. 249 contained the provision which was the basis for Section 23(a)(2) of the Act.

[32] *Cf. Bradford Nat'l Clearing Corp.* v. *SEC*, 590 F. 2d 1065 (D.C. Cir. 1978). In *Bradford*, the court upheld the Commission's approval of the application of the National Securities Clearing Corporation ("NSCC") for registration as a clearing agency under the Act, but remanded two issues with respect to that approval for the Commission's further consideration, including the issue of the selection of SIAC as the facilities manager for NSCC without compeititive bidding. The Commission has solicited comment on this issue. *See* Securities Exchange Act Release Nos. 15640 and 15882 (March 14 and May 30, 1979), 44 FR 17838, 33198. The Commission's proposal of the Rule and its general solicitation of comment on the issue of competitive bidding embodied in proposed Rule 11Aa3-2 (b)(6) should not be construed as indicating the Commission's ultimate position on the resolution of this issue.

[33] The term "national market system plan" is defined in paragraph (a)(1) of the Rule to mean any plan with respect to (1) the planning, development, operation or regulation of a national market system (or a subsystem thereof) or one or more facilities thereof or (2) the development and implementation of procedures and/or facilities designed to achieve compliance by self-regulatory organizations, their

Footnotes continued on next page

amendment may be filed with the Commission by submitting the text of the plan or amendment, together with a statement of the purpose of, and the basis under the Act for, the plan or amendment and, to the extent applicable, the documents and information required by paragraphs (b)(3) and (b)(4) of the Rule.[34] Paragraph (b)(3) of the Rule would require that every NMS Plan or amendment filed include copies of all governing or constituent documents relating to any "plan association." [35] In addition, paragraph (b)(3) would require that the NMS Plan or amendment include a detailed description of the manner in which the NMS Plan or amendment, and any facility or procedure contemplated by the NMS Plan or amendment, will be implemented. In this connection, the NMS Plan or amendment is required to include, if applicable: (1) a listing of all significant phases of development and implementation, together with the projected date of completion of each phase; (2) a statement of the method by which any significant contracts for any phase of development and implementation will be let, including any contract to act as exclusive processor with respect to any facility contemplated by the NMS Plan or amendment; (3) an analysis of the impact on competition of implementation of the NMS Plan or amendment or any facility contemplated by the NMS Plan or amendment; and (4) a description of any written agreements or understandings between or among the NMS Plan sponsors or participants relating to interpretations of the NMS Plan or conditions for joining the NMS Plan.

Similarly, paragraph (b)(4) of the Rule would require that the NMS Plan or amendment include a detailed description of the manner in which any facility contemplated by the NMS Plan or amendment will be operated. In this connection, the NMS Plan or amendment is required to include, if applicable: (1) the terms and conditions under which brokers, dealers and/or self-regulatory organizations will be granted or denied access to any facility; (2) the method by which any dues or other charges in connection with access to, or use of, the facility will be determined and imposed; (3) the method by which, and the frequency with which, the performance of any person acting as plan processor will be assessed; and (4) the method by which disputes arising in connection with the operation of the NMS Plan will be resolved.[36]

It should be noted that the requirements contained in paragraphs (b)(3) and (b)(4) of the Rule would not apply to an NMS Plan which has been approved, on a temporary or permanent basis, as of the effective date of the Rule, or to any amendment to such an NMS Plan which is approved by the Commission after the effective date of the Rule, except an amendment which contemplates a new facility or a facility which was not operational as of the effective date of the Rule.[37]

The Rule provides that any person who is a sponsor [38] of an effective NMS Plan [39] may propose an amendment to an NMS Plan which has been approved in accordance with the terms of the NMS Plan.[40] In addition, as discussed above,[41] the Commission may itself initiate an amendment to an effective NMS Plan.[42]

The Rule provides that any proposed NMS Plan or amendment (including any amendment initiated by the Commission) to an effective NMS Plan, together with the terms of substance of the proposed NMS Plan or amendment, or a description of the subjects and issues involved, be noticed for comment [43] and approved by the Commission prior to effectiveness.[44] In this connection, the Commission may approve the NMS Plan or amendment with such changes or subject to such conditions as the Commission may deem necessary or appropriate.[45] However, if the Commission finds that a proposed amendment is (1) necessary or appropriate in the public interest, for the protection of investors or the maintenance of fair and orderly markets, to remove impediments to and perfect mechanisms of, a national market system or otherwise in furtherance of the purposes of the Act, or (2) of a technical or ministerial nature, the Rule would permit the Commission to approve the amendment on a temporary basis not to exceed 120 days, upon publication of notice of such amendment.[46]

The Commission believes that it is appropriate to provide a procedure for Commission review, in its discretion, of any action taken or failure to act by any person in connection with an effective NMS Plan. Paragraph (e) of the Rule therefore provides that any action taken or failure to act by any person in connection with an effective NMS Plan shall be subject to review by the Commission, on its own motion or upon application of any person aggrieved thereby.[47] In any proceeding under paragraph (e), the Commission shall provide for appropriate notice and opportunity for hearing. Upon consideration of any data, views and arguments presented in connection with such hearing and such other evidence as it deems relevant, and having due regard for (i) whether the action or failure to act is in accord with the applicable

---

Footnotes continued from last page members, or nonmember brokers and dealers, with proposed Rule 11Aa2-1 relating to the designation of qualified securities, proposed Rule 11Aa3-1 amending and restating Rule 17a-15, Rule 11Ac1-1 governing the collection and dissemination of quotation information in listed equity securities, and proposed Rule 11Ac1-3 relating to price protection of displayed public limit orders. Thus, the definition of "national market system plan" makes clear that, except as otherwise indicated in the Rule, the Rule applies to all plans filed or which may be filed relating to proposed or adopted rules authorizing or requiring the adoption of an NMS Plan.

[34] Rule 11Aa3-2(b)(1)(i).

[35] The term "plan association" is defined in paragraph (a)(3) of the Rule to mean any person (other than a self-regulatory organization) authorized to implement or administer any NMS Plan on behalf of persons acting jointly with respect to an NMS Plan.

[36] The Rule contains a specific provision for appeals to the Commission in connection with the implementation or operation of an NMS Plan. *See* text accompanying note 47, *infra*.

[37] Rule 11Aa3-2(b)(7)(i).

[38] *See* note 21, *supra*.

[39] The term "effective national market system plan" is defined in paragraph (a)(2) of the Rule to mean any NMS Plan approved by the Commission.

[40] Rule 11Aa3-2(b)(1)(ii).

[41] *See* text accompanying notes 21-23, *supra*.

[42] Rule 11Aa3-2(b)(1)(iii).

[43] In order to provide for maximum flexibility in the administration of the Rule, the Rule does not contain a specified period for comment or Commission action. The Commission, however, requests comment on whether such specified periods should be contained in the Rule.

[44] Rule 11A3-2(c)(1). While it would not be necessary to reobtain Commission approval of effective NMS Plans approved prior to the effective date of the Rule on a temporary basis, it would be necessary to obtain permanent Commission approval of those NMS Plans. However, as indicated above (*See* text accompanying notes 28-30, and 37, *supra*), the requirements of paragraphs (b)(3), (4) and (6) of the Rule would not, with certain exceptions, be applicable in connection with obtaining permanent Commission approval of those NMS Plans.

[45] Rule 11Aa3-2(c)(2). The Commission intends to publish notice of any material changes for public comment prior to Commission approval.

[46] Rule 11Aa3-2(c)(3). *Cf.* Section 19(b)(3) of the Act.

[47] The Commission believes that the effect of any action taken or failure to act by a person in connection with the operation of an NMS Plan may be similar to a prohibition or limitation by a self-regulatory organization with respect to access to services offered by a self-regulatory organization or any member thereof. As a consequence, the provisions of paragraph (e) are similar to the provisions of Sections 19(d) and (f) of the Act, which were added by the 1975 Amendments. However, in view of the specific statutory procedures applicable in the event of a prohibition or limitation of access by a registered securities information processor (Section 11A(b)(5) of the Act) or a self-regulatory organization (Section 19(d) of the Act), the procedure excludes from its ambit the prohibition or denial of access reviewable by the Commission pursuant to Sections 11A(b)(5) or 19(d) of the Act. Thus, for example, paragraph (e) would apply in the event of an appeal by a participant in the ITS Plan from action taken by the other ITS participants.

provisions of the NMS Plan, (ii) whether such provisions are, and were, applied in a manner consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets and the removal of impediments to, and perfection of the mechanisms of, a national market system, and (iii) whether such action or failure to act imposes any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, the Commission shall, by order, either (A) dismiss the proceeding or (B) set aside such action and require such action in connection with the matter reviewed as the Commission deems appropriate in accordance with the public interest and the protection of investors, the maintenance of fair and orderly markets, and the removal of impediments to, and perfection of the mechanisms of, a national market system.

Finally, in addition to the requirement with respect to competitive bidding,[48] the Rule contains two other requirements. First, the Rule provides that every NMS Plan required to be filed pursuant to a Commission rule is required to comply with all other provisions of that Commission rule.[49] Second, the Rule provides that every self-regulatory organization and nonmember broker or dealer[50] shall comply with the terms of any NMS Plan of which it is a sponsor or a participant.[51] Each self-regulatory organization shall also, absent reasonable justification or excuse, enforce compliance with any such MSN Plan by its members and persons associated with its members.[52]

III. Text of Proposed Rule

The Securities and Exchange Commission hereby proposes to adopt Rule 11Aa3–2 under the Act [17 CFR § 240.11Aa3–2] pursuant to its authority under the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq., as amended by Pub. L. No. 94–29 (June 4, 1975)] and particularly Sections 2, 3, 6, 9, 10, 11A, 15, 15A, 17 and 23 thereof (15 U.S.C. 78b, 78c, 78f, 78i, 78j, 78k–1, 78*o*, 78*o*–3, 78g, and 78–w).

§ 240.11Aa3–2 Filing and amendment of national market system plans.

(a) *Definitions.* For purposes of this section, (1) The term "national market system plan" shall mean any plan in connection with (i) The planning, development, operation or regulation of a national market system (or a subsystem thereof) or one or more facilities thereof, or (ii) The development and implementation of procedures and/or facilities designed to achieve compliance by selfregulatory organizations, their members, or nonmember brokers and dealers with §§ 240.11Aa2–1, 11Aa3–1, 11Ac1–1, or 11Ac1–3 (Rules 11Aa2–1, 11Aa3–1, 11Ac1–1, or 11Ac1–3 under the Act), meeting the requirements of this section.

(2) The term "effective national market system plan" shall mean any national market system plan approved by the Commission (either temporarily or on a permanent basis) pursuant to this section.

(3) The term "plan association" shall mean any person other than a self-regulatory organization authorized to implement or administer any national market system plan on behalf of persons acting jointly under paragraph (d) of this section.

(4) The term "self-regulatory organization" shall mean any national securities exchange ("exchange") or national securities association ("association").

(5) The term "plan processor" shall mean any self-regulatory organization or securities information processor acting as a sole processor in connection with the development, implementation and/or operation of any facility contemplated by an effective national market system plan.

(6) The terms "vendor" and "reported security" shall have the meaning provided in § 240.11Aa3–1 (Rule 11Aa3–1 under the Act).

(7) The term "nonmember broker or dealer" shall mean any broker or dealer which is not a member of an exchange or association.

(8) The term "sponsor," when used in connection with a national market plan, shall mean any self-regulatory organization or nonmember broker or dealer which is a signatory to such plan and has agreed to act in accordance with the terms of the plan.

(9) The term "participant," when used in connection with a national market system plan, shall mean any self-regulatory organization or nonmember broker or dealer which has agreed to act in accordance with the terms of the plan but which is not a signatory of such plan.

(b) *Filing of national market system plans and amendments thereto.* (1)(i) A national market system plan may be filed with the Commission by submitting the text of the plan with the Secretary of the Commission, together with a statement of the purpose of, and the basis under the Act for, such plan and, in addition, to the extent applicable, the documents and information required by subparagraphs (b)(3) and (b)(4) of this section.

(ii) Any sponsor or sponsors of an effective national market system plan may propose an amendment to such plan ("proposed amendment"), in accordance with the terms of such plan, by filing the text of such amendment with the Secretary of the Commission, together with a statement of the purpose of, and the basis under the Act for, such amendment and, to the extent applicable, the documents and information required by paragraphs (b)(3) and (b)(4) of this section.

(iii) The Commission may propose amendments to any effective national market system plan by publishing the text thereof, together with a statement of the purpose of such amendment, in accordance with the provisions of paragraph (c) of this section.

(2) Self-regulatory organizations and nonmember brokers and dealers are authorized to act jointly in filing a national market system plan or any amendment thereto,or implementing or administering an effective national market system plan.

(3) Subject to the provisions of paragraph (b)(7) of this section, every national market system plan filed pursuant to this section, or any amendment thereto, shall include copies of all governing or constituent documents relating to any plan association and shall include, to the extent applicable,

(i) A detailed description of the manner in which the plan or amendment, and any facility or procedure contemplated by the plan or amendment, will be implemented;

(ii) A listing of all significant phases of development and implementation (including any pilot phase contemplated by the plan or amendment), together with the projected date of completion of each phase;

(iii) A statement of the method by which any significant contracts for any phase of development and implementation will be let, including any contract to act as plan processor in connection with any facility

[48] *See* text accompanying notes 24–32, *supra*.

[49] Rule 11Aa3–2(b)(5). Currently, this provision would apply to plans filed pursuant to Rule 17a–15 under the Act and the plan which would be required to be filed in the event of the adoption of Rule 11Aa2–1 under the Act.

[50] The term "nonmember broker or dealer" is defined in paragraph (a)(7) of the Rule to mean any broker or dealer which is not a member of an exchange or association.

[51] The term "participant," when used in connection with an NMS Plan, is defined in paragraph (a)(9) of the Rule to mean any self-regulatory organization or nonmember broker or dealer which has agreed to act in accordance with the terms of the plan but which is not a signatory of such plan.

[52] Rule 11Aa3–2(d). *See* Sections 6(b)(1), 15A(b)(2) and 19(g)(1) of the Act.

contemplated by the plan or amendment;

(iv) An analysis of the impact on competition of implementation of the plan or amendment or any facility contemplated by the plan or amendment;

(v) A description of any written understandings or agreements between or among plan sponsors or participants relating to interpretations of the plan or conditions for joining the plan; and

(vi) In the case of a proposed amendment, a statement that such amendment has been approved by the sponsors and/or participants in accordance with the terms of the plan.

(4) Subject to the provisions of paragraph (b)(7) of this section, every national market system plan or any amendment thereto shall include a description of the manner in which any facility contemplated by the plan or amendment will be operated. Such description shall include, to the extent applicable, (i) The terms and conditions under which brokers, dealers, and/or self-regulatory organizations will be granted or denied access (including specific procedures and standards governing the granting or denial of access); (ii) The method by which any fees or charges in connection with access to, or use of, any facility contemplated by the plan will be determined and imposed (including any provision for distribution of any net proceeds from such fees or charges to the sponsors and/or participants) and the amount of such fees or charges; (iii) The method by which, and the frequency with which, the performance of any person acting as plan processor with respect to the operation of the plan will be evaluated; and (iv) The method by which disputes arising in connection with the operation of the plan will be resolved.

(5) Any national market system plan required to be filed with the Commission pursuant to another section of this subpart (or any amendment thereto) shall, in addition to compliance with this section, also comply with the requirements of such other section.

(6) Subject to the provisions of paragraph (b)(7) of this section, selection of any person to (i) supply hardware or software in connection with the development or operation of any facility contemplated by a national market system plan, or any amendment thereto, or (ii) act as plan processor in connection with the operation of any such facility, shall be conducted through competitive bidding in accordance with procedures described in the plan; *Provided, however,* That competitive bidding shall not be required in connection with the development of technical specifications for any such facility; and, *Provided, further,* That this paragraph shall not require selection of the lowest bidder if the plan specifies other reasonable criteria which may be considered in making the selection and the sponsors submit to the Commission a statement setting forth the basis for the selection of a person other than the lowest bidder.

(7) The provisions of paragraphs (b)(3), (b)(4) and (b)(6) of this section shall not apply to any national market system plan (or amendment thereto) filed with and approved by the Commission (either temporarily or on a permanent basis) before the effective date of this section ("pre-effective date plan"), or to amendments to any such plan filed with and approved by the Commission (either temporarily or on a permanent basis) on or after the effective date of this section, except as follows:

(i) Paragraphs (b)(3) and (b)(4) of this section shall apply to any proposed amendment to a pre-effective date plan which contemplates the development, implementation or operation of a national market subsystem or facility which was not contemplated by such plan as approved by the Commission or was not operational on the effective date of this section (a "new facility amendment");

(ii) Paragraph (b)(6) of this section shall apply to any selection made

(A) In connection with a new facility amendment to a pre-effective date plan, or

(B) To replace a plan processor.

(c) *Effectiveness of national market system plans.*

(1) The Commission shall publish notice of the filing of any national market system plan, or any proposed amendment to any national market system plan (including any amendment initiated by the Commission), together with the terms of substance in the filing or a description of the subjects and issues involved, and shall provide interested persons an opportunity to submit written comments.

(2) Except as provide in paragraph (c)(3) of this section, no national market system plan, or any amendment thereto, shall become effective unless the Commission, having due regard for the purposes of the Act, including the public interest, the protection of investors, the maintenance of fair and order markets, and the need to remove impediments to, and perfect the mechanisms of, a national market system, shall, after appropriate notice and opportunity for comment, approve such plan or amendment, with such changes or subject to such conditions as the Commission may deem necessary or appropriate. Approval of a national market system plan, or an amendment to an effective national market system plan (other than an amendment initiated by the Commission), shall be by order. Approval of an amendment to an effective national market system plan initiated by the Commission shall be by rule.

(3) Notwithstanding the provisions of paragraph (c)(2) of this section, a proposed amendment may be put into effect upon publication of notice of such amendment, on a temporary basis not to exceed 120 days, if the Commission finds that (i) such action is necessary or appropriate in the public interest, for the protection of investors or the maintenance of fair and orderly markets, to remove impediments to, and perfect mechanisms of, a national market system or otherwise in furtherance of the purposed of the Act, or (ii) the proposed amendment involves only technical or ministerial matters.

(4) Any plan in connection with (i) The planning, development, operation or regulation of a national market system (or a subsystem thereof) or one or more facilities thereof, or (ii) The development and implementation of procedures and/or facilities designed to achieve compliance by self-regulatory organizations and/or their members with §§ 240.11Aa2-1, 11Aa2-1, 11Aa3-1, 11Ac1-1, or 11Ac1-3.

(Rules 11Aa2-1, 11Aa3-1, 11Ac1-1 or 11Ac1-3 under the Act), (or any amendment to any such plan) approved by the Commission under section 11A of the Act or any rule or regulation thereunder prior to the effective date of this section (either temporarily or on a permanent basis) shall be deemed to have been filed and approved pursuant to this section; *Provided, however,* That all terms and conditions associated with any such approval (including time limitations) shall continue to be applicable; and, *Provided, further,* That, subject to the provisions of paragraph (b)(7) of this section, any amendment to any such plan filed with or approved by the Commission on and after the effective date of this section shall be subject to the provisions of, and considered in accordance with the procedures specified in, this section.

(d) *Compliance with terms of national market system plans.* Each self-regulatory organization and nonmember broker or dealer shall comply with the terms of any effective national market system plan of which it is a sponsor or a participant. Each self-regulatory organization shall also, absent reasonable justification or excuse,

enforce compliance with any such plan by its members and persons associated with its members.

(e) *Appeals.* The Commission may, in its discretion, entertain appeals in connection with the implementation or operation of any effective national market system plan as follows:

(1) Any action taken or failure to act by any person in connection with an effective national market system plan (other than a prohibition or limitation of access reviewable by the Commission pursuant to section 11A(b)(5) or section 19(d) of the Act) shall be subject to review by the Commission, on its own motion or upon application by any person aggrieved thereby (including but not limited to self-regulatory organizations, brokers, dealers, issuers and vendors), filed not later than 30 days after notice of such action or failure to act or within such longer period as the Commission may determine.

(2) Application to the Commission for review pursuant to this section, or the institution of review by the Commission on its own motion, shall not operate as a stay of any such action unless the Commission determines otherwise, after notice and opportunity for hearing on the question of a stay (which hearing may consist only of affidavits or oral arguments).

(3) In any proceeding for review pursuant to this section, the Commission shall provide for appropriate notice and opportunity for hearing (which hearing may consist solely of the record of any other proceedings conducted in connection with such action or failure to act and an opportunity for the presentation of written data, views and arguments supporting or opposing such action or failure to act). Upon consideration of any data, views and arguments presented in connection with such hearing and such other evidence as it deems relevant, and having due regard for (i) whether the action or failure to act is in accord with the applicable provisions of such plan, (ii) whether such provisions are, and were, applied in a manner consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets and the removal of impediments to, and perfection of the mechanisms of, a national market system, and (iii) whether such action or failure to act imposes any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, the Commission shall, by order, either (A) dismiss the proceeding or (B) set aside such action and/or require such action in connection with the matter reviewed as the Commission deems appropriate in accordance with the public interest and the protection of investors, the maintenance of fair and orderly markets, and the removal of impediments to, and perfection of the mechanisms of, a national market system.

(f) *Exemptions.* The Commission may exempt from the provisions of this section, either unconditionally or on specified terms and conditions, any self-regulatory organization, member thereof, nonmember broker or dealer, or specified security if the Commission determines that such exemption is consistent with the public interest, the protection of investors and the removal of impediments to, and perfection of the mechanisms of, a national market system.

IV. Effects on Competition and Request for Public Comment

As discussed above, Section 23(a)(2) of the Act requires the Commission, in making rules under the Act, to consider the anticompetitive effects of such regulation and to balance any anticompetitive impacts against the regulatory benefits gained in terms of furthering the purposes of the Act. As indicated,[53] the Commission preliminarily believes that paragraph (b)(6) of the Rule may be necessary in order to meet the Commission's responsibilities under the Act with respect to furthering competition. In addition, the Commission does not perceive any anticompetitive effects as a result of the adoption of the Rule.

Interested persons are invited to submit written presentations of views, data and arguments concerning proposed rule 11Aa3-2 under the Act and the issues discussed above. Persons wishing to make such submissions should file ten copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Room 892, 500 North Capitol Street, Washington, D.C. 20549, not later than February 11, 1980. All submissions should refer to File No. S7-814, and will be available for public inspection at the Commission's Public Reference Room, Room 6106, 1100 L Street N.W., Washington, D.C. 20549.

By the Commission.

George A. Fitzsimmons,

Secretary.

December 7, 1979.

[FR Doc. 79-38420 Filed 12-13-79; 8:45 am]

BILLING CODE 8010-01-M

[53] *See* text accompanying notes 24-32, *supra.*

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 131

[Docket No. 78N-0352]

Edible Acid Casein; Termination of Consideration of Codex Standard

AGENCY: Food and Drug Administration.

ACTION: Notice of Termination of Consideration.

SUMMARY: This notice terminates the review by the United States of the Codex Alimentarius Commission (Codex) "Recommended International Standard for Edible Acid Casein." The response to the Food and Drug Administration's (FDA's) request for comments on the provisions of the Codex standard and on the desirability of establishing a U.S. standard for edible acid casein indicates there is neither sufficient interest nor need to warrant proposing a U.S. standard for this food. Therefore, FDA has terminated consideration of developing a U.S. standard for edible acid casein based on the Codex standard.

EFFECTIVE DATE: December 14, 1979.

FOR FURTHER INFORMATION CONTACT: Eugene T. McGarrahan, Bureau of Foods (HFF-215), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202-245-1155.

SUPPLEMENTARY INFORMATION: In the Federal Register of February 23, 1979 (44 FR 10718), FDA published an advance notice of proposed rulemaking that offered interested persons an opportunity to review the Codex "Recommended International Standard for Edible Acid Casein" and to comment on the desirability and need for a U.S. standard for this food. The Codex standard was submitted to the United States for consideration for acceptance by the Joint Food and Agriculture Organization/World Health Organization Codex Alimentarius Commission.

Eight letters were received in response to the advance notice of proposed rulemaking. Six opposed a U.S. standard. One comment favored a standard and suggested changes, and one comment offered informantion to be used if a U.S. standard is developed. In general, the comments opposing a U.S. standard stated that there was no need for a U.S. standard for edible acid casein because it is not produced in this country. The comment in favor of a standard offered no support for its position.

Having considered the comments received, FDA has concluded that there is neither sufficient interest nor need to warrant proposing a U.S. standard at this time for edible acid casein under the authority of 21 U.S.C. 341.

Therefore, under the procedures in 21 CFR 130.6, notice is given that the Commissioner has terminated consideration of developing a U.S. standard for edible acid casein based on the Codex standard. This action is without prejudice to future consideration of the development of a U.S. standard for edible acid casein upon appropriate justification.

The Codex Alimentarius Commission will be informed that an imported food that complies with the requirements of the Codex standard for edible acid casein may move freely in interstate commerce in this country, providing it complies with applicable U.S. laws and regulations.

Dated: December 6, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-38203 Filed 12-13-79; 8:45 am]

BILLING CODE 4110-03-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1376-1]

Approval and Promulgation of Implementation Plans; Guam Implementation Plan Revision

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: Revisions to the Guam Air Pollution Control Standards and Regulations have been submitted to the Environmental Protection Agency (EPA) by the Governor's designee for the purpose of revising the Guam Implementation Plan. The intended effect of these revisions is to update the rules and regulations and to correct deficiencies in the implementation plan. The EPA invites public comments on these rules, especially as to their consistency wih the Clean Air Act.

DATES: Comments may be submitted on or before January 14, 1980.

ADDRESSES: Comments may be sent to: Regional Administrator Attn: Air & Hazardous Materials Division, Air Technical Branch, Regulatory Section (A-4), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco CA 94105.

Copies of the proposed revisions are available for public inspection during normal business hours at the EPA Region IX office at the above address and at the following locations: Guam Environmental Protection Agency, P.O. Box 2999, Agana, Guam 96910. Public Information Reference Unit, Room 2040 (EPA Library), 401 "M" Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, Regulatory Section, Air Technical Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Region IX, (415) 556-2938.

SUPPLEMENTARY INFORMATION: The Governor's designee submitted revisions to the Guam Air Pollution Control Standards and Regulations on October 12, 1979. This notice only concerns Chapter 13 of those regulations. Action will be taken in a separate Federal Register notice for the remaining revisions.

Chapter 13, Control of Sulfur Dioxide Emission, consists of Rules 13.1, 13.2, 13.3, and 13.4. This Chapter provides emission limits for sulfur dioxide emissions from such sources as fuels, flue gases, and fossil-fuel fired steam generators.

EPA is proposing to approve Rules 13.3 and 13.4 and incorporate them into the implementation plan. Rule 13.3 is similar to the previously approved rule except that it has been renumbered. Rule 13.4 is a new rule which provides more stringent emission limits for sulfur dioxide. In addition, EPA is proposing to approve the deletion of the previously approved Rule 13.3 since the deletion will not interfere with the attainment and maintenance of the National Ambient Air Quality Standards.

No action is proposed to be taken on Rules 13.1 and 13.2. Action will be taken in a separate Federal Register notice.

Under Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations submitted as revisions to the implementation plan. The Regional Administrator hereby issues this notice setting forth these revisions, including rule deletions caused thereby, as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Comments received on or before 30 days after publication of this notice will be considered. Comments received will be available for public inspection at the EPA Region IX Office and the EPA Public Information Reference Unit.

The Administrator's decision to approve or disapprove the proposed revisions will be based on the comments received and on a determination whether the amendments meet the requirements of section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

Secs. 110 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7410 and 7601(a))

Dated: December 3, 1979.

Paul De Falco,

Regional Administrator.

[FR Doc. 79-38342 Filed 12-13-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 52

[FRL 1375-8]

Implementation Plan Revisions for Nonattainment Areas in the State of California; Receipt/Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Receipt and Availability.

SUMMARY: The purpose of this notice is to announce receipt of revisions to the California State Implementation Plan (SIP) and to invite public comment. The Nonattainment Area Plans for San Luis Obispo, Santa Barbara, and Ventura Counties, which comprise the South Central Coast Air Basin, have been submitted to EPA by the California Air Resources Board in accordance with the requirements of Part D of the Clean Air Act, as amended in 1977, "Plan Requirements for Nonattainment Areas," and are available for public inspection at the addresses below. Notices of proposed rulemaking discussing the revisions will be published in the Federal Register at a later date. The period for submittal of public comments will end not less than 60 days from this date and not less than 30 days from the published dates of EPA's notices of proposed rulemaking.

ADDRESSES: Copies of the SIP revisions are available for inspection during normal business hours at the following locations:

Air and Hazardous Materials Division (A-4-2), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.

Public Information Reference Unit, Environmental Protection Agency, 401 "M" Street, S.W., Room 2404, Washington, D.C. 20460.

California Air Resources Board, 1102 "Q" Street, Sacramento, CA 95814.

In addition, copies of the applicable SIP revision are available for public

inspection during normal business hours at each of the following locations:

San Luis Obispo County Air Pollution Control District, P.O. Box 637, San Luis Obispo, CA 93406.

Santa Barbara County Air Pollution Control District, 4440 Calle Real, Santa Barbara, CA 93110.

Ventura County Air Pollution Control District, 800 South Victoria Avenue, Ventura, CA 93009.

Comments should be addressed to: Douglas Grano, Chief, Regulatory Section, Air Technical Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Douglas Grano (415) 556-2938.

SUPPLEMENTARY INFORMATION: New provisions of the Clean Air Act, enacted in August 1977, Public Law No. 95-95, require states to revise their SIP's for all areas that do not attain the National Ambient Air Quality Standards (NAAQS). The amendments required each state to submit to the Administrator a list of the NAAQS attainment status for all areas within the state. The Administrator promulgated these lists, with certain modifications, on March 3, 1978 (43 FR 8962) and March 19, 1979 (44 FR 16388). State and local governments were required by January 1, 1979 to develop, adopt, and submit to EPA revisions to their SIP's which provide for attainment of the NAAQS as expeditiously as practicable.

Santa Barbara County is designated nonattainment for ozone, carbon monoxide (CO), and total suspended particulate matter (TSP). Ventura and San Luis Obispo Counties are designated nonattainment for ozone and TSP.

The Governor's designee submitted to EPA the nonattainment area plans for the South Central Coast Air Basin on October 18, 1979.

EPA is reviewing the revisions for conformance with the requirements of Part D of the Clean Air Act, as amended. Following EPA's review of the revisions, notices of proposed rulemaking will be published in the Federal Register and will provide descriptions of the proposed SIP revisions, summarize the Part D requirements, identify the major issues in the proposed revisions, and suggest corrections. An additional 30 days will be provided for public comments at that time.

The intent of this notice is to notify the public that the revisions have been formally submitted to EPA for approval, that they are available for public inspection, and that interested persons are encouraged to submit written comments.

Authority: Sections 110, 129, 171 to 178 and 301(a) of the Clean Air Act, as amended (42 U.S.C. §§ 7410, 7429, 7501 to 7508, and 7601(a)).

Dated: December 6, 1979.

Sheila M. Prindiville,

Acting Regional Administrator.

[FR Doc. 79-38414 Filed 12-13-79; 8:45 am]

BILLING CODE 6560-01-M

---

40 CFR Part 52

[FRL 1375-7]

Approval and Promulgation of State Implementation Plans; Proposed Rulemaking on Approval of Washington State Implementation Plans; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of comment period.

SUMMARY: The purpose of this notice is to extend the public comment period for the proposal to approve the Washington State Implementation Plan (SIP), published November 9, 1979 (44 FR 65084).

DATE: Comments are due by January 14, 1980.

ADDRESS: The Washington SIP may be examined during normal business hours at the following locations:

Public Information Reference Unit, Environmental Protection Agency, 401 M Street, S.W., Room 2922, Washington, D.C. 20460.

Environmental Protection Agency, Region 10, Library, 1200 Sixth Avenue, Seattle, Washington 98101.

Washington State, Department of Ecology, St. Martin's College, Lacey, Washington 98504.

COMMENTS SHOULD BE ADDRESSED TO: Laurie M. Kral, Air Programs Branch, Environmental Protection Agency, Region 10, 1200 Sixth Avenue M/S 629, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Richard F. White, Coordination and Planning Section, Environmental Protection Agency, Region 10, 1200 Sixth Avenue M/S 625, Seattle, Washington 98101, Telephone: (206) 442-1226, FTS: 399-1226.

SUPPLEMENTARY INFORMATION: As required by the Clean Air Act Amendments of 1977, EPA published a notice on November 9, 1979 (44 FR 65084) soliciting public comments on the proposed Washington State Implementation Plan (SIP). This notice presented the results of EPA's review of the plans (commonly called non-attainment plans) developed by the State of Washington to comply with the requirements of Part D of the Act to ensure the attainment and maintenance of the national ambient air quality standards.

Public comments on the proposed SIP were invited for a period of thirty (30) days. However, Region 10 has received requests to extend the comment period. Therefore, EPA is hereby extending the comment period an additional thirty (30) days to January 14, 1980. Comments on the proposed SIP should be addressed to Laurie M. Kral at the address listed above. Comments received will be evaluated and final rulemaking published in the Federal Register.

(Section 110(a) and 172 of the Clean Air Act (42 U.S.C. 7410(a) and 7502))

Dated: December 4, 1979.

Donald P. DuBois,

Regional Administrator.

[FR Doc. 79-38415 Filed 12-13-79; 8:45 am]

BILLING CODE 6560-01-M

---

40 CFR Part 230

[FRL 1375-5]

Guidelines for Specification of Disposal Sites for Dredged or Fill Material; Extension of Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; extension of Public Comment Period.

SUMMARY: In the Federal Register of September 18, 1979 [44 FR 54222], EPA proposed guidelines for the specification of disposal sites for dredged or fill material under Section 404(b)(1) of the Clean Water Act. EPA asked that written public comments be submitted by November 19, 1979. In the Federal Register of November 5, 1979 [44 FR 63552] EPA announced extension of the deadline to December 19, 1979. EPA has determined that additional time should be allowed, and a further 2 week extension is hereby granted.

DATE: The deadline for submitting written public comments is hereby extended to January 2, 1980.

FOR FURTHER INFORMATION CONTACT: David G. Davis, Chief, 404 Section (WH-585), Office of Water and Waste Management, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C., 20460, 202-472-3400.

Dated: December 8, 1979.

Swept T. Davis,

Acting Assistant Administrator for Water and Waste Management.

[FR Doc. 79-38416 Filed 12-13-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL MARITIME COMMISSION

46 CFR Part 508

[Docket No. 78-33]

Actions To Adjust or Meet Conditions Unfavorable To Shipping in the United States/Ecuador Trade

AGENCY: Federal Maritime Commission.

ACTION: Discontinuance of Proposed Rule.

SUMMARY: The proposed rule in this proceeding was designed to counteract apparent unfavorable conditions to shiping in the U.S./Ecuador trade. An Ecuadorian Government decree appeared to preclude a Norwegian registered vessel (M.V. Lionheart) from competing on the same basis as other vessels. Temporary relief was afforded through U.S. Coast Guard waivers giving the vessel American registery status. These waivers are likely to continue until a replacement vessel is available and therefore no immediate need exists for continuing this proceeding.

DATES: Effective December 14, 1979.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, Room 11101, 1100 L Street, NW., Washington, D.C. 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: This proceeding was instituted by notice of proposed rule published September 28, 1978 (43 FR 44554). The proposed rule could have suspended tariffs of Transportes Navieros Ecuatrianos in the trade between the U.S. and Ecuador. The proposal was designed to counteract apparent unfavorable conditons to shipping created by the Ecuadorian Government in implementing its Decree 7/78 in such a way as to preclude a Norwegian registered vessel in that trade (the M/V Lionheart) from competing on the same basis as other vessels. Ecuadorian law appeared to favor carriage by Ecuadorian and U.S. flag vessesl in this trade. Issuance of a final rule was deferred when the U.S. Coast Guard granted a temporary waiver of survey, inspection and measurement requirements for the vessel in question in order to admit the vessel to American registry, thereby qualifying it for more favorable treatment under Decree 7/78.

The U.S. Coast Guard on October 22, 1979 has extended the waiver for the M/V Lionheart through September 30, 1980 or until a replacement vessel is placed in operation, whichever occurs first. The Coast Guard also indicated that a replacement barge may be available as soon as March 1, 1980. Another new vessel (Ro-Ro) to be built in West Germany, has been contracted for delivery scheduled for September 1, 1980.

The proposed rule was designed simply to afford the M/V Lionheart relief from Decree 7/78 in regard to its U.S./Ecuador operations. Coast Guard waivers have provided effective relief. It appears likely that such waivers will continue until such time as a U.S. registered permanent replacement vessel is available. If it turns out that this does not occur, the Commission could reissue a proposed rule for further comment. No purpose is served by continuing this proceeding and it is hereby ordered to be discontinued.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 79-38503 Filed 12-13-79; 8:45 am]

BILLING CODE 6730-01-M

Notices

Federal Register
Vol. 44, No. 242
Friday, December 14, 1979

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.

CIVIL AERONAUTICS BOARD

[Dockets 33363, 36152, and 36153]

Former Large Irregular Air Service Investigation (Applications of Professional Travel, Inc., d.b.a. Aerostar); Reassignment of Proceeding

This proceeding, insofar as it involves the applicaitons of Professional Travel, Inc. d.b.a. Aerostar, Dockets 36152 and 36153, has been reassigned to Judge Elias C. Rodriguez.

Dated at Washington, D.C., December 10, 1979.

Joseph J. Saunders,
Chief Administrative Law Judge.

[FR Doc. 79-38339 Filed 12-13-79; 8:45 am]
BILLING CODE 6320-01-M

[Dockets 33363, 35493, and 35494]

Former Large Irregular Air Service Investigation (Applications of Tourlite International, Inc.) Reassignment of Proceeding

This proceeding, insofar as it involves the applications of Tourlite International, Inc., Dockets 35493 and 35494, has been reassigned to Judge William H. Dapper.

Dated at Washington, D.C., December 7, 1979.

Joseph J. Saunders,
Chief Administrative Law Judge,

[FR Doc. 79-38340 Filed 12-13-79; 8:45 am]
BILLING CODE 6320-01-M

[Dockets 33363, 32548, and 32549]

Former Large Irregular Air Service Investigation (Applications of International, Travel Arrangers, Inc.) Reassignment of Proceeding

This proceeding, insofar as it involves the applications of International Travel Arrangers, Inc., Dockets 32548 and 32549, has been reassigned to Judge Elias C. Rodriguez.

Dated at Washington, D.C., December 7, 1979.

Joseph J. Saunders,
Chief Administrative Law Judge,

[FR Doc. 79-38341 Filed 12-13-79; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Annual Wholesale Trade; Determination

In conformity with title 13, United States Code, Sections 182, 224, and 225 and due Notice of Consideration having been published November 13, 1979 (44 FR 65426), I have determined that data covering year-end inventories and annual sales are needed to aid the efficient performance of essential Government functions, that the data have significant application to the needs of the public, the distributive trades and governmental agencies, and that the data are not publicly available from nongovernmental or other governmental sources.

All respondents will be required to submit information covering their December 31, 1979, inventories and annual sales. Reports will be required only from a selected sample of merchant wholesale firms operating in the United States, with probability of selection based on sample size. The sample will provide, with measurable reliability, statistics on the subjects specified above.

Report forms will be furnished to firms covered by the survey. Copies of the forms are available on request to the Director, Bureau of the Census, Washington, D.C. 20233.

I have, therefore, directed that this annual survey be conducted for the purpose of collecting these data.

Dated: December 10, 1979.

Vincent P. Barabba,
Director, Bureau of the Census.

[FR Doc. 79-38324 Filed 12-13-79; 8:45 am]
BILLING CODE 3510-07-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Levels for Certain Man-Made Fiber Apparel Products From Thailand

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Charging carryforward used in Categories 641 and 645/646 (man-made fiber woven blouses and sweaters), produced or manufacturing in Thailand and exported during the agreement year which began on January 1, 1978; and applying carryforward to the levels established for both categories during the year which began on January 1, 1979.

SUMMARY: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 4, 1978, as amended, between the Governments of the United States and Thailand provides, among other things, for the borrowing of designated percentages of yardage from the succeeding year's levels (Carryfoward) and for deducting those amounts, to the extent that they are used, during the succeeding year. Reducing the levels for Categories 641 and 645/646 by the amounts of carryforward used in 1978 and increasing them by the amounts of carryforward available during 1979 results in a net increase in both levels to 130, 167 dozen for Category 641 and 60,790 dozen for Category 645/646/

EFFECTIVE DATE: December 10, 1979.

FOR FURTHER INFORMATION CONTACT: LaWonne Cunningham, Statistical Assistant, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

SUPPLEMENTARY INFORMATION: On January 3, and July 3, 1979 there were published in the Federal Register (44 FR 932 and 38954) letters dated December 27, 1978 and June 28, 1979 which established levels of restraint for certain specified categories of cotton, wool and man-made fiber textile products, including Categories 641 and 645/646, produced or manufactured in Thailand and exported during the twelve-month period which began on January 1, 1979. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, in accordance with the terms of the bilateral agreement, to increase the levels of restraint established for

Categories 641 and 645/646 to 130,167 dozen and 60,790, respectively.

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

December 10, 1979

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 27, 1978 from the Chairman, Committee for the Implementation of Textile Agreements concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Thailand.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 4, 1978, as amended, between the Governments of the United States and Thailand; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on December 10, 1979 and for the twelve-month period beginning on January 1, 1979 and extending through December 31, 1979, entry into the United States for consumption of man-made fiber textile products in Categories 641 and 645/646, produced or manufactured in Thailand, in excess of the following levels of restraint:

Category	Amended 12-mo level of restraint[1]
641	130,167 dozen.
645/646	60,790 dozen.

[1]The levels of restraint have not been adjusted to account any imports after December 31, 1978.

The actions taken with respect to the Government of Thailand and with respect to imports of man-made fiber textile products from Thailand have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-38327 Filed 12-13-79; 8:45 am]

BILLING CODE 3510-25-M

Announcing Import Restraint Levels for Certain Cotton, Wool and Man-Made Fiber Textile Products From Malaysia Effective January 1, 1980

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import restraint levels for certain cotton, wool and man-made fiber textile products imported from Malaysia, effective on January 1, 1980

SUMMARY: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 17 and June 8, 1978, as amended, between the Governments of the United States and Malaysia, establishes levels of restraint for certain cotton, wool and man-made fiber textile products in Categories 317, 320, 331, 339, 340, 347, 348, 445, 446, 604, 613 and 638/639, produced or manufactured in Malyasia and exported to the United States during the twelve-month period beginning on January 1, 1980. Accordingly, there is published below a letter from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directing that entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton, wool and man-made fiber textile products in the foregoing categories be limited to the designated twelve-month levels of restraint.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843)).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT: Shirley Hargrove, Trade and Industry Assistant, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

December 11, 1979

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 17 and June 8, 1978, as amended, between the Governments of the United States and Malaysia; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1980 and for the twelve-month period extending through December 31, 1980, entry into the United States for consumption, and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products, exported from Malaysia in the following categories in excess of the indicated twelve-month levels of restraint:

Category	12-month level of restraint
317	3,000,000 square yards.
320	6,500,000 square yards.
331	457,190 dozen pair.
339	128,889 dozen.
340	243,158 dozen.
347	89,209 dozen.
348	53,833 dozen.
445	10,081 dozen.
446	14,113 dozen.
604	365,854 lbs.
613	2,000,000 square yards.
638/639	141,311 dozen of which not more than 75,884 dozen shall be in Category 639.

In carrying out this directive, entries of cotton, wool and man-made fiber textile products in the foregoing categories, produced or manufactured in Malaysia, which have been exported to the United States prior to January 1, 1980, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the twelve-month period beginning on January 1, 1979 and extending through December 31, 1979. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement of May 17 and June 8, 1978, as amended, between the Governments of the United States and Malaysia which provide, in part, that: (1) within the aggregate and group limits, specific levels of restraint, including their sublimits, may be exceeded by designated percentages; (2) specific levels may be increased for carryover and carryforward up to 11 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement, referred to above, will be made to you by letter.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Malaysia and with respect to imports of cotton, wool and man-made fiber textile products from Malaysia have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States.

Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-38328 Filed 12-13-79; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1980; Proposed Additions

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

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1980 a commodity to be produced by and a service to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: January 16, 1980.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

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

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodity and service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity and service to Procurement List 1980, November 27, 1979 (44 FR 67925):

Class 7510.—Binder Award Certificate; 7510-00-115-3250 (Increase from 60% to 100% of Government requirements)

SIC 7331.—Mailing Service, U.S. Geological Survey—Topographical Division, Reston, Virginia

E. R. Alley, Jr.,

Acting Executive Director.

[FR Doc. 79-38301 Filed 12-13-79; 8:45 am]

BILLING CODE 6820-33-M

CONSUMER PRODUCT SAFETY COMMISSION

R & K Carpets, Inc., Provisional Acceptance of Consent Agreement

AGENCY: Consumer Product Safety Commission.

ACTION: Provisional Acceptance of Consent Agreement.

SUMMARY: The Commission has provisionally accepted a consent agreement containing a cease and desist order offered by R & K Carpets, Inc. and one of its corporate officers, in which they agree to cease and desist from selling and distributing in commerce certain carpets that fail to conform to the carpet standard and from issuing false guaranties on its samples without having conducted the reasonable and representative tests as required by 16 CFR 1630.31, and without having received and relied on guaranties in good faith in violation of Section 8(b) of the Flammable Fabrics Act, 15 U.S.C. 1197(b). If finally accepted, this consent agreement will settle allegations of the Commission staff that R & K Carpets, Inc. and its corporate officer have violated the provisions of the Flammable Fabrics Act.

DATES: Written comments on the provisionally accepted consent agreement must be received by the Commission by January 2, 1980.

ADDRESSES: Written comments should be submitted to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Copies of the agreement may be viewed or obtained from the Office of the Secretary, Consumer Product Safety Commission, 3rd Floor, 1111-18th Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: George J. Miller, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. (Phone 301-492-6629).

Dated: November 21, 1979.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

In the Matter of R & K CARPETS, INC., a corporation, and BILLY W. KITCHENS, individually and as an officer of the corporation. Agreement containing consent order to cease and desist.

The staff of the Consumer Product Safety Commission (Commission) has investigated certain practices of R & K Carpets, Inc., a corporation, and Billy W. Kitchens, individually and as an officer of the corporation. The corporation and Mr. Kitchens (Consenting Parties) are willing to enter into an agreement with the Commission containing an order to cease and desist.

1. Therefore, the consenting parties and counsel for the Commission agree that:

(a) The Consumer Product Safety Commission has jurisdiction in this matter under the following Acts: the Flammable Fabrics Act (15 U.S.C. 1191 *et seq.*); the Federal Trade Commission Act (15 U.S.C. 41 *et seq.*); and the Consumer Product Safety Act (15 U.S.C. 2051 *et seq.*).

(b) R & K Carpets, Inc. is a corporation organized and doing business under the laws of the State of Georgia.

(c) Billy W. Kitchens is an officer of the corporation. He formulates, directs, and controls the acts, practices, and policies of the corporation.

(d) The Consenting Parties engage or did engage in the manufacture and sale, in commerce, of carpets and rugs. Their office and principal place of business is located at 620 South Spencer Street, Dalton, Georgia 30720.

(e) The Consenting Parties are now and have been engaged in one or more of the following: the manufacture for sale, sale or offering for sale, in commerce, and the introduction, delivery for introduction, transportation and causing to be transported in commerce, and the sale or delivery after sale or shipment in commerce, of products, as the terms "commerce" and "product" are defined in the Flammable Fabrics Act, which products are subject to the requirements of the Flammable Fabrics Act, the Standard for the Surface Flammability of Carpets and Rugs (FF 1-70), and the Rules and Regulations issued under the Standard and the Act.

(f) No agreement, understanding, representation or interpretation not contained in this Agreement or Order may be used to vary or contradict the terms of the Agreement and Order.

2. The consenting parties agree that: (a) The terms of the Order contained in this Agreement shall take effect upon their receipt of written notice that the Commission accepts the Agreement, that the Commission may disclose terms of the Agreement and Order to the public, and that the Agreement and Order shall be available for public viewing at the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street, N.W. Washington, D.C. 20207.

(b) They waive any and all rights to an administrative or judicial hearing and to any and all other procedural steps, including any and all rights to seek judicial review or otherwise challenge or contest the validity of this Agreement and Order.

(c) Within 15 days of receipt of the Commission's written acceptance of this Agreement, they shall file with the Commission a written, verified and notarized compliance report detailing their compliance with this order.

3. The consenting parties acknowledge that: (a) They may be liable for a civil penalty

of not more than $10,000 for each violation of the Order after the Order becomes effective.

(b) The requirements of the Order are in addition to and not to the exclusion of other remedies such as criminal penalties which may be pursued under Section 7 of the Flammable Frabrics Act, the rules, regulations and standards promulgated thereunder, or any other provision of Federal law.

4. Counsel for the Commission agrees that:

This Agreement is for settlement purpose only and does not constitute an admission by the Consenting Parties that the law has been violated. Therefore, if this Agreement is not accepted by the Commission it may not be used in adjudicative proceedings, either administrative or judicial.

5. Upon acceptance of this agreement the Commission may issue the following order:

Order

I.—IT IS ORDERED that R&K CARPETS, INC. (Corporation) and Billy W. Kitchens (Kitchens), individually and as an officer of the corporation, and their agents, assigns, successors, representatives, and employees directly or through any corporation, subsidiary, division or other instrumentality, do forthwith cease and desist from manufacturing for sale, selling, or offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported, in commerce, or selling or delivering after sale or shipment, in commerce, any product, fabric, or related material, or manufacturing for sale, selling, or offering for sale, any product made of fabric or related material which has been shipped or received in commerce, as "commerce," "product," "fabric," and "related material" are defined in the Flammable Fabrics Act, as amended (FFA), 15 U.S.C. 1191 *et seq.*, which product, fabric or related material fails to conform to the requirements of the Standard for the Surface Flammability of Carpets and Rugs (FF 1-70) (Standard), 16 CFR 1630 *et seq.*

II.—IT IS FURTHER ORDERED that the Corporation and Kitchens, their agents, assigns, successors, representatives, and employees, directly or through any corporation, subsidiary, division or other instrumentality, shall conform to all provisions of the Flammable Fabrics Act and applicable regulations issued thereunder in the manufacture for sale, sale or offering for sale, in commerce, or importation into the United States, or introduction, delivery for introduction, transportation, or causing to be transported in commerce, or the sale or delivery after sale or shipment in commerce, of any product, fabric or related material subject to the Standard.

III.—IT IS FURTHER ORDERED, that the Corporation and Kitchens, their agents, representatives, employees, and successors and assigns, directly or through any corporation, subsidiary, division or other instrumentality do forthwith cease and desist from furnishing any guaranty that any product, fabric, or related material conforms to the Standard unless the Corporation and Kitchens:

(A) Have received in good faith a guaranty from the supplier of such product, fabric, or related material that reasonable and representative tests required by regulations promulgated under the Standard (16 CFR 1631.31) establish that such product, fabric or related material complies with the acceptance criterion of the Standard; or

(B) Have conducted reasonable and representative tests required by regulations promulgated under the Standard (16 CFR 1631.31), and these tests establish that such product, fabric, or related material complies with the acceptance criterion or the Standard.

IV.—IT IS FURTHER ORDERED. that the Corporation and Kitchens shall within fifteen (15) days after service upon them of this Order, file with the Commission a special report in writing setting forth the manner in which they intend to comply with this Order.

V.—IT IS FURTHER ORDERED that the Corporation and Kitchens shall notify all distributors who may have purchased carpeting style "Oasis" (Foam Back) that such carpeting does not comply with the acceptance criterion of the Standard and that any distributor who has purchased such carpeting may return it to the Corporation and Kitchens by "freight collect," so that no expense is incurred by the distributor for replacement or a complete refund of the original purchase price at the option of the Corporation and Kitchens.

VI.—IT IS FURTHER ORDERED that the Corporation and Kitchens shall process the products recalled or in inventory so as to bring them into conformance with the Standard, or destroy the products.

VII.—IT IS FURTHER ORDERED that the Corporation and Kitchens shall maintain for a period of one year from the date of service of this Order records/evidence sufficient to establish that any carpeting in style "Oasis" (Foam Back) which may be in inventory or returned by distributors has been:

(a) processed so as to bring it into conformance with the applicable Standard under the Flammable Fabrics Act, and subsequent disposition, or

(b) destroyed in accordance with the provisions of this Order.

VIII.—IT IS FURTHER ORDERED, that for a period of 10 years from the date of issuance of this Order, the Corporation and Kitchens shall notify the Commission at least 30 days prior to any proposed change in Corporation such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any change in the Corporation which may affect compliance obligations arising out of this Order.

IX.—IT IS FURTHER ORDERED, that for a period of 10 years from the date of issuance of this Order by the Commission, Kitchens shall notify the Commission of discontinuance of his present business or employment and of his affiliation with a new business and shall submit to the Commission a statement as to the nature of the business or employment in which he is newly engaged as well as a description of his duties and responsibilities in the new business.

X.—IT IS FURTHER ORDERED, that the Corporation shall distribute a copy of this Order to each and all of its operating divisions.

XI.—IT IS FURTHER ORDERED, that the Corporation and Kitchens (1) shall permit the Commission to conduct inspections of the Corporation, to examine the Corporation's books, records, and accounts relating to the manufacture, sale, and distribution of carpets, and to collect samples of carpet manufactured and distributed by the Corporation, and (2) shall, upon request of the Commission, submit written reports, verified copies of the Corporation's books, records and accounts, and samples of carpet manufactured and distributed by the Corporation, to enable the Commission to determine their compliance with this Order.

XII.—The requirements of this Order are in addition to and not to the exclusion of other remedies such as criminal penalties which may be pursued under Section 7 of the Flammable Fabric Act, the rules, regulations, and standards promulgated thereunder, or any other provision of Federal law.

Signed this 10th day of September, 1979.

R & K Carpets, Inc., a corporation.

By Billy W. Kitchens, President.

Billy W. Kitchens, individually and as an officer of R. & K. Carpets, Inc.

George J. Miller,

Counsel for the Consumer Product Safety Commission.

In the matter of R & K Carpets, Inc., a corporation and Billy W. Kitchens, individually and as an officer of the corporation; complaint.

Nature of Proceedings

The Consumer Product Safety Commission (Commission) has reason to believe that R & K Carpets, Inc., a corporation, and Billy W. Kitchens, individually and as an officer of the corporation (Respondents), are subject to and have violated provisions of the Flammable Fabrics Act, as amended (FFA); the Federal Trade Commission Act, as amended (FTCA); and the Standard for the Surface Flammability of Carpets and Rugs (FF 1-70) (Standard), 16 CFR 1630, *et seq.*, Subpart A.

It appears to the Commission, from factual information available to the staff, that it is in the public interest to issue this Complaint in accordance with the Commission's Rules of Practice for Adjudicative Proceedings, 16 C.F.R. Part 1025. Therefore, by virtue of the authority vested in the Commission by Section 30 of the Consumer Product Safety Act, as amended, 15 U.S.C. 2051, 2079, the Commission, pursuant to Section 5 of the FFA, 15 U.S.C. 1194, and Section 5 of the FTCA, 15 U.S.C. 45, and in accordance with the Commission's Rules of Practice for Adjudicative Proceedings, hereby issues this Complaint and states its charges as follows:

Charges

1. Respondent R & K Carpets, Inc. (R & K) is a corporation organized and doing business under the laws of the State of Georgia and is engaged in the manufacture and sale of rugs and carpets, with its office and principal place of business located at Dalton, Georgia 30720.

2. Respondent Billy W. Kitchens is an officer of R & K. He formulates, directs, and controls the acts, practices and policies of the corporation.

3. At the times the infractions and violations charged herein occurred,

Respondents were engaged in the manufacture and sale of "carpet" "in commerce" as these terms are defined in the Standard, 16 C.F.R. 1630.1(c), and in Section 2(b) of the FFA, 15 U.S.C. § 1191(b), respectively.

4. Carpet is a "product" and an "interior furnishing" consisting of "fabric" and "related materials" as those terms are defined in Sections 2 (h), (e), (f), and (g) of the FFA, 15 U.S.C. 1191 (h), (e), (f), and (g), respectively. Carpet is therefore subject to the FFA and to the Standard and Rules and Regulations promulgated pursuant to the Act.

5. Respondents have engaged in the manufacture for sale, sale or offering for sale in commerce, and the introduction, delivery for introduction, transportation and causing to be transported in commerce, and the sale or delivery after sale or shipment in commerce of carpets in style "Oasis", (foam back) which failed to meet the acceptance criterion of the Standard, as defined and set forth in 16 CFR 1630.1(a), 1630.3(c) and 1630.4(f), respectively, in violation of Section 3(a) of the FFA, 15 U.S.C. 1192(a).

6. Respondents have been engaged in the furnishing of a false guaranty, with respect to carpets and rugs manufactured and sold by respondents, with reason to believe that the carpets and rugs falsely guaranteed would be introduced, sold or transported in commerce, in violation of section 8 of the FFA (15 U.S.C. 1197(b)), and in violation of the rules and regulation promulgated under the FFA (16 CFR 1631.31).

7. Pursuant to Section 3(a) and 8(b) of the FFA, 15 U.S.C. 1192(a), and 1197(b) the aforesaid violative acts and practices of respondents constitute unfair methods of competition and unfair and deceptive acts and practices in commerce under the FTCA.

WHEREFORE, the premises considered, the Commission hereby issues this Complaint on this day of November 21, 1979. By the Commission:

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Commissioners: Susan Bennett King, Chairman, Samuel D. Zagoria, Vice Chairman, R. David Pittle, Edith Barksdale Sloan, Stuart M. Statler

In the matter of R & K Carpets, Inc., a corporation, and Billy W. Kitchens, individually and as an officer of the Corporation. Decision and order.

The Consumer Product Safety Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof; and the respondents having been furnished with a copy of a Complaint which the Directorate for Compliance and Enforcement proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Flammable Fabrics Act, as amended, and the Federal Trade Commission Act; and

The respondents and counsel for the Commission having executed an agreement containing a consent order, and an admission by the respondents of all jurisdictional facts set forth in the aforesaid draft of the Complaint, a statement that the signing of said agreement is for settlement purposes only concerning respondents' civil liability under Section 3 of the Flammable Fabrics Act, and does not constitute an admission by respondents that the law has been violated; and

The Commission having considered the matter and having determined that it had reason to believe that the respondents have violated the said Acts and that the Complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of twenty (20) days; the Commission hereby issues its Complaint, makes the following jurisdictional findings, and enters the following order:

Jurisdictional Findings

1. THAT R & K Carpets, Inc. is a corporation organized and doing business under the laws of the State of Georgia.

That Billy W. Kitchens is an officer of the corporation and formulates, directs, and controls the acts, practices, and policies of the corporation.

That the Consenting Parties engage in the manufacture and sale of carpets and rugs. Their office and principal place of business is located at 620 South Spencer Street, Dalton, Georgia 30720.

Respondents are now or have been engaged in one or more of the following: the manufacture for sale, sale or offering for sale, in commerce, and the introduction, delivery for introduction, transportation and causing to be transported in commerce, and the sale or delivery after sale or shipment in commerce, of products, as the terms "commerce" and "product" are defined in the Flammable Fabrics Act, which products are subject to the requirements of the Flammable Fabrics Act, the Standard for the Surface Flammability of Carpets and Rugs (FF 1-70), and the rules and regulations issued under the Standard and the Act.

2. The Consumer Product Safety Commission has jurisdiction of the subject matter of this proceeding and the respondents, and the proceeding in the public interest.

Order

I.—IT IS ORDERED that R & K Carpets, Inc. (Corporation) and Billy W. Kitchens (Kitchens), individually and as an officer of the corporation, and their agents, assigns, successors, representatives, and employees directly or through any corporation, subsidiary, division or other instrumentality do forthwith cease and desist from manufacturing for sale, selling, or offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported, in commerce or selling or delivering after sale or shipment, in commence, any product, fabric, or related material, or manufacturing for sale, selling, or offering for sale, any product made of fabric or related material which has been shipped or received in commerce, as "commerce," "product," "fabric," and "related material" are defined in the Flammable Fabrics Act, as amended (FFA), 15 U.S.C. 1191 *et seq.*, which product, fabric or related material fails to conform to the requirements of the Standard for the Surface Flammability of Carpets and Rugs (FF 1-70) (Standard), 16 CFR 1630 *et seq.*

II.—IT IS FURTHER ORDERED that the Corporation and Kitchens, their agents, assigns, successors, representatives, andemployees, directly or through any corporation, subsidiary, division or other instrumentality, shall conform to all provisions of the Flammable Fabrics Act and applicable regulations issued thereunder in the manufacture for sale, sale or offering for sale, in commerce, or importation into the United States, or introduction, delivery for introduction, transportation, or causing to be transported in commerce, or the sale or delivery after sale or shipment in commerce, of any product, fabric or related material subject to the Standard.

III.—IT IS FURTHER ORDERED, that the Corporation and Kitchens, their agents, representatives, employees, and successors and assigns, directly or through any corporation, subsidiary, division or other instrumentality do forthwith cease and desist from furnishing any guaranty that any product, fabric, or related material conforms to the Standard unless the Corporation and Kitchens:

(A) have received in good faith a guaranty from the supplier of such product, fabric, or related material that reasonable and representative tests required by regulations promulgated under the Standard (16 CFR 1631.31) establish that such product, fabric or related material complies with the acceptance criterion of the Standard; or

(B) have conducted reasonable and representative tests required by regulations promulgated under the Standard (16 CFR 1631.31), and these tests establish that such product, fabric, or related material complies with the acceptance criterion of the Standard.

IV.—IT IS FURTHER ORDERED, that the Corporation and Kitchens shall within fifteen (15) days after service upon them of this Order, file with the Commission a special report in writing setting forth the manner in which they intend to comply with this Order.

V.—IT IS FURTHER ORDERED, that the Corporation and Kitchens shall notify all distributors who may have purchased carpeting style "Oasis" (Foam Back) that such carpeting does not comply with the acceptance criterion of the Standard and that any distributor who has purchased such carpeting may return it to the Corporation and Kitchens by "freight collect," so that no expense is incurred by the distributor for replacement or a complete refund of the original purchase price at the option of the Corporation and Kitchens.

VI.—IT IS FURTHER ORDERED that the Corporation and Kitchens shall process the products recalled or in inventory so as to bring them into conformance with the Standard, or destroy the products.

VII.—IT IS FURTHER ORDERED that the Corporation and Kitchens shall maintain for a period of one year from the date of service

of this Order records/evidence sufficient to establish that any carpeting in style "Oasis" (Foam Back) which may be in inventory or returned by distributors has been:

(a) processed so as to bring it into conformance with the applicable Standard under the Flammable Fabrics Act, and subsequent disposition, or

(b) destroyed in accordance with the provisions of this Order.

VIII.—IT IS FURTHER ORDERED, that for a period of 10 years from the date of issuance of this Order, the Corporation and Kitchens shall notify the Commission at least 30 days prior to any proposed change in Corporation such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any change in the Corporation which may affect compliance obligations arising out of this Order.

IX.—IT IS FURTHER ORDERED, that for a period of 10 years from the date of issuance of this Order by the Commission, Kitchens shall notify the Commission of discontinuance of his present business or employment and of this affiliation with a new business and shall submit to the Commission a statment as to the nature of the business or employment in which he is newly engaged as well as a description of his duties and responsibilities in the new business.

X.—IT IS FURTHER ORDERED that the Corporation shall distribute a copy of this Order to each and all of its operating divisions.

XI.—IT IS FURTHER ORDERED that the Corporation and Kitchens (1) shall permit the Commission to conduct inspections of the Corporation, to examine the Corporation's books, records, and accounts relating to the manufacture, sale and distribution of carpets, and to collect samples of carpet manufactured and distributed by the Corporation, and (2) shall, upon request of the Commission, submit written reports, verified copies of the Corporation's books, records and accounts, and samples of carpet manufactured and distributed by the Corporation, to enable the Commission to determine their compliance with this Order.

XII.—The requirements of this Order are in addition to and not to the exclusion of other remedies such as criminal penalties which may be pursued under Section 7 of the Flammable Fabric Act, the rules, regulations, and standards promulgated thereunder, or any other provision of Federal law.

Issued: November 21, 1979.

By the Commission.

Sadye E. Dunn,

Secretary.

[FR Doc. 79-36479 Filed 12-13-79; 8:45 am]

BILLING CODE 6355-01-M

COUNCIL ON ENVIRONMENTAL QUALITY

Information Only: Publication of Fifth Progress Report on Agency Implementing Procedures Under the National Environmental Policy Act

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Information Only: Publication of Fifth Progress Report on Agency Implementing Procedures Under the National Environmental Policy Act.

SUMMARY: In response to President Carter's Executive Order 11991, on November 29, 1978, the Council on Environmental Quality issued regulations implementing the procedural provisions of he National Environmental Policy Act ("NEPA"). 43 FR 55978–56007; 40 CFR 1500–08) Section 1507.3 of the regulations provides that each agency of the Federal Government shall have adopted procedures to supplement the regulations by July 30, 1979. The Council has indicated to Federal agencies its intention to publish progress reports on agency efforts to develop implementing procedures under the the NEPA regulations. The purpose of these progress reports, the fifth of which appears below, is to provide an update on where agencies stand in this process and to inform interested persons of when to expect the publication of proposed procedures for their review and comment.

FOR FURTHER INFORMATION: Nicholas C. Yost, General Counsel, Council on Environmental Quality, 722 Jackson Place, N.W., Washington, D.C. 20006; 202–395–5750.

Procedures Under the National Environmental Policy Act

At the direction of President Carter (Executive Order 11991), on November 29, 1978, the Council on Environmental Quality issued regulations implementing the procedural provisions of the National Environmental Policy Act ("NEPA"). These regulations appear at Volume 43 of the Federal Register, pages 55978–56007 and in forthcoming revisions to Volume 40 of the Code of Federal Regulations, Sections 1500–1508. Their purpose is to reduce paperwork and delay associated with the environmental review process and to foster environmental quality through better decisions under NEPA.

Section 1507.3 of the NEPA regulations provides that each agency of the Federal government shall adopt procedures to supplement the regulations. The purpose of agency "implementing procedures," as they are called, is to translate the broad standards of the Council's regulations into practical action in Federal planning and decisionmaking. Agency procedures will provide government personnel with additional, more specific direction for implementing the procedural provisions of NEPA, and will inform the public and State and local officials of how the NEPA regulations will be applied to individual Federal programs and activities.

In the course of developing implementing procedures, agencies are required to consult with the Council and to publish proposed procedures in the Federal Register for public review and comment. Proposed procedures must be revised as necessary to respond to the ideas and suggestions made during the comment period. Thereafter, agencies are required to submit the proposed final version of their procedures for 30 day review by the Council for conformity with the Act and the NEPA regulations. After making such changes as are indicated by the Council's review, agencies are required to promulgate their final procedures. Although CEQ's regulations required agencies to publish their procedures by July 30, a number of Federal agencies did not meet this deadline.

The Council published its first progress report on agency implementation procedures on May 7, 1979. its second report on July 23, 1979, its third report on September 26, 1979, and its fourth progress report on November 2, 1979. (44 FR 26781–82; 44 FR 43037–38; 44 FR 55408–55410; 44 FR 63132–63133.) The fifth progress report appears below. The council hopes that concerned members of the public will review and comment upon agency procedures to insure that the reforms required by President Carter and by the Council's regulations are implemented. Agencies preparing implementing procedures are listed under one of the following four categories:

Category No. 1: Final Procedures Have Been Published

This category includes agencies whose final procedures have appeared in the Federal Register.

Central Intelligence Agency, 44 FR 45431 (Aug. 2, 1979).

Department of Agriculture, 44 FR 44802 (July 30, 1979)

- Animal and Plant Health Inspection Service, 44 FR 50381 (Aug. 28, 1979) [correction: 44 FR 51272 (Aug. 31, 1979)]
- Forest Service, 44 FR 44718 (July 30, 1979)
- Soil Conservation Service, 44 FR 50576 (Aug. 29, 1979)

Department of Defense, 44 FR 46841 (Aug. 9, 1979)

Department of Transportation, 44 FR 56420 (Oct. 1, 1979)
Department of the Treasury (at the Federal Register)
Environmental Protection Agency, 44 FR 64174 (Nov. 6, 1979)
Export-Import Bank, 44 FR 50810 (Aug. 30, 1979)
General Services Administration
Public Buildings Service (see 44 FR 65675, Nov. 14, 1979)
International Communications Agency, 44 FR 45489 (Aug. 2, 1979)
Marine Mammal Commission, 44 FR 52837 (Sept. 11, 1979)
National Aeronautics and Space Administration, 44 FR 44485 (July 30, 1979) [correction: 44 FR 49650 (Aug. 24, 1979)]
National Capitol Planning Commission, 44 FR 64923 (Nov. 8, 1979)
Overseas Private Investment Corporation, 44 FR 51385 (Aug. 31, 1979)
[NEPA Procedures are contained in this agency's procedures implementing Executive Order 12114.]
Postal Service, 44 FR 63524 (Nov. 5, 1979)

Category #2: *Proposed Procedures Have Been Published*

This category includes agencies whose proposed procedures have appeared in the Federal Register. Those agencies whose final procedures are expected within 30 days are marked with a single asterisk (*); those expected within 60 days by a double asterisk (**).

ACTION, 44 FR 60110 (Oct. 18, 1979)
Advisory Council on Historic Preservation, 44 FR 40653 (July 12, 1979)*
Agency for International Development, 44 FR 56378 (Oct. 1, 1979)
Civil Aeronautics Board, 44 FR 45637 (Aug. 3, 1979)
Consumer Product Safety Commission, 44 FR 62526 (Oct. 31, 1979)
Department of Agriculture
Agriculture Stabilization and Conservation Service, 44 FR 44167 (July 27, 1979) [correction: 44 FR 45631 (Aug. 3, 1979)]
Rural Electrification Administration, 44 FR 28383 (May 15, 1979)*
Department of Defense
Department of the Air Force, 44 FR 44118 (July 26, 1979)*
Department of the Army, Corps of Engineers, 44 FR 38292 (June 29, 1979)*
Department of Commerce
National Oceanic and Atmospheric Administration, 44 FR 60779 (Oct. 22, 1979)
Department of Energy, 44 FR 42136 (July 18, 1979)*
Federal Energy Regulatory Commission, 44 FR 50052 (Aug. 27, 1979)*
Department of Housing and Urban Development, 44 FR 67906 (Nov. 27, 1979)
Community Development Block Grant Program, 44 FR 45568 (Aug. 2, 1979)*
Department of the Interior, 44 FR 40436 (July 10, 1979)*
Bureau of Reclamation, 44 FR 47627 (Aug. 14, 1979)
Heritage Conservation and Recreation Service, 44 FR 49523 (Aug. 23, 1979)
Fish and Wildlife Service, 44 FR 65822 (Nov. 15, 1979)
Department of Labor, 44 FR 69675 (Dec. 4, 1979)
Department of Justice, 44 FR 43751 (July 26, 1979)*
Drug Enforcement Agency, 44 FR 43754 (July 26, 1979)*
Immigration and Naturalization Service, 44 FR 43754 (July 26, 1979)*
Bureau of Prisons, 44 FR 43753 (July 26, 1979)*
Department of State, 44 FR 66838 (Nov. 21, 1979)
Department of Transportation
Coast Guard, 44 FR 59306 (Oct. 15, 1979)
Federal Aviation Administration, 44 FR 32094 (June 4, 1979)*
Federal Highway Administration, 44 FR 59438 (Oct. 15, 1979)
Federal Railroad Administration, 44 FR 40174 (July 9, 1979)*
Urban Mass Transportation Administration, 44 FR 59438 (Oct. 15, 1979)
Federal Communications Commission, 44 FR 38913 (July 3, 1979)**
Federal Maritime Commission, 44 FR 29122 (May 18, 1979)**
Federal Trade Commission, 44 FR 42712 (July 20, 1979)
International Boundary and Water Commission (U.S. Section). 44 FR 61665 (Oct. 26, 1979)
National Science Foundation, 44 Fr 46901 (Aug. 9, 1979)*
Pennsylvania Avenue Development Corporation, 44 FR 45925 (Aug. 6, 1979)
Small Business Administration, 44 Fr 45002 (July 31, 1979)*
Tennessee Valley Authority, 44 FR 39679 (July 6, 1979)*
Veterans Administration, 44 Fr 48281 (Aug. 17, 1979)*
Water Resources Council, 44 FR 43749 (July 26, 1979)**

Category #3: *Anticipate Publication of Proposed Procedures by Jan. 1, 1980*

This category includes agenices that are expected to publish proposed procedures in the Federal Register by Jan. 1, 1980.

Arms Control and Disarmament Agency
Bureau of Land Management
Federal Emergency Management Agency
Law Enforcement Assistance Administration
National Credit Union Administration
Science and Education Administration (Department of Agriculture)

Category #4: *Publication of Proposed Procedures Delayed Beyond Jan. 1, 1980*

This category includes agencies that are *not* expected to publish proposed procedures in the Federal Register by Jan. 1, 1980.

Appalachian Regional Commission
Bureau of Indian Affairs
Bureau of Mines
Community Services Administration
Department of the Army
Department of the Navy
Defense Logistics Agency
Department of Health, Education and Welfare
Economic Development Administration
Farm Credit Administration
Farmers Home Administration
Federal Deposit Insurance Corporation
Federal Home Loan Bank Board
Federal Reserve System
Federal Savings and Loan Insurance Corporation
Food and Drug Administration
Geological Survey
Interstate Commerce Commission
METRO
National Highway Traffic Safety Administration
National Park Service
Nuclear Regulatory Commission
Office of Surface Mining Reclamation and Control
Saint Lawrence Seaway Corporation
Securities and Exchange Commission

The development of agency implementing procedures is a critical stage in Federal efforts to reform the NEPA process. These procedures must, of course, be consistent with the Council's regulations and provide the means for reducing paperwork and delay and producing better decisions in agency planning and decisionmaking.

Interested persons will have the opportunity to make their suggestions for improving agency procedures when they are published in the Federal Register in proposed form. Broad public participation at this crucial juncture could go a long way toward ensuring that the goals of the NEPA regulations are widely implemented in the day-to-day activities of government.

Nicholas C. Yost,
Acting General Counsel.
December 10, 1979.

[FR Doc. 79-38274 Filed 12-13-79; 8:45 am]
BILLING CODE 3125-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Discharge Review; Special Discharge Review Program

Pursuant to § 70.4, Department of Defense Directive 1332.28, Discharge Review Boards (DRBs) Procedures and Standards, published at 43 FR 13569, March 31, 1978, the Department of the Army has been requested to effect publication of seleted extracts from Department of the Air Force Memorandum for Discharge Review Board Members and Examiners, Subject: Procedures for Completing the DoD Special Discharge Review Program Case Data Sheet, dated April 15, 1977, and an extract from the Secretary of the Army's letter to the Chairman, Senate Committee on Veterans' Affairs, dated June 22, 1977, concerning the Special Discharge Review Program. The extracts correspond to "the last two parts of Annex H" as referred to in "National Association of Concerned Veterans v.

Secretary of Defense," Civ. No. 79-0211 (D.D.C. Nov. 16, 1979).

Dated: December 7, 1979.

William E. Weber,

Colonel, IN, President.

Extracts From Air Force Memorandum

Department of the Air Force,
Washington, D.C. 20330.
Office of the Assistant Secretary.
Memorandum for Discharge Review Board Members and Examiners.
Subject: Procedures for Completing the DoD Special Discharge Review.
Program Case Data Sheet.
April 15, 1977.

Part III—Special Consideration for Upgrade.

This part is also completed by the examiners in accordance with Attachment 1. However, the PDM will carefully review Item 31, and consider whether credit should be given for 24 months satisfactorily served even though it may not be consecutive and may be interrupted by periods of misconduct.

Part IV—Mitigating Factors for Upgrade

This part will be completed by the PDM after a review of the records. The following criteria are established as a guide for PDMs in completing item 33.

A. Youth, lower mental abilities and limited service experience mitigate for upgrade.

B. Non-high school graduates and below.

C. Lower socioeconomic groups.

D. Personal hardships or psychological disorders.

E. Applicants who were Category IV and below enlistees.

F. Conscientious objectors.

G. Drug involvement (use or possession) mitigates for upgrade.

H. Liberal interpretation for upgrading UDs-Gen. A closer examination of the totality of the record (preservice, service, postservice) will be used in considering Gen-Hon.

Part V—Disqualifying Criteria

This part will be completed by the PDM after a review of the records. Any applicant who was discharged for desertion from combat zone (awarded the Republic of Vietnam Service Medal) will be disqualified for the purposes of this special review.

Louis S. Mauro, Colonel, USAF, Deputy Director, SAF Personnel Council

1 Atch, Instr for examiners w/sample case data sheet.

Instructions for Examiners

Items 27. (Satisfactorily Completed Tour in SEA or Western Pacific)—AF Fm 7, AF Fm 1712 (UMPR), Ofcr/Amn Separation Record), APR's. *Locations will include:* Vietnam, Thailand, Cambodia, Guam, P.I., Taiwan, Okinawa, Japan, Korea, and Indochina.

Tour will include service in one of these areas during a prior enlistment, *providing it is during period 4 Aug 64–28 Mar 73.* Member must have served over 11 mos PCS in one of these areas, or an accumulation of 6 months or more TDY to be considered a tour.

Item 29. (Decorated for Valor/Merit)—DD Fm 214, AF Fm 7, AF Fm 1712 (UMPR), Ofer/Amn Separation Record *(Only individual Awards/Dec from AFCM thru MOH)*

Item 31. (Satisfactorily Served 24 mos Prior to Discharge) (Period of Service Under Review Only)—UPRG, DD Fm 214.

(Special Note.—Count from last enlistment date to date of first offense, if any. If no offenses, count from date of enlistment to date of discharge.)

Guidelines Worksheet #1 [1]

—Use the term "marginal performance" rather than "limited potential minimally productive."

—Use the term "qualified" rather than "fully qualified counsel" in reference to due process.

—Triable in civilian court on a criminal offense—the term criminal offense refers to a serious felonious offense whether the applicant was convicted or charged. Also, cases in which the individual resigned in lieu of court-martial for a criminal offense may be considered the same as if the person had been convicted of the offense.

—A compelling reason for denial will override mitigating reasons.

Guidelines Worksheet #2

—Rather than using the phrase "totality of record does not warrant . . ." use a summary, in general terms, of misconduct followed by: "The service record does not establish nor did the applicant submit evidence which would warrant a recharacterization of discharge."

—Do not separate any part of a record from the permanent record folder during our review process.

—If applicant submits nothing, rather than stating "Applicant did not submit evidence of post-service good citizenship . . .", use the following "Applicant did not submit a statement or evidence to support his (her) request for recharacterization of discharge."

—Examiners will complete first three lines of identification data on the DD Form 2067 prior to forwarding case to the designated member. DMs should insure additional contentions (other than 67.00) raised by applicant are listed in the index reference block.

—The review date listed in line four of the 2067 by the DM is the date the case was actually heard by the Board.

Extract of Letter From the Secretary of the Army to the Chairman, Senate Committee on Veteran Affairs, Dated June 22, 1977.

In response to a 14 June 1977 letter from the Chairman which requested:

"10. Please provide me with copies of any directives which clarify the terms set forth at clauses b, c, and f of section 3 of the 'Criteria for Discharge Review' set forth at page 21310 of the April 26, 1977, Federal Register. Please answer specifically the question regarding those given urological tests."

The Secretary responded:

"Question Ten—In clarification of these terms the following guidance is provided:

(1) Wounded in action. A member of the armed services is considered to have been wounded in action if the wound was incurred while the member was engaged in armed conflict or an operation or incident involving armed conflict, caused by an instrumentality of war, incurred in line of duty during a period of war as defined by law.

(2) Satisfactorily completed an assignment in Southeast Asia or in the Western Pacific in support of operations of Southeast Asia. Determination of fulfillment of this criteria is contained in AR 614-30, Table 1-1 and 1-2 (Inclosure 6).

(3) Had a record of satisfactory active military service for 24 months prior to discharge. Guidance for this criteria is contained in SFRB Special Program Memorandum B (Inclosure 3).

Those who were found to be 'positive' on urological tests were treated and then returned to the U.S."

(See "Eligibility for Veterans' Benefits Pursuant to Discharge Upgradings: Hearings before the Senate Committee on Veterans' Affairs," 95th Cong., 1st Sess. (1977) at 30–34).

[FR Doc. 79-38326 Filed 12-13-79; 8:45 am]

BILLING CODE 3710-08-M

[1] As guidelines are developed for processing DRB cases under the special program, they will be distributed to all personnel through this media. If you are a party to the development of any guidelines with the Director or Deputy Director, please furnish the item to Col Hile so it can be made available to all personnel by this means.

Department of the Navy

Decision To Construct a New Naval Regional Medical Center at San Diego, Calif.

Pursuant to the provisions of the regulations implementing the procedural provisions of the National Environmental Policy Act (§ 1505.2 of title 40, Code of Federal Regulations), the Department of the Navy announces its decision to construct a new Naval Regional Medical Center on a site in Florida Canyon adjacent to the existing facility in Balboa Park, San Diego, California.

The decision to construct the new Naval Regional Medical Center will provide a 560-bed acute care and 250-bed light care hospital, outpatient and emergency medical care facilities, Naval School of Health Sciences, and parking facilities for approximately 3,400 automobiles. Alternatives considered were no action; postponement of action; partial transfer of construction at a separate site with operations split between a new site and the existing facility, and construction at a new site which entailed evaluation of twenty possible alternative locations. Consideration of the net environmental impacts at the selected site suggest that the beneficial impacts, including

mitigation, outweigh those considered adverse, and accordingly, the Navy does not regard the Florida Canyon site as being any less environmentally preferable than other alternatives evaluated.

Factors supporting the Florida Canyon site as the preferred alternative included acceptable costs associated with building at an adjacent site, optimization of naval operational and environmental siting criteria, and the capacity for expansion of medical treatment facilities as provided by retention of major structures at the existing facility. As a pressing, urgent requirement exists to replace a functionally inadequate and outmoded facility, as well as the necessity for continued maintenance of accreditation, these considerations were significant in the decision-making process.

The Navy intends to design and construct a facility reflecting a sensitive awareness of the environment, minimizing adverse impacts to the maximum extent feasible. Predominant among these are continuity in design, preservation of sensitive native plant species and rare specimen trees, provision for reconstruction of roads and accesses to accommodate traffic, emission controls associated with construction, and compatibility with utility services. Additionally, the potential for the City of San Diego to acquire the Inspiration Point acreage, an area of approximately equal size to the Florida Canyon parcel, and thus to be compensated for land lost to the project, is considered a beneficial impact.

For further information concerning this decision contact: Mr. Edward W. Johnson, Environmental Protection and Occupational Safety and Health Division (OP-45), Office of the Deputy Chief of Naval Operations (Logistics), Rm BD-766, Pentagon, Washington, D.C. 20350, Telephone: (202) 697-3639.

Dated: December 11, 1979.

P. B. Walker,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 79-38332 Filed 12-13-79; 8:45 am]

BILLING CODE 3810-71-M

Freedom of Information Act Index of Final Dispositions of Petitions for Relief Submitted Pursuant to Article 69 Uniform Code of Military Justice (UCMJ); Determination That Publication Would Be Unnecessary and Impracticable

The Department of the Navy has determined, pursuant to and in accordance with 5 U.S.C. 552(a)(2) and 32 CFR 701. 59(d)(3)(iii), that the publication of the "Index of final dispositions of Petitions for relief submitted pursuant to Article 69, UCNJ," would be unnecessary and impracticable. This determination is supported by the fact that there is insufficient public interest in the Index to justify mass routine publication and that the materials indexed are so rapidly increasing that any publication with reasonable frequency would still be incomplete.

The Index contains final dispositions of "Petitions for relief" submitted pursuant to Article 69, UCMJ. Briefly stated, Article 69 (10 U.S.C. 669) established a review procedure in the Office of the Judge Advocate General for courts-martial which have not been reviewed by the Court of Military Review. Under the provisions of Article 69 (10 U.S.C. 869), persons convicted by courts-martial whose cases have not been reviewed by a Court of Military Review may petition the Judge Advocate General for a review of their convictions.

Internally reproduced copies of the Index are available at $10.75 per copy, the direct cost of duplication, by writing: Judge Advocate General (Code 20), Department of the Navy, Washington, D.C. 20370.

For further information contact: Lieutenant Commander Michael P. Green, JAGC, U.S. Navy, Military Justice Division (Code 203), Office of the Judge Advocate General, Department of the Navy, Washington, D.C. 20370.

Dated: December 11, 1979.

P.B. Walker,

Captain, JAGC, U.S. Navy Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 79-38333 Filed 12-13-79; 8:45 am]

BILLING CODE 3810-71-M

DEPARTMENT OF ENERGY

Refiners Crude Oil Allocation Program; Supplemental Notice for Allocation Period of October 1, 1979, Through March 31, 1980, and Notice of Issuance of Emergency Allocations for December 1979 and January 1980

The notice specified in 10 CFR 211.65(g) of the refiners' crude oil allocation (buy/sell) program for the allocation period of October 1, 1979, through March 31, 1980, was issued September 21, 1979 (44 FR 55943, September 28, 1979). Subsequent to the publication of that Notice, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) assigned emergency allocations pursuant to 10 CFR 211.65(c)(2) to a number of small refiners and issued supplemental buy/sell lists on October 17, 1979 (44 FR 60786, October 22, 1979) and on November 6, 1979, (44 FR 65625, November 14, 1979). The ERA hereby issues a third supplemental buy/sell list for the allocation period of October 1, 1979, through March 31, 1980, which sets forth new emergency allocations for the months of December 1979 and January 1980, assigned pursuant to 10 CFR 211.65(c)(2), as amended on April 27, 1979, (44 FR 26060, May 4, 1979).

The supplemental buy/sell list for the allocation period October 1, 1979, through March 31, 1980, is set forth as an appendix to this notice. The list includes the names of the small refiners granted emergency allocations for the months of December, 1979 and January 1980, and their eligible refineries; the quantity of crude oil each refiner is eligible to purchase; the fixed percentage share for each refiner-seller; and the additional sales obligation of each refiner-seller, which reflects each refiner-seller's sales obligation for the emergency allocations listed herein.

The allocations for the small refiners on the supplemental buy/sell list were determined in accordance with 10 CFR 211.65(c)(2). Sales obligations for refiner-sellers were determined in accordance with 10 CFR 211.65 (e) and (f).

The buy/sell list covers PAD Districts I through V, and amounts shown are in barrels of 42 gallons each, for the specified period. Pursuant to 10 CFR 211.65(f), each refiner-seller shall offer for sale during an allocation period, directly or through exchanges to refiner-buyers, a quantity of crude oil equal to that refiner-seller's sales obligation plus any volume that the ERA directs the refiner-seller to sell pursuant to 10 CFR 211.65(j).

Pursuant to 10 CFR 211.65(h), each refiner-buyer and refiner-seller is required to report to ERA in writing or by telegram the details of each transaction under the buy/sell list within forty-eight hours of the completion of arrangements therefor. Each report must identify the refiner-seller, the refiner-buyer, the refineries to which the crude oil is to be delivered, the volumes of crude oil sold or purchased, and the period over which the delivery is expected to take place.

The procedures of 10 CFR 211.65(j) provide that if a sale is not agreed upon subsequent to the date of publication of this notice, a refiner-buyer that has not been able to negotiate a contract to purchase crude oil may request that the ERA direct one or more refiner-sellers to sell a suitable type of crude oil to such refiner-buyer. Such request must be

received by the ERA no later than 20 days after the publication date of this supplement buy/sell notice. Upon such request, the ERA may direct one of more refiner-sellers that have not completed their required sales to sell crude oil to the refiner-buyer.

In directing refiner-sellers to make such sales, ERA will consider the percentage of each refiner-seller's sales obligation for the allocation period that has been sold as reported pursuant to Section 211.65(h), as well as the refiner-seller or sellers that can best be expected to consummate a particular directed sale. If, in ERA's opinion, a valid directed sale request cannot reasonably be expected to be consummated by a refiner-seller that has not completed all or substantially all of its sales obligation for the allocation period, the ERA may issue one or more directed sales orders that would result in one or more refiner-sellers selling more than their published sales obligations for that allocation period. In such cases, the refiner-seller or sellers will receive a barrel-for-barrel reduction in their sales obligations for the next allocation period pursuant to 10 CFR 211.65(f)(3)(ii).

If the refiner-buyer declines to purchase the crude oil specified by ERA, the rights of that refiner-buyer to purchase that volume of crude oil are forfeited during this allocation period, provided that the refiner-seller or refiner-sellers have fully complied with the provision of 10 CFR 211.65.

Refiner-buyers making requests for directed sales must document their inability to purcahse crude oil from refiner-sellers by supplying the following information to ERA:

(i) Name of the refiner-buyer and of the person authorized to act for the refiner-buyer in buy/sell program transactions.

(ii) Name and location of the refineries for which crude oil has been sought, the amount of crude oil sought for each refinery, and the technical specifications of crude oils that have historically been processed in each refinery.

(iii) Statement of any restrictions, limitations, or constraints on the refiner-buyer's purchases of crude oil, particularly concerning the manner or time of deliveries.

(iv) Names and locations of all refiner-sellers from which crude oil has been sought under the buy/sell notice, the refineries for which crude oil has been sought, and the volume and specifications of the crude oil sought from each refiner-seller.

(v) The response of each refiner-seller to which a request to purchase crude oil has been made, and the name and telephone number of the individual contacted at each such refiner-seller.

(vi) Such other pertinent information as ERA may request.

All reports and applications made under this notice should be addressed to:

Chief, Crude Oil Allocation Branch, 20th Street Postal Station, P.O. Box 19028, Washington, D.C. 20036

Section 211.65(c)(2)(ii) states in part that applications for emergency allocations "must be submitted by the fifteenth day of the month prior to the month(s) for which an allocation is sought." This provision was intended to permit ERA to receive applications and issue emergency allocations in a timely fashion. Recently, ERA has had difficulty meeting this goal because of the manner in which some applications for emergency allocations have been filed. Therefore, ERA believes it appropriate to offer the following comments on the emergency crude oil application process in the hope that they will clarify the application process for those applying for emergency allocations.

First, most applications have not been received in the Crude Oil Allocation Branch unitl the fifteenth of the month. The fifteenth of the month is meant as a deadline not a filing date. It is desirable for refiners to file their applications earlier than the fifteenth of the month, which would permit ERA to begin processing applications sooner. Except in unusual circumstances, ERA would expect applications to be filed by the tenth of the month. It should be noted that ERA would generally consider applications filed earlier than the fifth of a month to have been filed too early to present an accurate picture of a refiner's crude oil supply for succeeding months.

Second, applications should be completed by the fifteenth of the month in which they are filed. Applications that are not substantially complete by the fifteenth of the month will be dismissed with prejudice.

Third, ERA requires all applicants for emergency allocations to serve copies of their applications on refiner-sellers. Comments regarding an application will be accepted if received within eight days of receipt of the application. Applicants are required to serve copies of their application (and any amendments thereto) on refiner-sellers simultaneously with the filing of the application with ERA; that is, *refiner-sellers must receive their copies of emergency applications on the same date the application is filed with ERA.* Refiner-sellers must submit their comments on the applications to the Crude Oil Allocation Branch within eight days of the refiner-sellers' receipt of the application, or no later than the twenty-third of the month in which the application is filed. If the fifteenth or the twenty-third of the month falls on a weekend or holiday, the deadline would be the next working day.

As has been stated in previous notices, if an applicant claims confidentiality for any of the information contained in its application, the basis for the claim must be clearly stated. ERA does not consider the names of potential suppliers contacted in unsuccesful attempts to obtain crude oil or offers of crude oil that the applicant has rejected to be proprietary.

Finally, ERA emphasizes that an application for an emergency allocation must contain a *detailed* statement as to why the applicant believes it has exhausted all supply possibilities. Applications which fail to make this statement will be dismissed with prejudice.

Copies of the decisions and orders assigning the emergency allocations listed herein may be obtained from:

Economic Regulatory Administration, Public Information Office, 2000 M Street, N.W., Rm. B110, Washington, D.C. 20461, (202) 634-2170

This notice is issued pursuant to Subpart G of DOE's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with DOE's Office of Hearings and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before January 14, 1980.

Issued in Washington, D.C., December 7, 1979.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

Appendix

The Buy/Sell list for the period October 1, 1979, through March 31, 1980, is hereby amended to reflect emergency allocations for the months of December 1979 and January 1980, and the resulting changes in sales obligations of refiner-sellers. The amended list sets forth the name of each refiner-seller is required to offer for sale to small refiners, and emergency allocations for the months of December 1979 and January 1980. The list also includes one adjustment made to a refiner's October and November 1979 allocations.

Crude Oil Allocation Program Additional Sales Obligations Resulting From New Emergency Allocations for the Period October 1, 1979–March 31, 1980

Refiner-sellers	Share*	Additional sales obligation
Amoco Oil Co.	.105	566,505
Atlantic Richfield Co.	.077	416,011
Chevron U.S.A., Inc.	.101	549,327
Cities Service Co.	.025	133,040
Continental Oil Co.	.004	21,634
Exxon Co., U.S.A.	.089	481,363
Getty Refining & Marketing Co.	.021	114,743
Gulf Refining & Marketing Co.	.091	492,786
Marathon Oil Co.	.022	123,613
Mobil Oil Corp.	.094	508,861
Phillips Petroleum Co.	.041	223,780
Shell Oil Co.	.113	614,512
Sun Co.	.055	300,160
Texaco Inc.	.114	615,015
Union Oil Co. of California	.046	247,226
Total Additional Sales Obligation		5,408,576

*All Refiner-Sellers' percentage shares have been changed to reflect the Continental Oil Company and Exxon Company, U.S.A. Decision and Order dated March 20, 1979. Case numbers are FEX-0184 and FEX-0185.

Adjustment to October and November 1979 Emergency Allocations

A Decision and Order dated December 7, 1979, increased Saber Refining Company's total October and November 1979 emergency allocations 297,606 barrels from 210,567 barrels to 508,173 barrels.

Emergency Allocations for December 1979 and January 1980

Refiner	Refinery location	December 1979 allocation (barrels)	January 1980 allocation (barrels)
Clark Oil & Refining Corp.	Blue Island, Ill	654,131	654,131
CRA, Inc.	Coffeyville, Kan	534,533	955,203
Hunt Oil Co.	Tuscaloosa, Ala	252,061	252,092
OKC Corp.	Okmulgee, Okla	150,939	155,589
Saber Ref., Co.	Corpus Christi, Tex	210,966	461,001
Seaview Petroleum Company	Paulsboro, N.J	374,325	374,325
Tipperary Refining Company	Ingelside, Tex	40,827	40,827
Total		2,217,802	2,893,168

Additional Allocations for the Oct. 1, 1979, to Mar. 31, 1980, Allocation Period

Emergency allocations (December)	2,217,802
Emergency allocations (January)	2,893,168
Saber adjustment (October and November)	297,606
Total allocations	5,408,576

[FR Doc. 79-38277 Filed 12-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. SA80-37]

Federal Energy Regulatory Commission

Alabama Gas Corp.; Application for Adjustment and Request for Interim Relief

December 11, 1979.

On November 23, 1979, Alabama Gas Corporation (Alabama Gas) filed an application in Docket No. SA80-37 pursuant to Section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) and § 1.41 of the Commission's Rules of Practice and Procedure, 18 CFR 1.41, for an adjustment exempting Alabama Gas from the applicability of the incremental pricing regulations adopted by the Commission in Order No. 49 issued September 28, 1979 in Docket No. RM79-14, all as more fully set forth in the application on file with the Commission and open to public inspection.

Alabama Gas states that it faces the danger of a loss of a portion of its industrial load not exempt from incremental pricing due to competitive bidding by local fuel oil suppliers. Alabama Gas further states that any such loss of industrial load would result in increased rates for its exempt customers, notably high priority, residential consumers. As a result, Alabama Gas proposes to implement, in lieu of the incremental pricing regulations and subject to the approval of the Alabama Public Service Commission, an incremental pricing mechanism on its system which provides protection for Alabama Gas and its customers against the loss of industrial load by giving Alabama Gas needed flexibility in meeting the competition from local fuel oil suppliers.

Because of the existence of this danger of a loss of industrial load and the resulting hardship to Alabama Gas' high priority customers while this application is pending, Alabama Gas requests interim relief pursuant to Section 1.41(m) of the Commission's rules of Practice and Procedure (1) exempting Alabama Gas from the applicability of the incremental pricing regulations, and (2) approving Alabama Gas' proposed system-wide incremental pricing mechanism.

Any person desiring to participate in this adjustment proceeding shall file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, a petition to intervene in accordance with the provisions of § 1.41 of the Commission's Rules of Practice and Procedure, 18 CFR 1.41. All petitions to intervene must be filed on or before December 31, 1979.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38350 Filed 12-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. RP73-77, et al.]

Alabama-Tennessee Natural Gas Co., et al.; Filing of Pipeline Refund Reports and Refund Plans

December 7, 1979.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before December 24, 1979. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

Appendix

Filing date	Company	Docket No.	Type filing
11/26/79	Alabama-Tennessee Natural Gas Company.	RP73-77	Report.
11/26/79	Texas Gas Transmission Corporation.	RP78-94	Report.
11/29/79	El Paso Natural Gas Company.	CP77-289	Report.
11/29/79	Northern Natural Gas Company.	RP77-56	Report.
11/30/79	Colorado Interstate Gas Company.	RP78-51	Plan.

[FR Doc. 79-38349 Filed 12-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TA80-1-20 (PGA80-1 and IPR80-1)]

Algonquin Gas Transmission Co.; Rate Change Pursuant to Purchased Gas Cost Adjustment Provision

December 7, 1979.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on November 30, 1979, tendered for filing Original Sheet No. 10-B and Substitute 50th Revised Sheet No. 10 to its FERC Gas Tariff, First Revised Volume No. 1.

Algonquin Gas states that these tariff sheets are being filed pursuant to Order No. 49 reflecting the incremental pricing surcharges and related revised rates.

Algonquin Gas also states that such Substitute 50th Revised Sheet No. 10 reflects a $.0048 per Mcf Gas Research Institute funding surcharge as approved by Commission Opinion No. 64 filed by Algonquin Gas on November 19, 1979, under its 50th Revised Sheet No. 10, all as more fully explained in the filing.

Algonquin Gas requests that the proposed effective date of such tariff sheets as prescribed by Order No. 49 be January 1, 1980.

Algonquin Gas notes that a copy of this filing is being served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before Dec. 19, 1979. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38350 Filed 12-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. G-9279, et al., Docket Nos. CI65-974, et al.]

Amoco Production Co., et al., and George Despot, Agent, et al.; Filing of Refund Distribution Plan

December 7, 1979.

Take notice that on April 24, 1979, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), filed its plan for distribution of refunds received from its producer-suppliers pursuant to the Commission orders of December 14, 1978 and February 23, 1979, in these proceedings. Tennessee states that as of April 20, 1979, it had received total refunds (principal and interest) of $10,156,072.39.

Tennessee requests permission to flow-through to its customers $7,631,554.07 of the refunds by means of a credit to the Unrecovered Purchased Gas Cost Account maintained pursuant to its PGA clause. Tennessee states that it will retain the remaining $2,524,518.32 of the refunds in accord with its Settlement Agreement in Docket Nos. G-11980, *et al.*

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 24, 1979. 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; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38351 Filed 12-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP69-180]

Cities Service Gas Co.; Petition To Amend

December 12, 1979.

Take notice that on November 13, 1979, Cities Service Gas Company (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP69-180 a petition to amend the order issued March 18, 1969,[1] in the instant docket pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing an increase in the maximum daily quantity of natural gas it is authorized to sell to Enterprise Gas Association, Inc. (Enterprise) for resale for irrigation and incidential farm uses in a rural area of Ford County, Kansas, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Applicant states that the order issued March 18, 1969, authorized it to sell and deliver up to 746 Mcf of natural gas per day to Enterprise at three delivery points in Ford County, Kansas, under its Rate Schedule IRG-1 for resale for irrigation and incidental farm uses.

Applicant states that Enterprise has indicated, from time to time, that it needed additional volumes of gas to operate its irrigation gas distribution system in a rural area of Ford County due to increased irrigation requirements stemming from expanding operations and the need to raise water from greater depths. Therefore, Applicant has entered into a new agreement with Enterprise dated August 31, 1979, which increases the daily maximum quantity of gas to be sold and delivered from 746 Mcf per day to 1,750 Mcf per day, it is asserted. It is stated that in all other aspects, the contract terms remain unchanged.

Applicant states that no new facilities would be required to deliver the additional quantities of gas to this customer.

Applicant also states that the delivery of the additional volumes of gas to Enterprise would have no adverse effect on its system supply and that such volumes of gas would be used to serve the agricultural needs of the area.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 3, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38352 Filed 12-13-79; 8:45 am]

BILLING CODE 6450-01-M

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

[Docket No. CP80-96]

Colorado Interstate Gas Co.; Application

December 13, 1979.

Take notice that on November 19, 1979, Colorado Interstate Gas Company (Applicant), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP80-96, an application pursuant to Section 7(c) of the Natural Gas Act and § 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during an indefinite period commencing January 1, 1980, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas supplies, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally coextensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange with Applicant and supplies of natural gas from Applicant's owned production or acquired for system supply under Section 311 or 312 of the Natural Gas Policy Act of 1978.

Applicant states that the total cost of the proposed facilities would not exceed $13,800,000 during calender year 1980. During subsquent calendar years, it is stated, the total expenditure would not exceed 3 percent of Applicant's Account No. 101 as of January 1 of the appropriate year. It is further stated that the cost of any single project, in 1980 and in all subsequent years, would not exceed the lesser of 25 percent of Applicant's total calendar year expenditure limit or $2,500,000, unless the Commission revises the authorized expenditure limits. It is proposed that these costs would be financed from current working funds on hand, funds from operations, short-term borrowings, or long-term financing.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 4, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necesssity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unles otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38353 Filed 12-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TA80-1-32, (PGA80-2 and IPR80-1)]

Colorado Interstate Gas Co.; Proposed Tariff Change

December 7, 1979.

Take notice that Colorado Interstate Gas Company (CIG) on November 30, 1979, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1, to be effective January 1, 1980. The rates shown on the proposed tariff sheet changes reflect a reduction in CIG's currently effective jurisdictional purchased gas adjustment (PGA) rates equal to the annualized incremental pricing surcharges CIG expects to recover in the period January 1, 1980 through September 30, 1980. CIG requests Commission approval to equally offset such reduction by increased purchased gas costs which CIG is experiencing from its supplier, Northwest Pipeline Corporation (NPC), and which are not currently reflected in its PGA rates. CIG also filed alternate tariff sheets which reflect no offset in increased NPC gas costs.

Further, CIG requested specific Commission approval for its handling of the incremental cost assignment associated with its purchase and sale of portions of gas in conjunction with the transportation of such gas by CIG and other pipelines.

Copies of CIG's filing have been served upon the Company's jurisdictional customers and other interested persons, including public bodies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 24, 1979. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38354 Filed 12-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-106]

Columbia Gas Transmission Corp.; Application

December 11, 1979.

Take notice that on November 26, 1979, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP80-106 an application pursuant to Section 7(c) of the Natural Gas Act and § 284.221(c) of the Commission's Rules for a certificate of public convenience and necessity authorizing the transportation of natural gas for other interstate pipelines, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it requests blanket authorization to transport natural gas on behalf of other interstate pipelines for periods up to two years. It is further stated that Applicant would comply with the provisions and reporting requirements of § 284.221 of the Commission's Rules.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 4, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38355 Filed 12-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-72]

Columbia Gulf Transmission Co., Columbia Gas Transmission Co., and Southern Natural Gas Co.; Application

December 13, 1979.

Take notice that on November 9, 1979, Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, Columbia Gas Transmission Company (Columbia Gas), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, and Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP80-72 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicants to exchange and transport up to 25,000 Mcf of natural gas per day, and to construct and operate certain tie-in facilities in East Carroll Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that pursuant to an agreement dated September 4, 1979, as amended October 25, 1979, Applicants have agreed to exchange and transport up to 25,000 Mcf of gas per day onshore Louisiana. The exchange would be on a thermally equivalent basis.

It is stated that Columbis Gas would purchase and deliver to Southern for exchange and transportation, gas produced from gas reserves in Cutoff Field, Lafourche Parish, Louisiana. Such gas, it is asserted, would be made available for exchange and delivery for Columbia Gas' account to Southern at the flanges or welds connecting Southern's facilities with Columbia Gulf's facilities which would be constructed and operated by Columbia Gulf in the Cutoff Field, Lafourche Parish, Louisiana. It is stated that Columbia Gulf would construct the pipeline facilities from the Cutoff Field to the proposed interconnection with Southern's pipeline in Lafourche Parish. Southern would be reimbursed by Columbia Gulf for the cost of the tap made on Southern's pipeline, it is stated.

It is stated that Southern has agreed to purchase and deliver to Columbia Gulf for exchange and transportation gas produced from reserves in West Cameron Block 563 and Mississippi Canyon Blocks 267, 268, and 312, offshore Louisiana. Such gas would be delivered and exchanged for Southern's account to Columbia Gulf at the flanges or welds connecting Columbia Gulf's measuring facilities near Erath, Vermilion Parish, Louisiana, it is stated. Such Mississippi Canyon gas would be exchanged and delivered to Columbia Gulf's existing measuring facilities in Jefferson Parish, Louisiana, it is asserted. It is stated that no new facilities would be required to effect the delivery of this gas to Columbia Gulf.

It is stated that any imbalance volume would be transported by Columbia Gulf or Southern and delivered at the flanges or welds connecting Columbia Gulf's 30-inch Main Lines 100 and 200 and Southern's 22-inch pipeline at Milepost 23, Section 23, Township 20-N, Range 11-E, East Carroll Parish, Louisiana. Applicants state that Columbia Gulf would receive from Southern 15.355 cents per Mcf for transporting the imbalance volume of gas, if any, after the exchange has been effected. Southern would receive from Columbia Gas 22.0 cents per Mcf for transporting the imbalance volume of gas, if any, it is further asserted.

Applicants state that the proposed dual 8-inch measurement facility would be capable of handling up to 100,000 Mcf of gas per day, and would be owned by Southern and constructed, and operated, by Columbia Gulf. It is stated that the cost of construction and installation of such facilities is $156,250 which would be financed by Southern from current working funds.

Applicants state that the proposed exchange and transportation arrangement would not cause any significant change in either Southern's or Columbia Gulf's pipeline operations.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 3, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38356 Filed 12-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-26]

Consolidated Gas Supply Corp. and Equitable Gas Corp.; Petition To Amend

December 12, 1979.

Take notice that on November 15, 1979, Consolidated Gas Supply Corporation (Consolidated), 445 West Main Street, Clarksburg, West Virginia 26301, and Equitable Gas Company (Equitable), 420 Boulevard of the Allies, Pittsburgh, Pennsylvania 15219, filed in Docket No. CP79-26 a joint petition to amend the order issued January 30, 1979, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the exchange of natural gas at additional delivery points and the construction and operation by Equitable of certain facilities necessary therefor, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioners state that by order issued January 30, 1979, Petitioners were authorized to exchange up to 20,000 Mcf of natural gas per day and to construct and operate certain related facilities.

It is stated that, pursuant to an exchange agreement between Petitioners dated October 3, 1979, Equitable proposes to deliver or cause to be delivered natural gas to Consolidated at three additional points:

(1) Up to 1,000 Mcf per day near Glenville, Gilmer County, West Virginia;

(2) Up to 100 Mcf per day near Central Station, Doddridge County, West Virginia; and

(3) Up to 500 Mcf per day near Sedalia, Doddridge County, West Virginia.

Petitioners indicate that the natural gas proposed to be delivered by Equitable at the Glenville and Central Station delivery points would permit Consolidated's Hope Natural Gas Company retail distribution division to continue gas service to approximately 590 high priority customers located in these areas following the abandonment of Consolidated's Line Nos. H-138 and H-45. Petitioners state that said abandonments were granted by Commission order of May 29, 1975, as amended, in Docket No. CP75-158. It is further stated that the Sedalia delivery point would involve natural gas purchased and produced locally by Equitable.

Petitioners state that Consolidated proposes to deliver volumes of natural gas to Equitable for exchange at one additional point:

Up to 1,000 Mcf per day near West Union, Doddridge County, West Virginia.

It is stated that the natural gas proposed to be delivered by Consolidated for exchange at West Union would enable Equitable to provide gas service to its approximately 600 high priority distribution customers in West Union, West Virginia.

Equitable requests authorization to construct and operate the necessary measuring and interconnecting facilities at the proposed new delivery points. Consolidated would construct and operate its facilities at said points under its annually effective budget authorization. The total costs of Equitable's facilities is estimated to be $34,700, which Equitable would finance from funds on hand.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 3, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38357 Filed 12-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP72-300]

Consolidated Gas Supply Corp. and Columbia Gas Transmission Corp.; Petition To Amend

December 12, 1979.

Take notice that on November 26, 1979, Consolidated Gas Supply Corporation (Consolidated), 445 West Main Street, Clarksburg, West Virginia 26301, and Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP72-300 a petition to amend the Commission's order issued on October 24, 1972[1] as amended, in the instant docket so as to authorize the exchange of natural gas at four additional points, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioners state that by an agreement dated October 10, 1979, Columbia would deliver gas to Consolidated at three mutually agreed upon points:

(1) Up to 250 Mcf per day on Consolidated's 6-inch Line No. 18171 in Fork District, Raleigh County, West Virginia;

(2) Up to 100 Mcf per day on Consolidated's 12-inch Line No. TL-255 in Tucker District, Wirt County, West Virginia; and

(3) Up to 100 Mcf per day on Columbia's 16-inch Line No. 1740 in Troy District, Gilmer County, West Virginia.

It is stated that the gas to be delivered in Raleigh County and Wirt County would be purchased by Columbia from independent producers. It is further stated that Consolidated has requested the delivery in Gilmer County in order to continue service to consumers following the removal of it's Line No. H-138 from service under abandonment authorization granted by the Commission on May 29, 1975, as amended.

Petitioners further state that Consolidated would deliver gas to Columbia at a mutually agreed upon point: on Columbia's 20-inch Line KA-20 in Barker's Ridge District, Wyoming County, West Virginia, which gas Consolidated would purchase locally from an independent producer. It is stated that Consolidated would deliver up to 3,500 Mcf per day.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 4, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a

[1] This proceeding was commenced before the F.P.C. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38358 Filed 12-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP80-52]

Consolidated Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

December 7, 1979.

Take notice that Consolidated Gas Supply Corporation (Consolidated) on November 28, 1979, tendered for filing revised tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1 proposed to be effective January 1, 1980. The revised tariff sheets incorporate, as part of Section 12 of the tariff, Consolidated's agreement to make cash refunds to its jurisdictional customers of any single refund received in excess of $2,000,000.

Additionally, Consolidated now proposes to make cash refunds at such time when refunds of lesser amounts have accumulated to $2,000,000 and of lesser amounts which exist as of the preceding November 30, or May 31 when it files its semi-annual PGA filing provided, however, that such refunds are applicable to periods prior to January 1, 1980.

Included in the filing were:

First Revised Sheet Nos. 72-A, 72-B; and Third Revised Sheet No. 72.

Copies of this filing were served upon Consolidated's jurisdictional customers as well as interested State Commissions.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before Dec. 21, 1979. 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 proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38359 Filed 12-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TA80-1-22 (PGA80-1, IPR80-1, GRI80-1)]

Consolidated Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

December 7, 1979.

Take notice that Consolidated Gas Supply Corporation (Consolidated) on November 30, 1979, tendered for filing proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1 to be effective January 1. 1980.

Consolidated states that the revised tariff sheets reflect rate changes from pipeline suppliers and producer suppliers for the months of January and February 1980. Consolidated has also included estimated incremental pricing surcharges for each wholesale customer for each month. The total purchased gas costs have been reduced by the estimated incremental pricing surcharges in accordance with the Commission's final rule implementing the incremental pricing provisions of the Natural Gas Policy Act of 1978 promulgated by FERC Order No. 49 issued September 28, 1979 in Docket No. RM79-14.

While Consolidated believes no waivers are necessary, Consolidated requests waiver of any of the Commission's Rules and Regulations that may be deemed necessary in order to permit the revised tariff sheets to become effective as proposed.

Copies of this filing were served upon Consolidated's jurisdictional customers as well as interested state commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 19, 1979. 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 inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38360 Filed 12-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TA80-1-2 (PGA80-1, IPR80-1, DCA80-1, and GRI80-1)]

East Tennessee Natural Gas Co.; Rate Filing Pursuant to Tariff Rate Adjustment Provisions

December 7, 1979.

Take notice that on November 30, 1979, East Tennessee Natural Gas Company (East Tennessee) tendered for filing Thirty-First Revised Sheet No. 4 and Original Sheet No. 4A of Sixth Revised Volume No. 1 of its FERC Gas Tariff to be effective January 1, 1980.

East Tennessee states that the sole purpose of this tariff sheet is to reflect various rate adjustments as follows:

(1) A PGA Rate Adjustment pursuant to Section 22;

(2) A curtailment credit Rate Adjustment pursuant to Section 24;

(3) A GRI Rate Adjustment pursuant to Section 25; and

(4) Estimated Incremental Pricing Surcharges pursuant to Section 26.

East Tennessee also states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 19, 1979. 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; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38361 Filed 12-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP71-15]

East Tennessee Natural Gas Co.; Report of Refunds

December 7, 1979.

Take notice that on November 30, 1979, East Tennessee Natural Gas Company (East Tennessee) filed a report of refunds made to its jurisdictional customers on November 29, 1979. East

Tennessee states that these refunds result from a $2,564,692.41 refund which it received from Tennessee Gas Pipeline Company, a Division of Tenneco Inc. on October 15, 1979.

East Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, and 1.10). All such petitions or protests should be filed on or before December 24, 1979. 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; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38362 Filed 12-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. SA79-33]

Enserch Exploration, Inc.; Application for Adjustment

Issued: December 11, 1979.

Take notice that on September 18, 1979, Enserch Exploration, Inc. (Enserch), 1817 Wood Street, Dallas, Texas 75201, filed with the Federal Energy Regulatory Commission an application for an adjustment under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA). 15 U.S.C. 3301 *et seq.* Enserch sought an adjustment to the maximum lawful price allowed under the NGPA. 15 U.S.C. 3301 *et seq.* Specifically, Enserch states that due to a loss in reservoir pressure and an influx of salt water, it will be unable to maintain production from the Berthold Koenig No. 1 Well at the contract price of 17.5 cents per Mcf. They request the Commission grant an adjustment of the maximum lawful price allowable under section 105 of the NGPA from 17.5 cents per Mcf, plus tax reimbursement, to 82.2 cents per Mcf, plus a tax reimbursement of .2055 cents per Mcf.

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's Rules of Practice and Procedure, Order No. 24 issued March 22, 1979 (44 FR 18961, March 30, 1979).

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of 18 CFR 1.41(e). All petitions to intervene must be filed on or before December 31, 1979.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38363 Filed 12-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Dockets Nos. ER80-8 and ER78-19, et al.]

Florida Power & Light Co.; Order Accepting for Filing and Suspending Proposed Transmission Rate Schedule, Waiving Regulations, Granting Intervention and Establishing Procedures

Issued: December 4, 1979.

On October 5, 1979, Florida Power & Light Company (FP&L) submitted for filing a proposed supplement to its unexecuted transmission agreement with the City of New Smyrna Beach, Florida (New Smyrna) that provides for the transmission of power and energy by FP&L that New Smyrna may receive under an interchange agreement with the Jacksonville electric Authority.[1] The proposed rate of 1.65 mills/kWh is independent of distance, *i.e.*, postage stamp, and identical to the rates filed by FP&L in 17 pending dockets. This is the second supplement to the New Smyrna "agreement," made necessary because the initial filing provides that FP&L will transmit power and energy on a specific service-by-service basis.[2] In lieu of cost support, FP&L requests that the evidentiary submission tendered in Docket No. ER78-19 on June 16, 1978, and incorporated by reference into all subsequent dockets be incorporated into this proceeding as well. FP&L and New Smyrna requests waiver of the notice requirements of Section 35.3 of the Regulations so that the proposed rate schedule may become effective immediately.

On November 5, 1979, New Smyrna filed a protest and petition to intervene in this proceeding. The customer challenges the adequacy of FP&L's proposed transmission service and requests a hearing. FP&L responded to the protest on November 20, 1979.

The proposed supplement to FP&L's unexecuted transmission service agreement with New Smyrna has not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Consistent with our actions in earlier FP&L transmission rate proceedings, we shall waive Section 35.3 of the Regulations regarding notice, accept the proposed supplement for filing and suspend it for one day to become effective as of October 6, 1979, subject to refund at the outcome of the proceeding. We shall also apply Section 35.19 of the Regulations to permit the incorporation by reference of the cost support from Docket No. ER78-19. This docket will be consolidated with Docket Nos. ER78-19, *et al.*

The Commission Orders

(A) The request for waiver of § 35.3 of the Regulations is hereby granted.

(B) FP&L's request for waiver of § 35.19 of the Regulations is hereby granted to permit incorporation by reference of the cost support from Docket No. ER 78-19.

(C) The proposed supplemental transmission agreement tendered by FP&L in Docket No. ER80-8 is accepted for filing and suspended for one day to become effective as of October 6, 1979, subject to refund at the outcome of this proceeding.

(D) The proceeding in Docket Nos. ER80-8 is hereby consolidated with Docket No. ER78-19 *et al.*, for purposes of hearing and decision thereon.

(E) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38364 Filed 12-13-79; 8:45 am]

BILLING CODE 6450-01-M

[1] Designated as: Florida Power & Light Company, (1) Supplement No. 2 to Rate Schedule No. 32 (Contractual Addition). (2) Exhibit E to Rate Schedule 32 (New Smyrna-Jackson Interchange Agreement).

[2] Although characterized as "agreements" by FP&L, we note that New Smyrna has not executed a service agreement relating to any of the transmission rate filings.

[Docket No. TA80-1-13 (PGA80-1)]

Gas Gathering Corp.; Proposed Change in Rates Under Purchased Gas Adjustment Clause Provision

December 7, 1979.

Take notice that Gas Gathering Corporation (GGC), on November 29, 1979 tendered for filing proposed changes in its F.E.R.C. Gas Tariff providing for decreased charges to Transcontinental Gas Pipe Line Corporation (Transco), its sole jurisdictional customer, under G.G.C.'s PGA clause. The proposed changes would decrease the rate charged Transco by 14.35650¢ per Mcf under

those rates presently in effect. The proposed rates are to be made effective on January 1, 1980. G.G.C. states that its filing is based upon a restated Base Tariff Rate as filed on November 19, 1979 pursuant to § 154.38(d)(4)(vi)(a) of the Commission's Regulations. G.G.C. also states that its instant filing of November 29, 1979 is made consistent with its requested waiver of the Commission's Regulations filed on November 19, 1979 to exclude the statement of incremental surcharges herein as otherwise required by Part 282 of the Commission's Regulations, which were adopted under Order No. 49.

A copy of the filing has been served upon Transco.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 19, 1979. 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. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38365 Filed 12-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TA80-1-4 (PGA80-1, IPR80-1)]

Granite State Gas Transmission, Inc.; Proposed Change in Rates Pursuant to Purchased Gas Cost Adjustment Provision

December 7, 1979.

Take notice that Granite State Gas Transmission, Inc. (Granite State), 66 Market Street (P.O. Box 508), Portsmouth, New Hampshire 03801, on November 30, 1979, tendered for filing Twenty-Seventh Revised Sheet No. 3A in its FERC Gas Tariff, Original Volume No. 1, containing proposed changes in rates for effectiveness on January 1, 1980.

According to Granite State, the instant rate adjustment reflects an increase in its cost of gas purchased from Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Tennessee) which Tennessee proposes to make effective January 1, 1980, and the amortization of Unrecovered Purchased Gas Costs. It is stated that Granite State's filing is made pursuant to the purchase gas cost adjustment provision in its tariff, approved on December 14, 1972, in Docket No. RP73-17, as amended.

Granite State further states that its rate adjustment is applicable to its sales to Northern Utilities, Inc. (Northern), which is Granite State's sole jurisdictional customer. According to Granite State, the effect of the proposed rates contained on Twenty-Seventh Revised Sheet No. 3A on Northern's purchases from Granite State is an increase of $346,700 annually, based on purchases from Tennessee and sales to Northern for the twelve months ended October 31, 1979.

According to Granite State, copies of the filing were served upon Northern and the regulatory commissions of the States of Maine and New Hampshire.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 19, 1979. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38366 Filed 12-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP75-222]

Kansas-Nebraska Natural Gas Co.; Petition To Amend

December 12, 1979.

Take notice that on November 9, 1979, Kansas-Nebraska Natural Gas Company (Applicant), P.O. Box 608, Hastings, Nebraska 69901, filed in Docket No. CP75-222 a petition to amend the order issued January 8, 1976,[1] in Docket Nos. CP75-217 and CP75-222, pursuant to Section 7(c) of the Natural Gas Act so as to authorize the addition and deletion of wells under the terms of an agreement between Applicant and Northern Natural Gas Company (Northern) as required from time to time, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Applicant states that pursuant to the order dated January 8, 1976, it was authorized to exchange with and purchase from Northern natural gas pursuant to an agreement dated June 5, 1974. Applicant proposes pursuant to letter agreements between Applicant and Northern dated January 3, 1979, and March 13, 1979, to add the Federal #1-19 well and to delete the Federal #1 well, respectively.

Applicant further proposes to add and delete wells under the agreement as required from time to time so as to expedite the connection of gas. It is stated that such authorization would be limited to Fremont County, Wyoming, which is also the location of the above two wells.

Applicant states that it and Northern agree to file with the Commission on or before January 31 of each year amendments to the agreement to show the addition and deletion of wells during the previous calendar year.

Applicant further states that it has budget authorization to construct and operate jurisdictional facilities to receive new supplies. It is stated that Northern would reimburse Applicant for any such facilities installed to accommodate Northern's gas.

Applicant states that the authorization requested is in the public interest and that the proposed sale, exchange and transportation would have no effect on any of the other sales or services rendered by either Applicant or Northern and would cause no substantial change in either party's operations.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 3, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38367 Filed 12-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TA80-1-46 (PGA80-1 and IPR80-1)]

Kentucky West Virginia Gas Co.; Proposed Change in Rates

December 7, 1979.

Take notice that Kentucky West Virginia Gas Company (Kentucky West) on November 30, 1979, tendered for filing with the commission Revised Sheet No. 27 and Original Sheet No. 27A to its FERC Gas Tariff, First Revised Volume No. 1, to become effective January 1, 1980.

Kentucky West states that the change in rate results from the application of the Commission's regulations requiring the company to file revised tariff sheets providing for a reduced PGA rate and for an incremental pricing surcharge for the four month PGA period ending April 30, 1980.

Kentucky West states that a copy of its filing has been served upon the puchasers and interested state commissions and upon each party on the service list of Docket No. RP76-93.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protest should be filed on or before December 24, 1979. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38368 Filed 12-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-67]

Lone Star Gas Co., a Division of Enserch Corp.; Application

December 13, 1979.

Take notice that on November 8, 1979, Lone Star Gas Company, a Division of Enserch Corporation (Applicant), 301 South Harwood Street, Dallas, Texas 75201, filed in Docket No. CP80-67 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon the operation of certain facilities for the transportation of natural gas in interstate commerce, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it seeks permission to abandon facilities located in the states of Texas and Oklahoma due to depleted sources of supply or rearrangement of producer's facilities. Applicant further states that the facilities proposed to be abandoned are no longer needed or required and that the proposed abandonment of the facilities from interstate commerce would not result in the abandonment or reduction of natural gas service to any of Applicant's customers.

Applicant seeks permission to abandon the following pipeline and facilities by abandonment in place and/or by removal and salvage:

(1) All of Line FX-559-T; 1,925 feet of 3-inch pipeline facilities, Stephens County, Oklahoma.

(2) All of Line FX-575-T; 2,180 feet of 3-inch pipeline facilities, Stephens County, Oklahoma.

(3) All of Line FX-581-T; 2,263 feet of 4-inch pipeline facilities, Carter County, Oklahoma.

(4) All of Line FX-582-T; 7,683 feet of 3-inch pipeline facilities, Stephens County, Oklahoma.

(5) All of Line GN-81-T; 34 feet of 2-inch pipeline facilities, Bryan County, Oklahoma.

(6) All of Line G-N; 16,227 feet of 6-inch pipeline facilities, Carter County, Oklahoma.

(7) A portion of Line T-F between stations 203 + 37 and 360 + 95 (end); 15,758 feet of 10-inch pipeline facilities, Stephens County, Oklahoma.

(8) All of Line 71-20; 113 feet of 2-inch pipeline facilities, Wichita County, Texas.

(9) All of Line 7120-1; 4,150 feet of 2-inch pipeline facilities, Wichita County, Texas.

(10) A portion of Line 71-28 between stations 0 + 00 at Line "A" and 69 + 75 (end); 6,975 feet of 4-inch pipeline facilities, Wichita County, Texas.

(11) All of Line 71-28-2; 4,539 feet of 2-inch pipeline facilities, Wichita County, Texas.

(12) All of Line 71-35; 25,504 feet of 2-inch pipeline facilities, Wichita County, Texas.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 3, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirement of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38369 Filed 12-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP76-254]

Michigan Consolidated Gas Co.; Petition To Amend

December 12, 1979.

Take notice that on November 26, 1979, Michigan Consolidated Gas Company (Petitioner), 1 Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP76-254 a petition to amend the order issued September 14, 1979, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the permanent transfer from its Utility Division to its Interstate Storage Division 7,000 horsepower of existing compression, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that pursuant to the order of September 14, 1979, it is authorized to construct 7,500 horsepower of new compression for its Interstate Storage Division. It states further that due to changed circumstances regarding its Utility Division's need for compression at facilities adjacent to the Taggart Storage

Field, the Utility Division now has 7,000 horsepower of compression permanently in excess of its needs.

Petitioner states that such excess compression is attributable to: (1) The installation by Shell Oil Company of a gas conditioning plant at Kalkaska, Michigan, which increased the suction pressure of the gas received at the Taggart Station's Utility Division, thus reducing the Utility Division's needs for compression at that location; and (2) The decline in gas production volumes from the northern Michigan production areas which utilize compression adjacent to the Taggart field.

Petitioner, in order to achieve better utilization of existing facilities and maximize operational efficiency, proposes to transfer the 7,000 horsepower of excess compression rather than build the 7,500 horsepower compressor previously authorized in the instant docket.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 4, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38370 Filed 12-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TA80-1-15 (PGA80-1 and IPR80-1)]

Mid Louisiana Gas Co.; Proposed Change in Rates

December 7, 1979.

Take notice that Mid Louisiana Gas Company (Mid Louisiana), on November 30, 1979, tendered for filing as a part of First Revised Volume No. 1 of its FERC Gas Tariff, Thirty-Fourth Revised Sheet No. 3a and Original Sheet No. 3c to become effective January 1, 1980.

Mid Louisiana states that the filing is to comply with Commission Order No. 49 issued at Docket No. RM79-14. That order requires a rate change be calculated which provides for a "PGA Reduction" due to incremental pricing of certain high cost gas as defined in the Commission Regulations. The filing is being made in accordance with Section 19 of Mid Louisiana's FERC Gas Tariff. Copies of the filing have been mailed to Mid Louisiana's jurisdictional customers and interested State commissions.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 19, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38371 Filed 12-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TA80-1-5 (PGA80-1, IPR80-1, DCA80-1, and GRI80-1)]

Midwestern Gas Transmission Co.; Filing Pursuant to Tariff Rate Adjustment Provisions

December 7, 1979.

Take notice that on November 30, 1979, Midwestern Gas Transmission Company (Midwestern) tendered for filing Twenty-Sixth Revised Sheet No. 5, Eleventh Revised Sheet No. 5A, and Original Sheet No. 5B to its FERC Gas Tariff, Third Revised Volume No. 1, to be effective January 1, 1980. Midwestern states that the sole purpose of the revised tariff sheets is to reflect adjustments to its rates pursuant to rate adjustment provisions of the General Terms and Conditions of its tariff as follows:

(1) A PGA Rate Adjustment for the Southern System pursuant to Article XXVII; (2) A Surcharge for Amortizing the Unrecovered Purchased Gas Cost Account for the Northern System pursuant to Article XXVIII; (3) A curtailment credit Rate Adjustment for the Southern System pursuant to Article XIX; (4) A GRI Rate Adjustment for both systems pursuant to Article XXI; and (5) Estimated Incremental Pricing Surcharges for the Southern System pursuant to Article XXII.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 19, 1979. 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; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Comission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38372 Filed 12-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP80-59]

Montana Power Co.; Petition for Declaratory Order

Issued: December 11, 1979.

Take notice that on November 20, 1979, Montana Power Company, 40 East Broadway, Butte, Montana 59701 (Petitioner) filed a petition requesting that the Commission issue a declaratory order pursuant to 18 CFR 1.43 clarifying the treatment of severance taxes under section 105 of the Natural Gas Policy Act of 1978 (NGPA).

Petitioner requests that the Commission answer the following questions as they may well be of a recurring nature and have major precedential effect.

1. Should severance taxes paid by producers be added to the price to be paid under section 105(b)(2)(B) where the "contract price" (section 105(c)) did not expressly include such taxes and where no provision for the payment of such taxes appears specifically in the contract, even though the intent of the parties was that severance taxes paid by the producer would be compensated for by the purchaser?

2. Should computed severance taxes be added to the section 102 price for purposes of making the comparison required by section 105(b)(2) and, eventually, for the price to be paid under section 105(b)(2)(A)?

Any person desiring to be heard or to make any protest to this proceeding should, on or before December 31, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party into a proceeding or to participate as a party in any hearing must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38373 Filed 12-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-87]

Mountain Fuel Supply Co.; Application

December 13, 1979.

Take notice that on November 15, 1979, Mountain Fuel Supply Company (Applicant), 180 East First South Street, Salt Lake City, Utah 84139, filed in Docket No. CP80-87 an application pursuant to Section 7 of the Natural Gas Act for permission and approval to abandon by sale certain pipeline facilities and for a certificate of public convenience and necessity authorizing the relocation of minor metering facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant requests authorization to abandon a 2.2-mile long 12-inch diameter segment of its pipeline system, designated as Mainline No. 39. It is stated that the line was constructed to connect pipeline facilities of Applicant with those of Colorado Interstate Gas Company (CIG), Applicant's gas supplier, to enable Applicant to redeliver exchange gas volumes to CIG. Applicant further requests authorization to relocate minor metering facilities associated with the facilities to be abandoned.

Applicant states that CIG has proposed expanding its gas transmission capacity by looping a portion of its pipeline system so that the additional loop would pass close to the point of origin of Mainline No. 39. Therefore, it is asserted, Mainline No. 39 would no longer be needed by Applicant to redeliver gas to CIG, but would be of benefit in the operation of CIG's system.

Applicant states that the abandoned facilities would be sold to CIG at the net book value of $184,000 as of August 31, 1979, and would continue to be used as a pipeline cross-over between CIG's two main transmission lines. It is stated that since volumes of exchange gas would continue to be delivered by Applicant to CIG at a point adjacent to the Kanda Compressor Station, no abandonment of service is involved.

Applicant further states that CIG has agreed to reimburse Applicant for its actual expenses, approximately $14,200, for costs incurred in relocating an existing meter station from its present location near CIG's mainline to a new location adjacent to Applicant's Kanda Compressor Station.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 3, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38374 Filed 12-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP75-71]

Natural Gas Pipeline Co. of America and Transwestern Pipeline Co.; Petition To Amend

December 12, 1979.

Take notice that on November 26, 1979, Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60603, and Transwestern Pipeline Company (Transwestern), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP75-71 a joint petition to amend the Commission's order issued pursuant to Section 7(c) of the Natural Gas Act on June 20, 1977,[1] as amended, in the instant docket so as to authorize (1) the exchange of 10,000 Mcf of natural gas per day between the Petitioners, (2) the delivery of gas from Natural to Transwestern at an additional exchange point, and (3) the exchange of gas between the Petitioners at additional mutually agreed upon locations, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioners state that Natural has contracted to purchase available reserves from a well located in Eddy County, New Mexico, which well Transwestern also has an interest in, and which gas Transwestern is willing to accept for exchange. Petitioners propose to add a delivery point at the above location for gas to be delivered to Transwestern for Natural's account. It is stated that the maximum exchange volume between Petitioners would be increased to 10,000 Mcf per day all as set forth in a gas exchange agreement between the parties dated August 12, 1974, as amended August 1, 1979.

It is further stated that Petitioners have agreed to add future exchange points which may be attached to either party's system in specified areas of interest in Oklahoma, New Mexico and Texas to expedite the attachment of wells and to prevent duplication of facilities. Petitioners request authorization to permit the exchange of natural gas at these additional exchange points, as they become available, in order to obviate the need to amend the

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

certificate authorization whenever a well is added to the exchange arrangements.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 4, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38375 Filed 12-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. SA80-34]

New Jersey Natural Gas Co.; Application for Adjustment and Request for Interim Relief

December 11, 1979.

On November 19, 1979, New Jersey Natural Gas Company (New Jersey Natural) filed with the Federal Energy Regulatory Commmission an application for an adjustment under Section 502(c) of the Natural Gas Policy Act of 1978 ("NGPA"). New Jersey Natural requests adjustment of the requirements of the Commission's Rule I incremental pricing regulations to permit it to report all of its surcharge absorption capability (MSAC) to Texas Eastern Transmission Corporation (Texas Eastern). Pending determination of this application, New Jersey Natural requests interim relief.

New Jersey Natural states that its only non-exempt customer under Rule I is located within its Central Division, which is geographically separated from its other divisions and receives its supply of natural gas only from Texas Eastern. New Jersey Natural further states that, notwithstanding this, the MSAC proration provisions of §§ 282.503(c) and 282.504(d)(2) of the regulations require it to allocate a portion of its MSAC to the suppliers of its other two divisions, Algonquin Gas Transmission Company and South Jersey Gas Company. New Jersey Natural claims that, under the circumstances, the proration requirements as applied to it are contrary to the terms of Title II of the NGPA and are inequitable and unfair to Texas Eastern and its customers.

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's Rules of Practice and Procedure, Order No. 24, issued March 22, 1979.

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of Section 1.41. All peititions to intervene must be filed on or before December 31, 1979.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38376 Filed 12-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-63

Northern Natural Gas Co.; Application

December 13, 1879.

Take notice that on November 7, 1979, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP80-63 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon the sale of natural gas to Oklahoma Natural Gas Company (Oklahoma Natural) and to abandon and remove certain measuring facilities located in Ellis County, Oklahoma, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

On April 9, 1976, the Commission issued an order in Docket No. CP76-165 authorizing Northern to abandon, in part service to High Plains Natural Gas Company and to sell and deliver to Oklahoma Natural up to 1,500 Mcf per day of natural gas for resale in the communities of Shattuck, Gage, Fargo and Fort Supply, Oklahoma, and to various commercial customers. Under terms of an agreement dated August 20, 1975, Northern presently delivers up to 1,500 Mcf per day to Oklahoma Natural; such agreement is presently on file with the Commission as Northern's Rate Schedule X-50. Northern presently operates measuring facilities located in Ellis County, Oklahoma, through which the volumes of gas sold to Oklahoma Natural are delivered.

Oklahoma Natural has advised Northern that it has negotiated the purchase of natural gas from intrastate sources and therefore desires to discontinue the purchase of natural gas from Northern. A cancellation agreement dated October 4, 1979, was entered into under the terms of which the sale of natural gas to Oklahoma Natural from Northern would be discontinued, it is asserted. Northern states that it has agreed to remove the measuring facilities as they would no longer be used. The estimated cost of removing the measuring facilities is $300 which would be financed from cash on hand, it is stated.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 3, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 the or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38377 Filed 12-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-103]

Northern Natural Gas Co.; Application

December 13, 1979.

Take notice that on November 23, 1979, Nothern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha,

Nebraska 68102, filed in Docket No. CP80-103 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon by sale to CRA Incorporated (CRA) 11.9 miles of 4-inch gathering line known as the Brooks Field line located in Irion County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the Brooks Field line is utilized to deliver natural gas produced in the Brooks Field to the Mertzon Plant, and that said pipeline was among the facilities originally acquired by Nothern from Northern Natural Gas Pipeline Company (formally Pioneer Gathering System, Incorporated). It is further stated that pursuant to an agreement between Pioneer Gathering System, Incorporated and Mertzon Corporation (Mertzon) dated July 1, 1963, upon recovery of initial investment and depletion of the Brooks Field reserves, the Brooks Field line would become the property of Mertzon.

Applicant states that CRA, successor in interest to Mertzon, has expressed the desire to assume ownership and operation of the pipeline. The sale, it is said, would have no impact on the function of said facilities; such facilities would continue to be utilized for delivery of natural gas purchased by Northern to the Mertzon plant.

The abandonment proposed herein would enable Applicant to realized a savings in operating and maintenance costs.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 4, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38378 Filed 12-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. SA80-41]

Panhandle Eastern Pipe Line Co. (Anchor Hocking Corp.); Application for Adjustment

December 12, 1979.

Take notice that on November 26, 1979, Anchor Hocking Corporation (Applicant), 109 North Broad Street, Lancaster, Ohio 43130, filed in Docket No. SA80-41 an application pursuant to Section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) for an adjustment which would provide Applicant interim relief for its Winchester, Indiana, facility from the operation of § 281.301, *et seq.* of the Regulations under the NGPA (18 CFR 281.301, *et seq.*), which provide standards for making alternative fuel determinations for essential agricultural users, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that the manufacture of glass requires the melting of raw material in a rectangular, refractorylined furnace. There are said to be two types of furnaces used to melt glass: a side port furnace and an end port furnace. The original plant design and existing space constraints dictate the type of furnace used. The primary difference between the two types of furnaces is said to be the location of the burner tips. The tips are located in the ends on an end port furnace and in the sides on a side port furnace. The application states that in either design the flame characteristics of natural gas are such that the operation of each type is similar, but such is not the case when firing the two different types of furnaces on fuel oil.

Applicant states that it is manufacturer of glass food and beverage containers at its Winchester, Indiana, plant where it has installed alternate fuel capability.

This capability permits the facility to burn Nos. 2, 4, or 6 fuel oil. However, from an economic standpoint, the facility prefers to burn No. 2 or No. 4 oil when natural gas is curtailed. Unbeknownst to Applicant at the time of installation, the application states, the flame length of residual fuel is such as to cause excessive refractory attack on the furnace lining opposite the burner tips on a side port furnace causing premature failure of the furnace. Until installing and testing residual fuel at the Winchester facility, Applicant's experience is said to have been satisfactory when installing alternate fuel capability at other facilities having end port furnaces. On an end port tank, the distance between burner tip and opposite wall is said to be sufficient that when fired on a residual fuel oil, the heat release occurs before reaching the refractory lining. On a side port furnace, the distance across the tank is said not to be sufficient and the heat release occurs when the flame impacts the refractory. The flame characteristics of No. 2 and No. 4 fuel oil are said to be such that the flame length is shorter and the refractory is not attacked as severely. This refractory attack will decrease the normal 5 to 6 years life of a furnace between rebuilds to 1½ to 2 years, Applicant states. The cost of a furnace rebuild is approximately 1.5 million dollars plus the lost production caused by down time. Therefore, Applicant asserts, it is impractical for Anchor Hocking to fire its Winchester facilities on No. 6 fuel oil although it does have the installed capability.

Applicant states that the downgrading of essential agricultural use gas will increase the likelihood of a natural gas curtailment and require the firing of the furnaces on No. 4 fuel oil. As No. 4 fuel oil is more expensive than No. 6 fuel oil, this will artificially increase the cost of goods produced and place Applicant's facility in a decreased competitive position in the market place and as such will impose a special hardship, Applicant asserts. Accordingly, Applicant requests relief from the downgrading of its essential agricultural use gas for which residual fuel oil is an alternative fuel at its Winchester, Indiana, facility, so that the quantities set forth below as downgraded be permitted to retain the essential agricultural use status:

	Requirements prior (Mcf)[1]	Requirements after (Mcf)[2]	Amount downgraded (Mcf)
January	126,727	37,424	89303
February	113,821	26,790	87,031
March	124,894	24,490	100,404
April	119,320	23,700	95,620
May	120,857	24,490	96,367
June	114,000	23,700	90,300
July	117,800	24,490	93,310
August	117,800	24,490	93,310
September	114,000	23,700	90,300
October	121,510	24,490	97,020
November	120,167	23,700	96,467
December	125,317	24,490	100,827
Total	1,436,213	305,954	1,130,259

[1] Essential agricultural use requirements prior to order No. 55 (Mcf)
[2] Essential agricultural use requirements after order No. 55(Mcf)

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's Rules of Practice and Procedure (18 CFR 1.41).

Any person desiring to participate in this adjustment proceeding must file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed, on or before December 31, 1979.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38379 filed 12-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-80]

Panhandle Eastern Pipe Line Co.; Application

December 13, 1979.

Take notice that on November 14, 1979, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP80-80 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of additions to its pipeline system needed to connect new supplies of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has embarked upon a program to acquire and attach to its system new natural gas sources to meet the requirements of its customers, and has been successful in attaching new supply sources in the Rockey Mountain area. It is stated that of significance to its program is the production of gas in the Denver Julesburg Basin of Colorado. Applicant states it has been able to attach to its system a daily supply of approximately 115,000 Mcf from this area. Most of the gas from the Denver Julesburg Basin is produced in the Wattenburg Field from the "J" Sand Formation, based on 320-acre spacing units, it is asserted. However, it is stated, a single well on a 320-acre spacing unit has proved insufficient to drain the underlying reservoir.

Applicant states that pursuant to an order by the Colorado Oil and Gas Commission the drilling of a second well in the "J" Sand Formation was permitted. Applicant states that approximately 100 infill drilled wells would require connection during the 1980 calendar year. In order to connect the 100 new wells, Applicant contends, it would be necessary to make certain additions to an existing lateral and pipeline system in Weld and Adams Counties, Colorado.

Applicant states the connection of the 100 wells would not require any additions of compressor units to its existing pipeline system in the vicinity.

Applicant further states that the 100 wells would produce initial recoverable reserves of approximately 110,000,000 Mcf and would result in an increase in average daily deliveries from Wattenburg Field of approximately 22,100 Mcf per day at the end of the first year of the in-service date of the proposed facilities.

Applicant proposes to construct and operate 50 miles of 4-inch pipeline; 9.4 miles of 6-inch pipeline; 10 miles of 8-inch pipeline; 1.6 miles of 10-inch pipeline; 1 mile of 12-inch pipeline; and 20 miles of 16-inch pipeline. Applicant states the estimated cost of the proposed facilities would be $9,995,000, which cost would be financed from available funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 3, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38380 Filed 12-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TA80-1-6 (PGA80-1, IPR80-1 and LFUT80-1)]

Sea Robin Pipeline Co.; Filing of Revised Tariff Sheets

December 7, 1979.

Take notice that on November 30, 1979, Sea Robin Pipeline Company (Sea Robin) tendered for filing Twenty-Second Revised Sheet No. 4 to its FERC Gas Tariff, Original Volume No. 1. This tariff sheet and supporting information is being filed 30 days prior to the proposed effective date of January 1, 1980, pursuant to the Purchased Gas Cost Adjustment provisions set out in Section 1 of Sea Robin's tariff. In addition, Sea Robin submits Third Revised Sheet No. 4-A to become effective January 1, 1980, in compliance with the Federal Energy Regulatory Commission (Commission) orders issued May 11, 1978, and July 12, 1978, at Docket No. RP77-6.

Sea Robin states that these revised tariff sheets and supporting data are being mailed to Sea Robin's jurisdictional customers and interested state commission.

Any person desiring to be heard or to protest file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 24, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a

petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38381 Filed 12-13-79; 8:45 am]

BILLING CODE 6540-01-M

[Docket No. TA80-1-6 (PGA80-1)]

Sea Robin Pipeline Co.; Filing of Revised Tariff Sheets

December 7, 1979.

Take notice that on November 30, 1979, Sea Robin Pipeline Company (Sea Robin) tendered for filing as a part of its FERC Gas Tariff, Original Volume No. 2, Seventh Revised Sheet Nos. 127-D and 135-C to become effective on January 1, 1980. These revised tariff sheets reflect Sea Robin's cost of gas delivered at Pecan Island, Louisiana, for the six (6) month period beginning January 1, 1980, and are being filed 30 days prior to the effective date pursuant to Section 4 of Sea Robin's Tariff.

Copies of the revised tariff sheets and supporting data are being mailed to Sea Robin's jurisdictional customers and interested State commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before December 24, 1979. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38382 Filed 12-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TA80-1-56 (PGA80-2 and IPR80-1)]

South Texas Natural Gas Gathering Co.; Purchased Gas Cost Adjustment Filing

December 7, 1979.

Take notice that on November 30, 1979, South Texas Natural Gas Gathering Company (South Texas) tendered for filing Exhibit A to Orginial Supplement No. 100 (purchased gas cost adjustment) to Rate Schedule No. 2 superseding previous purchased gas cost adjustments. South Texas stated that Exhibit A to Original Supplement No. 100 reflected a decrease of .08 cents per Mcf in the adjusted rate due to incremental pricing surcharges for the period from January 1, 1980 to May 31, 1980. South Texas requested waiver of any Commission regulation which would prohibit implementation of Supplement No. 100.

The proposed effective date for Original Supplement No. 100 is January 1, 1980. South Texas states that copies of the filing have been served to the only customer served under Rate Schedule No. 2, Transcontinental Gas Pipe Line Corporation.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commisson's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 24, 1979. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38383 Filed 12-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TA80-1-7 (PGA80-2 and IPR80-1)]

Southern Natural Gas Co.; Proposed Changes in FPC Gas Tariff

December 7, 1979.

Take notice, that Southern Natural Gas Company (Southern) on November 30, 1979 tendered for filing proposed changes in its FPC Gas Tariff, Sixth Revised Volume No. 1 to become effective January 1, 1980. Southern states that such filing is a "reduced PGA" filing being submitted pursuant to FERC Order No. 49 and Sections 17 (Purchased Gas Adjustment) and 22 (Incremental Pricing Provision) of the General Terms and Conditions of Southern's FERC Gas Tariff, Sixth Revised Volume No. 1 as amended by tariff sheets filed by Southern on November 1, 1979. Southern's filing reflects a decrease in the rates proposed in its November 16, 1979 PGA filing. Such decrease in rates results from the following items:

(1) A revision to the Current Adjustment, submitted in the November 16, 1979 PGA filing to reflect the "reduced PGA" filings of United and Sea Robin. Such rate changes result in an annual reduction of $34,969,852 or approximately 6¢ per Mcf from the Current Adjustment submitted in the November 16, 1979 PGA filing.

(2) A Reduced Current Adjustment reflecting the deduction from the revised Current Adjustment of certain incremental costs pursuant to Sections 17.3 and 22.4(6) of the General Terms and Conditions as amended by Southern's November 1, 1979 filing. The Reduced Current Adjustment reflects a reduction of approximately .9¢ per Mcf from the revised Current Adjustment.

Copies of the filing are being served upon the Company's jurisdictional customers and interested state commissions. Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol St. N.E., Washington, D.C. 20426 in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before Dec. 24, 1979. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38384 Filed 12-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. SA80-33]

Southern Union Gas Co.; Application for Adjustment and Request for Interim Relief

December 11, 1979.

On November 15, 1979, Southern Union Gas Company ("Southern") filed with the Federal Energy Regulatory Commission an application for adjustment under Section 502(c) of the Natural Gas Policy Act of 1978 ("NGPA"), and Section 1.41 of the Commission's Rules of Practice and Procedure, wherein Southern Union seeks relief from certain substantive and procedural requirements of Order 49 (Docket No. RM79-21) with regard to

Southern Union's implementation of incremental pricing.

Southern Union seeks an adjustment to allow implementation of incremental pricing on its multistate gas distribution systems on a basis which recognizes the geographic and legal realities which surround its distribution operations. Southern Union seeks authority to treat each service area under the jurisdiction of a separate state or local regulatory authority as a separate and distinct "jurisdictional service area" for purposes of incremental pricing. Where the integrated nature of a distribution system operated by Southern Union results in service to more than one jurisdictional service area, Southern Union would implement incremental pricing to all of such service area provided that interstate gas was delivered thereto for sale or ultimate consumption. Under the proposed implementation plan, Southern Union's Austin, Galveston and Port Arthur Service Areas in the State of Texas would be exempt from incremental pricing. Further, Southern Union requests, as interim relief pursuant to Section 1.41(m), authority to report its estimated MSAC's for non-exempt users for the PGA period commencing January 1, 1980 in accordance with the implementation plan for which an adjustment is being sought.

The procedures applicable to the conduct of this adjustment proceeding are found in 18 CFR 1.41 *et seq.* See also Commission Order No. 24 issued March 22, 1979.

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed on or before December 31, 1979 and should be sent to the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38385 Filed 12-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TA80-1-9 (PGA80-1, IPR80-1, DCA80-1, R&D80-1, GRI80-1, and LFUT80-1)]

Tennessee Gas Pipeline Co., a Division of Tenneco, Inc.; Proposed Rate Change Under Tariff Rate Adjustment Provisions

December 7, 1979.

Take notice that on November 30, 1979, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), tendered for filing Twenty-Eighth Revised Sheet Nos. 12A and 12B and Original Sheet Nos. 12C through 12J to Ninth Revised Volume No. 1 of its FERC Gas Tariff to be effective on January 1, 1980.

Tennessee states that the purposes of the revised tariff sheets is to adjust Tennessee's rates pursuant to Articles XXIII, XXIV, XXV, XXVII, XXVIII, and XXIX of the General Terms and Conditions of its FERC Gas Tariff, consisting of a PGA rate adjustment, a rate adjustment to reflect curtailment credits, an R&D adjustment, a First Use Tax Rate Adjustment, a GRI rate adjustment, and Estimated Incremental Pricing Surcharges.

Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 19, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38386 Filed 12-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TA80-1-17 (PGA80-1, IPR80-1, and GRI80-1)]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

December 7, 1979.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on November 30, 1979, tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following sheets:

Fifty-first Revised Sheet No. 14
Fifty-first Revised Sheet No. 14A
Fifty-first Revised Sheet No. 14B
Fifty-first Revised Sheet No. 14C
Fifty-first Revised Sheet No. 14D
Original Sheet No. 14E.

The above tariff sheets are being filed pursuant to Section 282.602 of the Commission's Regulations Under the NGPA. These tariff sheets reflect Texas Eastern's "reduced PGA" determined in accordance with Section 282.503 of the Commission's Regulations and the projected Incremental Pricing Surcharges (IPS) to be billed for the month of January, 1980. Texas Eastern's next effective date for PGA and IPS shall be February 1, 1980. Texas Eastern also proposes by this filing to include in its rates pursuant to Section 25 of the General Terms and Conditions of its FERC Gas Tariff the GRI Funding Unit of 0.48¢/Mcf, approved by the Commission in Opinion No. 64 issued on October 2, 1979 in Docket No. RP79-75. Texas Eastern has converted the Funding Unit to its billing basis, dry dekatherms.

The proposed effective date of the above tariff sheets is January 1, 1980.

Copies of the filing were served upon the company's jurisdictional customers and interested state commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 19, 1979. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38387 Filed 12-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP67-35]

Transcontinental Gas Pipe Line Corp., and Tennessee Gas Pipeline Co., a Division of Tenneco, Inc.; Petition To Amend

December 12, 1979.

Take notice that on November 28, 1979, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, and Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP67-35 a joint petition to amend the order issued pursuant to Section 7(c)

of the Natural Gas Act on October 11, 1966,[1] as amended, in the instant docket so as to authorize additional points of exchange under an existing exchange arrangement, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioners state that they exchange as pursuant to an exchange agreement dated June 1, 1966, as amended. Petitioners further state that by agreement dated August 17, 1979, they have further amended their exchange agreement to provide for additional points of exchange and the ability to exchange natural gas on a thermal basis. The proposed additional points of exchange are as follows:

A. Existing points of interconnection of the pipeline facilities of the parties:

1. *Crowley, Louisiana*—At Mile Post 26.53 on Transco's 18-inch and 24-inch Central Louisiana Gathering System, Acadia Parish Louisiana;

2. *Louise, Texas*—Near Louise, Texas, at Mile Post 12.99 on Transco's 24-inch McMullen Lateral and Tennessee's 24-inch 30-inch, and 30-inch main line system, Wharton County, Texas; and

3. *Katy, Texas*—Near Katy, Texas at Mile Post 6.22 on Transco's 12-inch Katy Lateral and Tennessee's 24-inch, 30-inch, and 30-inch main line system, Waller County, Texas.

B. Existing points where one party and a third party can exchange gas for the account of the other party:

1. *Exxon-Katy*—At the tailgate of Exxon's Katy field plant in Waller County, Texas;

2. *Texaco-Henry*—At the tailgate of Texaco's Henry Plant in Vermilion Parish, Louisiana;

3. *Texaco-Paradis*—At the tailgate of Texaco's Paradis Plant located in St. Charles Parish, Louisiana.

C. Points where one of the parties has reserves that can be delivered to the pipeline system of the other party:

1. *Acadia Parish, Louisiana*—At a point on Transco's system in the South Crowley Field in Acadia Parish, Louisiana, where gas is delivered to Transco's system;

2. *West Cameron Block 40*—At C & K Offshore Company's West Cameron Block 40 "A" production platform offshore Louisiana, where gas is delivered to Transco's system.

No additional facilities are necessary to effectuate exchange at these proposed additional points, it is asserted.

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 4, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38388 Filed 12-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP78-518]

Trunkline Gas Co. and Transcontinental Gas Pipe Line Corp.; Petition To Amend

December 11, 1979.

Take notice that on November 6, 1979, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77001, and Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP78-518 a petition to amend the order issued pursuant to Section 7(c) of the Natural Gas Act on December 28, 1978, in the instant docket so as to authorize Trunkline to transport gas which Transco would acquire from West Cameron Block 540, offshore Louisiana, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that pursuant to the order issued December 28, 1978, Applicants were authorized to implement a transportation and exchange agreement dated August 8, 1978, which provided that Trunkline would transport and/or exchange on a firm basis up to 105,000 Mcf of natural gas per day for Transco, which volume represents the latter's interest in gas produced in Vermilion Block 325 and West Cameron Blocks 405 and 576, offshore Lousiana.

Applicants are now requesting: (1) The addition of a new point of receipt on the system of Stingray Pipe Line Company in West Cameron Block 540 and (2) An increase in the firm transportation and/or exchange volume to 126,200 Mcf of natural gas per day. This is pursuant to the August 27, 1979, amendment to the transportation and exchange agreement dated August 8, 1978, it is stated.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 3, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38389 Filed 12-13-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

Joint Program To Dispose of Hazardous Radium Sources; Memorandum of Understanding With the Food and Drug Administration

Cross Reference: For a document giving notice of a Memorandum of Understanding with the Food and Drug Administration, see FR Doc. 79-38133 appearing on page 72652 of this issue of the Federal Register.

[FRL 1375-6]

Fuels and Fuel Additives; Receipt of an Application for a Waiver of the Prohibition Set Forth in Section 211(f) of the Clean Air Act, as Amended

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: On October 17, 1979, Beker Industries Corp. submitted an application for a waiver of the section 211(f) prohibition set forth in the Clean Air Act (Act). This application is for a waiver to blend anhydrous crude methanol into unleaded gasoline in up to 10-15 volume percent. The application defines crude methanol as being 75 percent methanol, 5 percent ethanol, 7.5 percent n-propanol, and 12.5 percent

i-butanol. Pursuant to section 211(f)(4) of the Act, the Environmental Protection Agency has until April 14, 1980, (180 days from the date of receipt) to grant or deny the application.

PUBLIC DOCKET: Copies of information relative to this application are available for inspection in public docket En-79-20 at the Central Docket Section (A-130) of the Environmental Protection Agency, Room 2903B, 401 M Street, S.W., Washington, D.C. 20460, between the hours of 8:00 am and 4:00 pm. Any comments from interested parties should be addressed to this docket. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Thomas E. Moore, Attorney-Advisor, Field Operations and Support Division (EN-340), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 472-9367.

SUPPLEMENTARY INFORMATION: Section 211(f)(1) of the Act makes it unlawful, effective March 31, 1977, for any manufacturer to first introduce or increase the concentration in use of any fuel or fuel additive for use in light duty motor vehicles manufactured after model year 1974 which is not substantially similar to any fuel or fuel additive utilitzed in the certification of any model year 1975, or subsequent model year, vehicle or engine under section 206 of the Act. Section 211(f)(4) of the Act provides that the Administrator of EPA may waive the prohibitions of section 211(f)(1) upon application of any fuel or fuel additive manufacturer if the Administrator determines that the applicant has established that such fuel or fuel additive will not cause or contribute to a failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206 of the Act. If the Administrator does not act to grant or deny an application within 180 days of its receipt, the waiver shall be treated as granted.

An application for a waiver was submitted by Beker Industries Corp. on October 17, 1979, to allow the blending of up to 10-15 percent anhydrous crude methanol into unleaded gasoline. The application defines the anhydrous crude methanol as 75 percent methanol, 5 percent ethanol, 7.5 percent n-propanol, and 12.5 percent i-butanol. The 180 day review period terminates on April 14, 1979.

The Agency is currently reviewing the application. The Agency welcomes any comment on the application including emission test data on this crude methanol mixture. The application is available for public inspection in public docket EN-79-20 which is kept in the Central Docket Section of the Environmental Protection Agency (A-130), Room 2903B, 401 M Street, S.W., Washington, D.C. 20460. Any comments should be addressed to the Central Docket Section.

The decision to hold a public hearing has not yet been made. If the agency determines that a hearing is appropriate, a notice will be published in the Federal Register detailing the time, place, and type of information desired.

Dated: December 3, 1979.

Jeffrey G. Miller,

Acting Assistant Administrator For Enforcement.

[FR Doc. 79-38334 Filed 12-13-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1376-2]

Availability of Environmental Impact Statements

AGENCY: Office of Environmental Review (A-104) U.S. Environmental Protection Agency.

PURPOSE: This Notice lists the Environmental Impact Statements (EISs) which have been officially filed with the EPA and distributed to Federal Agencies and interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality Regulations (40 CFR Part 1506.9).

PERIOD COVERED: This Notice includes EIS's filed during the week of December 3 to December 7, 1979.

REVIEW COVERED: The 45-day review period for draft EIS's listed in this Notice is calculated from December 14, 1979 and will end on January 28, 1980. The 30-day review period for the EIS's as calculated from December 14, 1979 will end on January 14, 1980.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this Notice you should contact the Federal agency which prepared the EIS. This Notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the Notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Environmental Review, EPA, for further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available with charge from the following sources:

For hard copy reproduction: Environmental Law Institute, 1346 Connecticut Avenue, NW, Washington, DC 20036.

For hard copy reproduction or microfiche: Information Resources Press, 2100 M Street, NW, Suite 316, Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Kathi L. Wilson, Office of Environmental Review (A-104), Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, (202) 245-3006.

SUMMARY OF NOTICE: On July 30, 1979, the CEQ Regulations became effective. Pursuant to Section 1506.10(a), the 30-day review period for final EIS's received during a given week will now be calculated from Friday of the following week. Therefore, for all final EIS's received during the week of December 3, 1979 to December 7, 1979 the 30-day review period will be calculated from December 14, 1979. The review period will end on January 14, 1980

Appendix I sets forth a list of EIS's filed with EPA during the week of December 3, 1979 to December 7, 1979. The Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS filed with EPA, the title of the EIS, the State(s) and County(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number, if available, is listed in this Notice. Commenting entities on draft EIS's are listed for final EIS's.

Appendix II sets forth the EIS's which agencies have granted an extended review period or EPA has approved a waiver from the prescribed review period. The Appendix II includes the Federal agency responsible for the EIS, the name, address, and telephone number of the Federal agency contact, the title, State(s) and County(ies) of the EIS, the date EPA announced availability of the EIS in the Federal Register and the newly established date for comments.

Appendix III sets forth a list of EIS's which have been withdrawn by a Federal agency.

Appendix IV sets forth a list of EIS retractions concerning previous Notices of Availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal agency.

Appendix V sets forth a list of reports or additional supplemental information relating to previously filed EIS's which have been made available to EPA by Federal agencies.

Appendix VI sets forth official corrections which have been called to EPA's attention.

Dated: December 11, 1979.

William N. Hedeman, Jr.,

Director, Office of Environmental Review (A-104).

Appendix I.—EIS's Filed With EPA During the Week of December 3 to 7, 1979

Department of Agriculture

Contact: Mr. Barry Flamm, Director, Office of Environmental Quality, Office of the Secretary, U.S. Department of Agriculture, Room 412-A Admin. Building, Washington, D.C. 20250, (202) 447-3965.

Rural Electrification Administration

Draft Supplement

Wheatland Generating Station/Grayrocks Dam (DS-1), Platte County, Wyo., December 4: Proposed is the construction and operation of the Wheatland Generating Station Units 1, 2 and 3 and associated transmission facilities near Wheatland, Platte, County, Wyoming. In conjunction with the power plant, a 104,100 acre-foot water storage reservoir will be impounded by Grayrocks Dam on the Laramie River, and extensive transmission facilities will be constructed to intergrate the power into existing transmission grids. (USDA-REA-76-2-DS) (DES Order No. 91214.)

The review period for the above EIS has been extended to February 12, 1980. (See Appendix II)

U.S. Army Corps of Engineers

Contact: Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN-CWR-E Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272-0121.

Draft

New Haven Harbor Coastal Development, New Haven County, Conn., December 4: Proposed is improvement dredging in New Haven Harbor, New Haven County, Connecticut. Features of the plan include: 1) deepening the main channel from 35 feet deep to 42 feet deep, 2) widen the main channel, 3) bring the turning basin to the same depth, and 4) deepen a portion of the anchorage at the head of the harbor to a 30-foot depth. An estimated 7.2 million cubic yards of sediment and 52,000 cubic yards of rock will be removed, with disposal planned at the Central Long Island Sound Regional Dredged Material Disposal Area. (New Haven Division) (EIS Order No. 91216.)

The review period for the above EIS has been extended to January 31, 1980. (See Appendix II)

Final

Mississippi River Improvement, Helena Harbor, Phillips County, Ark., December 3: Proposed is the dredging of a new 5.5 mile channel in two stages along the right side of the main channel of the Mississippi River, extending northeastward from the north end of the Westover revetment and parallel to the main stem levee. Dredged material would be strategically placed to create and provide navigation access to a 685-acre raised port area along the landside of the channel to be developed as a waterfront industrial complex with facilities to move commodities by water. (Memphis District) Comments made by: DOC, USDA, DOI, EPA, HEW, State and local agencies, and businesses. (EIS Order No. 91209.)

Department of Commerce

Contact: Dr. Sidney R. Galler, Deputy Assistant Secretary, Environmental Affairs, Department of Commerce, Washington, D.C. 20230, (202) 377-4335.

Nat'l Oceanic and Atmospheric Admin.

Final

Groundfish Fishery, Bering Sea/Aleutian Island FMP, Alaska, December 7: The proposed action is to adopt and implement a fishery management plan for the groundfish fishery for the Bering Sea/Aleutian Island Area under provisions of Title III of the Fishery Conservation and Management Act of 1976. This Act extends jurisdiction over fishery resources and establishes a program for their management. The purpose of the plan is to manage the groundfish fishery in the area for optimum yield, and to allocate harvest between domestic and foreign fishermen. Comments made by: DOC, DOI, groups, individuals, and businesses. (EIS Order No. 91224.)

Department of Defense, Army

Contact: Col. Charles E. Bell, Chief of the Environmental Office, Headquarters DAEN-ZCE, Office of the Assistant Chief of Engineers, Department of the Army, Room 1 E676, Pentagon, Washington, D.C. 20310, (202) 694-4269.

Draft

Fort Hood Overall Mission, Coryell and Bell Counties, Tex., December 7: Propsed is the continuation of the current mission of Fort Hood in Coryell and Bell Counties, Texas. Installation activities include all those performed within the entire military reservation of 216,915 acres. The primary activities of Fort Hood are oriented toward the training of combat support, and combat support units, primarily through maneuver and live-fire training exercises. The alternatives also consider reduction/relocation and no action. (EIS Order No. 91228.)

DEPARTMENT OF ENERGY

Contact: Dr. Robert Stern, Acting Director, NEPA Affairs Division, Department of Energy, Mail Station 4G-064, Forrestal Bldg., Washington, DC 20585, (202) 252-4600.

Bonneville Power Administration

Draft

BPA Fiscal Year 1981 Program, Programmatic, December 6: Proposed is the BPA Fiscal Year 1981 Program which would result in the diversion of approximately 1400-1900 acres of forest land to other land uses compatible with transmission line right-of-ways; permanent removal of all vegetative cover from approximately 118-135 acres as a result of the construction of the new substations, transmission lines, and permanent access roads; control of all tall vegetation on forest land; removal of approximately 6.5 to 9.8 acres of cropland from production; and vegetation control measures to reduce vegetation cover on approximately 18,646 acres of existing right-of-way and 780 acres of existing substation property. (DOE/EIS-0060) (EIS Order No. 91222.)

Environmental Protection Agency

Contact: Mr. Wallace Steckney, Region I, Environmental Protection Agency, John F. Kennedy Federal Bldg., Room 2203, Boston, Massachusetts 02203, (617) 223-4635.

Final

Oxford County, Maine: Proposed is the selection, from six alternatives, of a site for the disposal of dewatered sludge from the secondary wastewater treatment facility at South Paris, Oxford County, Maine. Two sites are recommended: the A. C. Lawrence site and the Ryerson Hill site. Comments made by: USDA, EPA, DOI, COE, AHP, State and local agencies, groups, individuals, and businesses. (EIS Order No. 91227.)

Environmental Protection Agency

Contact: Mr. Clinton Spotts, Region VI, Environmental Protection Agency, First International Building, 1201 Elm Street, Dallas, Texas 75270, (214) 767-2716.

WWT Facilities, Little Rock (Maumelle), Pulaski County, Ark., December 7: Proposed is the construction of WWT facilities in Pulaski County, Arkansas. The treatment plant would be constructed on Beck Road in the Little Maumelle River Valley to treat sewage collected by two interceptor sewer mains in the northern part of the drainage basin. It is also proposed that an outfall line be constructed from the Beck Road plant to the Arkansas River. The preferred alternative is no action. Comments made by: AHP, DOI, FERC, State and local agencies, groups, individuals and businesses. (EIS Order No. 91226.)

FEDERAL ENERGY REGULATORY COMMISSION

Contact: Dr. Jack M. Heinemann, Advisor on Environmental Quality, Room 3000 S-22, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, (202) 275-4150.

Draft

Swan Lake Project No. 2911, Licenses, Tongass NF, Alaska, December 5: Proposed is the issuance of a license for the construction and operation of the Swan Lake Project, a conventional hydroelectric facility, to be located on Falls Creek within the Tongass National Forest, Alaska. The project will include: 1) a dam downstream from the outlet of the existing Swan Lake, 2) a power tunnel, 3) a switchyard, 4) an access road, 5) a transmission line, and 6) appurtenant facilities. The generating equipment would have an installed capacity of 22,000 kW. The 115 kV transmission line would extend for approximately 30.5 miles to the existing Bailey Switchyard in Ketchikan. (FERC/EIS-0012-D) (EIS Order No. 91219.)

GENERAL SERVICES ADMINISTRATION

Contact: Mr. Carl W. Penland, Acting Director, Environmental Affairs Division, General Services Administration, 18th and F Streets, N.W., Washington, D.C. 20405, (202) 566-1416.

Final

Denver Federal Center, Lakewood, Jefferson County, Colo., December 5: Proposed is a master plan for future development of the Denver Federal Center (DFC) in Lakewood, Jefferson County, Colorado. The plan provides for the orderly consolidation of Federal Agency offices in the West Denver Metro Area. Development of the DFC would provide a significant increase in high density administrative and office space in the DFC core area, to be surrounded by lower density uses, including military, research, and industrial activities, as well as open space. In addition, non-governmental office and commercial uses are recommended for the northwest corner of the DFC. Comments made by: DOD, USDA, DOE, COE, DOI, EPA, State and local agencies, and businesses. (EIS Order No. 91220.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, (202) 755-6306.

Draft

Hickory Creek Subdivision, Mortgage Insurance, Fort Bend County, Tex., December 7: Proposed is the issuance of mortgage insurance for the Hickory Creek Subdivision located in Fort Bend County, Texas. When completed the subdivision will contain approximately 1,293 acres. There will also be some commercial reserves and recreational areas within the proposed development. (HUD-RO6-EIS-76-11D) (EIS Order No. 91229.)

Final

Westwood/Summerfield Subdivisions, Southport, Yolo County, Calif., December 7: Proposed is the issuance of HUD home mortgage insurance for Westwood and Summerfield Subdivisions located in Southport, Yolo County, California. The planned development will consist of 803 single family residential units on 228 acres. The plan includes provisions for future commercial development and public parks. (HUD-RO9-EIS-78-9F) Comments made by: FERC, COE, VA, DOT, HEW, EPA, DOE, and DOI. (EIS Order No. 91225.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director Environmental Project Review, Room 4256 Interior Bldg., Department of the Interior, Washington, D.C. 20240, (202) 343-3891.

Bureau of Land Management

Draft

OCS Sale No. 46, Western Gulf of Alaska, Kodiak, Gulf of Alaska, December 7: Proposed is the leasing of a total of 1.3 million of OCS land in the Western Gulf of Alaska. The 564 blocks which will be leased are directly east and southeast of Kodiak Island approximately 4.8 to 229 kilometers (3 to 145 miles) offshore in water depths of about 35 to 450 meters (100 to 1,350 feet). The alternatives considered included no sale, delay of sale, and modifications of sale. (EIS Order No. 91230.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, SW., Washington, D.C. 20590, (202) 426-4357.

Federal Highway Administration

Draft

Branan Field Road-Chaffee Road, Clay and Duval Counties, Fla., December 6: Proposed is the construction of a 4-lane highway using the existing Branan Field Road and Chaffee Road and approximately 6 miles of new alignment in Clay and Duval Counties, Florida. The facility would extend from FL-21 (Blanding Boulevard) to the intersection of Chaffee Road and I-10. The total length of the project is approximately 15 miles. The alternatives consider no build and three alignments. (FHWA-FLA-EIS-79-2D) (EIS Order No. 91223.)

U.S. 54, Hoover Rd. to KS-2/42 and I-235 Interchange, Sedgwick County, Kans., December 5: Proposed are improvements to both US 54 and I-235 in the City of Wichita, Sedgwick County, Kansas. US 54 would be upgraded by construction to a 6-lane freeway from Hoover Road to near Wall Street and a 4-lane freeway from Wall Street to KS-2/42. A grade separation and interchange is proposed at the existing US-54/West Street signalized intersection. An interchange is also proposed one-half mile north of US 54 on I-235 at the present I-235/Maple Street grade separation. A man-made flood control channel would be altered within the existing right-of-way along with realignment of a levee and channel widening. (FHWA-KS-EIS-76-03-D) (EIS Order No. 91218.)

Draft

MD-223 Improvement, MD-5 to MD-4, Prince Georges County, Md., December 4: Proposed is the improvement of approximately 4.5 miles of MD-223 (Woodyard Road) between MD-5 (Branch Avenue) to MD-4 (Pennsylvania Avenue) and the construction of an interchange at Branch Avenue, Prince Georges County, Maryland. Specific improvements include upgrading to a four-lane highway and the elimination of dangerous and substandard curves and grades. Provisions are included for a hiker-biker trail. Two alternate alignments and two alternate Branch Avenue-Woodyard Road interchanges are considered in addition to no action. (FHWA-MD-EIS-79-05-D) (EIS Order No. 91215.)

U.S. 10, Improvement, Wadena to Motley, several counties, Minn., December 4: Proposed is the improvement and upgrading of US 10 to a four-lane divided roadway in Otter Tail, Wadena, Todd and Morrison Counties, Minnesota. The length of the project is approximately 31 miles beginning at CSAH-77 to CSAH-53. The plan also includes the construction of bypasses for the Cities of Wadena, Verndale, Aldrich, Staples and Motley; and the relocating and construction of approximately 2 miles of MN-210 as a two-lane rural highway in and around the City of Staples. In addition to no action, two alternative alignments are considered for both US 10 and MN-210. (FHWA-MN-EIS-79-04-D) (EIS Order No. 91213.)

FH-27, Beltrami County Rd. 39 to TH-6, Chippewa, NF, Beltrami and Itasca Counties, Minn., December 5: Proposed is the construction and reconstruction of approximately 40 miles of FH-27 between Beltrami County Road 39, Pennington, and TH-6 near Bowstring, Itasca County, Minnesota. The project would provide a two lane rural highway section with shoulders. The project is located totally within the boundaries of the Chippewa National Forest. The alternatives included no action, two route alternatives and two sub-alternatives. (FHWA-MN-EIS-79-05-D) (EIS Order No. 91217.)

Draft

Rainbow Arch Bridge Replacement, Cannonball River, Hettinger County, N. Dak., December 4: Proposed is the removal and replacement of the Rainbow Arch Bridge over the Cannonball River in Mott, Hettinger County, North Dakota. Two alternate bridge sites are under consideration which include: 1) the 1st Street location near the existing bridge, and 2) the 3rd Street location approximately two blocks to the northwest. Other features considered are: 1) a diversion channel, 2) reservoirs, and evacuation of the flood plain. Other alternatives considered include: 1) raising the existing bridge, 2) moving the existing bridge, 3) construction of a new bridge, 4) documenting the bridge, and 5) no action. (FHWA-ND-EIS-79-02-D) (EIS Order No. 91212.)

Notre Dame Bridge Replacement, Manchester, Hillsborough County, N.H., December 4: Proposed is the replacement of the Notre Dame Bridge over the Merrimack River in the City of Manchester, Hillsborough County, New Hampshire. The bridge would be 2500 feet in length, four lanes and would be located on the existing alignment. The plan also recommends widening Bridge Street to four lanes between Elm Street and McGregor Street as well as widening east of Elm Street to tie into that section of Bridge Street already widened. The approach intersections to the Notre Dame Bridge would be reconstructed to five lanes to include a left turn lane. (FHWA-NH-EIS-79-01-D) (EIS Order No. 91211.)

TN-67, Appalachian Corridor "B" to TN-37 Washington and Carter Counties, Tenn., December 3: Proposed is the construction of approximately 8.0 miles of TN-67 from Appalachian Corridor "B" in Johnson City to the four lane section of TN-37 in Elizabethton, Carter and Washington Counties, Tennessee. The highway is proposed as a freeway type facility with full control of access. The alternatives consider: 1) two build alignments, 2) postponement, 3) a lower level of service, and 4) public transportation. (FHWA-TN-EIS-79-05-D) (EIS Order No. 91206.)

Draft

FAP 3, Thomas/101 to I-55/Crump Interchanges, Shelby County, Tenn., December 3: Proposed is the improvement of FAP 3 in Memphis, Shelby County, Tennessee. The improvement would begin at the I-55/Crump Boulevard Interchange and extend north to the US 51 (Thomas Street)/101 Interchange. The length of the project is approximately six miles. The alternatives consider: 1) improvement to the existing facilities, 2) construction of a new limited-access facility, 3) restricted auto use in the central business area, and 4) no action. (FHWA-TN-EIS-79-04-D) (EIS Order No. 91207.)

The review period for the above EIS has been extended to February 1, 1980. (See Appendix II)

Connecticut River Bridge Crossing, Windham County, Vt. and Cheshire County, N.H., December 3: Proposed is the construction of a bridge crossing the Connecticut River between Rockingham, Windham County, Vermont and Walpole, Cheshire County, New Hampshire. The alternatives consider, in addition to no build, improvement of the existing bridge and five locations for the construction of a new bridge. A new bridge would consist of a 40 foot roadway with one six foot sidewalk and would be either a three span girder or an arch span. (FHWA-NH-EIS-79-02-D) (EIS Order No. 91205.)

Final

Fort McHenry Tunnel, I-95, Dredging and Disposal, Baltimore County, MD., December 3: The proposed action is the dredging and disposal of materials associated with the construction of the Fort McHenry Tunnel located in Baltimore, Maryland. The Tunnel will provide the crossing for I-95 under the Northwest Branch of the Patapsco River. It is estimated that approximately 3,343,000 cubic yards of bottom material must be dredged to form the trench for the prefabricated tube sections. The alternatives address numerous water and upland disposal areas and the recommended site is a contained area adjacent to the shoreline in Baltimore Harbor. (FHWA-MD-EIS-79-03-F) Comments made by: USDA, DOT, EPA, ICC, COE, DOI, State and local agencies, groups, and businesses. (EIS Order No. 91208.)

University Avenue, Cedar Street to Humboldt Road, Brown County, Wis., December 3: Proposed is the upgrade and improvement of Monroe Avenue from Cedar Street to the East River, and University Avenue from the East River to Humboldt Road, a distance of approximately 2.9 miles in the City of Green Bay, Brown County, Wisconsin. Included in this project is a new six-lane bridge over the East River to replace the existing Monroe Avenue Bridge. Also included is a connection to a proposed I-43 interchange. (FHWA-WISC-EIS-79-03-F) Comments made by: DOT, DOI, EPA, State and local agencies. (EIS Order No. 91210.)

Appendix II.—*Extension/Waiver of Review Periods on EIS's Filed With EPA*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Waiver/extension	Date review terminates
DEPARTMENT OF INTERIOR					
Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Bldg., Department of the Interior, Washington, D.C. 20240, (202) 343-3891.	Phosphate Leasing on the Osceola National Forest, Florida.	Final Supplement 91124	Nov. 9, 1979	Extension	Jan. 17, 1980.
		** The referral period (40 CFR 1504.3(b)), for the above final supplement has also been extended to Jan. 17, 1980.			
DEPARTMENT OF TRANSPORTATION					
Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, SW., Washington, D.C. 20590, (202) 426-4357.	I-84/I-86 Improvement, East Hartford and Manchester, Hartford County, Conn.	Final 91188	Nov. 30, 1979	Extension	Jan. 7, 1980.
		** The referral period (40 CFR 1504.3(b)), for the above final has been extended to Jan. 2, 1980.			
	FAP-3 Improvement, Memphis, Shelby County, Tenn.	Draft 91207	Dec. 14, 1979 (see app. I).	Extension	Feb. 1, 1980.
DEPARTMENT OF AGRICULTURE					
Mr. Barry Flamm, Director, Office of Environmental Quality, Office of the Secretary, U.S. Department of Agriculture, Room 412-A, Admin. Building, Washington, D.C. 20330, (202) 447-3965.	Wheatland Generating Station, Units 1, 2 and 3, Transmission and Grayrocks Reservoir, Wyoming.	Draft Supplement 91214	Dec. 14, 1979 (see app. I).	Extension	Feb. 12, 1980.
U.S. ARMY CORPS OF ENGINEERS					
Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272-0121.	New Haven Harbor, Coastal Development for Navigation, Dredging, Mass.	Draft 91216	Dec. 14, 1979 (see app. I).	Extension	Jan. 31, 1980.

Appendix III.—*EIS's Filed With EPA Which Have Been Officially Withdrawn by the Originating Agency*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Date of withdrawal
None.				

Appendix IV.—*Notice of Official Retraction*

Federal agency contact	Title of EIS	Status/No.	Date notice published in "Federal Register"	Reason for retraction
None.				

Appendix V.—*Availability of Reports/Additional Information Relating to EIS's Previously Filed With EPA*

Federal agency contact	Title of report	Date made available to EPA	Accession No.
None.			

Appendix VI.—*Official Correction*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Correction
FEDERAL COMMUNICATIONS COMMISSION				
Mr. Upton Guthery, Coordinator, Office of General Counsel, Federal Communications Commission, Washington, D.C. 20554, (202) 632-6393.	Tucson FM Broadcasting Corporation, Permit, Pima County, Ariz.	Final 91204	Dec. 14, 1979	The below EIS was omitted from the Dec. 7, 1979, FEDERAL REGISTER. The 30 day review began on Dec. 7, 1979, and will terminate on Jan. 7, 1980.

Tucson FM Broadcasting Corporation, Permit, Pima County, Ariz., date November 30. Proposed is the issuance of a permit for the construction of a new commercial FM broadcast station on channel 298 in Tucson, Pima County, Ariz. The applicant proposes to locate its transmitter and antenna on the second highest peak of the Tucson Mountains. The facility will occupy about 0.5 acres of land. Construction will include: Three transmitter buildings, and ultimately six towers. A 1.8 mile access road will also be constructed. Comments made by: DOI, EPA, State and local agencies, groups, individuals, and businesses. (EIS Order No. 91204)

[FR Doc. 79-38433 Filed 12-13-79; 8:45 am]
BILLING CODE 6560-01-M

FARM CREDIT ADMINISTRATION

[Farm Credit Administration Order No. 821]

Authority Delegations; Authorization of the Secretary to the Governor, Secretary to the General Counsel and Secretary to the Chief of Staff to the Senior Deputy Governor, to Authenticate Documents, Certify Official Records, and Affix Seal (Revocation of FCA Order No. 801)

AGENCY: Farm Credit Administration.

ACTION: Notice.

The Governor of the Farm Credit Administration issued Order No. 821 authorizing certain employees to authenticate documents, certify official records, and affix seal. The text of the Order is as follows:

1. Barbara V. Mitchell, Secretary to the Governor, Loretta M. Gascon, Secretary to the General Counsel, and Katherine S. Wilson, Secretary to the Chief of Staff to the Senior Deputy Governor, individually, are authorized and empowered:

(a) To execute and issue under the seal of the Farm Credit Administration, statements (1) authenticating copies of, or excerpts from, official records and files of the Farm Credit Administration; (2) certifying, on the basis of the records of the Farm Credit Administration, the effective periods of regulations, orders, instructions, and regulatory announcements; and (3) certifying, on the basis of records of the Farm Credit Administration, the appointment, qualification, and continuance in office of any officer or employee of the Farm Credit Administration, or any conservator or receiver acting under the supervision or direction of the Farm Credit Administration.

(b) To sign official documents and to affix the seal of the Farm Credit Administration thereon for the purpose of attesting the signatures of officials of the Farm Credit Administration.

2. The provisions of this notice shall be effective December 11, 1979, and on that date shall supersede Farm Credit Administration Order No. 801, dated March 25, 1977, 42 FR 17516.

Donald E. Wilkinson,
Governor, Farm Credit Administration.

[FR Doc. 79-38276 Filed 12-13-79; 8:45 am]
BILLING CODE 6705-01-M

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Fowarder License No. 148R]

Gaynar Shipping Corp. and Also Manhattan Division, Gaynar Shipping Corp.; Order of Revocation

On December 4, 1979, Gaynar Shipping Corporation and also Manhattan Division, Gaynar Shipping Corporation, Suite 1471, One World Trade Center, New York, New York 10048, voluntarily surrendered its Independent Ocean Freight Forwarder License No. 148R for revocation as of December 3, 1979.

Therefore, by virture of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(c), dated August 8, 1977;

It is ordered, that Independent Ocean Freight Forwarder License No. 148R issued to Gaynar Shipping Corporation and also Manhattan Division, Gaynar Shipping Corporation, be and is hereby revoked effective December 3, 1979.

It is further ordered, that a copy of this Order be published in the Federal Register and served upon Gaynar Shipping Corporation and also Manhattan Division, Gaynar Shipping Corporation.

Robert G. Drew,
Director, Bureau of Certification and Licensing.

[FR Doc. 79-38397 Filed 12-13-79; 8:45 am]
BILLING CODE 6730-01-M

Shipping Conditions in the U.S. Foreign Trade With Australia; Filing of Petition

Pursuant to 46 CFR 506, Refrigerated Express Lines (A/ASIA) Pty., Ltd. (REL) has petitioned the Commission to take regulatory action pursuant to authority of section 19 of the Merchant Marine Act, 1920 (46 U.S.C. 876) to adjust or meet conditions unfavorable to shipping in the foreign trade of the United States resulting from the action of a foreign government.

REL is a common carrier by water in the foreign commerce of the United States and since 1969 has operated fully-refrigerated vessels carrying meat in the trade from Australia to the United States. By letter dated September 20, 1979, the Australian Meat and Live-Stock Corporation (created by the Australian Meat and Live-Stock Corporation Act, 1977), advised REL that the Corporation had decided not to redesignate REL as a carrier of meat from Australia to U.S. East and Gulf Coast ports commencing on December 1, 1979.

REL alleges in its petition that the effect of this decision wholly excludes its participation in the meat trade from Australia to United States East and Gulf Coast ports, thus inflicting heavy and irreparable damage. REL further alleges that the actions of the Corporation will also damage port and shipper interests and will result in greater shipping costs for Australian exporters, at the expense of the U.S. foreign trade. The petition alleges that the actions of the Corporation have therefore created a condition unfavorable to shipping in the foreign trade of the United States.

In order for the Commission to make a thorough evaluation of REL's allegations, interested persons are requested to submit data, views or arguments on the petition no later than January 10, 1980.

The petition is available for examination at the Washington, D.C. offices of the Federal Maritime Commission, 1100 L Street, N.W., Room 11101, and at the Commission's District offices located at New York, N.Y.; New Orleans, La.; San Francisco, Ca.; Chicago, Ill.; and San Juan, Puerto Rico.

By the Commission December 11, 1979.

Francis C. Hurney,

Secretary.

[FR Doc. 79-38398 Filed 12-13-79; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

Advisory Committees; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Committee name	Date, time, and place	Type of meeting and contact person
1. Miscellaneous Internal Drug Products Panel	January 5 and 6, Marriott Motor Hotel, Bethesda, MD.	Open public hearing January 5, 9 a.m. to 10 a.m.; open committee discussion January 5, 10 a.m. to 4:30 p.m., January 6, 9 a.m. to 4:30 p.m.; John R. Short (HFD-510), 5600 Fishers Lane, Rockville, MD 20857, 301-443-6156.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the Committee. Those who desire to make such a presentation should notify the contact person before December 28, 1979, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The Panel will review data submitted under the over-the-counter (OTC) review's call for data for this Panel (see also 21 CFR 330.10(a)(2)). The Panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Committee name	Date, time and place	Type of meeting and contact person
2. Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel.	January 7, 9 a.m., Rm. 1409, 200 C St. SW., Washington, DC.	Open public hearing 9 a.m. to 12 m.; open committee discussion 1 p.m. to 5 p.m.; Max W. Talbott (HFK-460), 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7536.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. As of February 1980, the current clinical investigation of intraocular lenses will have been underway for 2 years. Approximately 100,000 patients per year have been enrolled in the study. In order to continue to provide for a valid clinical assessment of the intraocular lens, all interested persons are invited to make presentations at this meeting. Presentations may address any aspect of the intraocular lens investigation. All

persons wishing to make presentations should contact Dr. Talbott (address above) by January 2, 1980.

Open committee discussion. The Ophthalmic Device Section will discuss the current status of the intraocular lens clinical investigation. Based upon the information resulting from the investigation and from the presentations during the open public hearing, the section will recommend what, if any, additional controls are warranted.

Committee name	Date, time, and place	Type of meeting and contact person
3. Fertility and Maternal Health Drugs Advisory Committee	January 11, 9 a.m., Conference Rm. F, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 5 p.m.; A. T. Gregoire (HFD-130), 5600 Fishers Lane, Rockville, MD 20857, 301-443-3520.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in the practice of obstetrics and gynecology.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss ectopic pregnancy associated with use of medicated intra-uterine devices; efficacy of estrogens for postcoital contraception; Estradiol pellets for the treatment of menopause (NDA 18-135); and FDA action report.

Committee name	Date, time, and place	Type of meeting and contact person
4. Subcommittee for Revision of Guidelines, Gastrointestinal Drugs Advisory Committee.	January 14, 9 a.m., Conference Rm. A, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 4:30 p.m.; Joan C. Standaert (HFD-110), 5600 Fishers Lane, Rockville, MD 20857, 301-443-4730.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in treating gastrointestinal diseases.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss revision of guidelines for gastrointestinal motility modifying agents.

Committee name	Date, time, and place	Type of meeting and contact person
5. Oncologic Drugs Advisory Committee	January 17 and 18, 9 a.m., Conference Rm. G, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Open committee discussion January 17, 9 a.m. to 11 a.m.; open public hearing January 17 11 a.m. to 12 m., open committee discussion January 17 1 p.m. to 5:30 p.m., January 18 9 a.m. to 5:30 p.m.; Ann Greenstein (HFD-150). 5600 Fishers Lane, Rockville, MD 20857, 301-443-4250.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in treating cancer.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss Oncovin (vincristine sulfate)—new indications; proposed group C (NCI distribution) drugs; and clinical guidelines for anti-neoplastic drugs.

Committee name	Date, time and place	Type of meeting and contact person
6. Antimicrobial Panel	January 18 and 19, 9 a.m., Conference Rm. F, (January 18), Marriott Motor Hotel, Bethesda, MD (January 19).	Open public hearing January 18, 9 a.m. to 10 a.m.; open committee discussion January 18, 10 a.m. to 4:30 p.m., January 19, 9 a.m. to 4:30 p.m.; Lee Geismar (HFD-512), 5600 Fishers Lane, Rockville, MD 20857, 301-443-6057.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of non-prescription drug products.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the Committee. Those who desire to make such a presentation should notify the

contact person before January 11, 1980, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The Panel will review data submitted under the over-the-counter (OTC) review's call for data for this Panel (see also 21 CFR 330.10(a)(2)). The Panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Committee name	Date, time, and place	Type of meeting and contact person
7. Anesthesiology Devices Section of the Respiratory and Nervous System Devices Panel.	January 21, 9 a.m.; Rm. 1409, 200 C St. SW., Washington, DC.	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 4 p.m.; David S. Shindell (HFK-430), 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons are encouraged to present information pertinent to the classification of anesthesia and respiratory therapy devices. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify David S. Shindell by January 7, 1980, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The Committee will discuss the comments received in response to the proposed classification regulations for anesthesia and respiratory therapy devices, and it will also discuss transcutaneous monitoring devices.

Committee name	Date, time, and place	Type of meeting and contact person
8. Miscellaneous External Drug Products Panel	January 27 and 28, 9 a.m., Howard Johnson Motor Lodge, Wheaton, MD (January 27), Conference Rm. K, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD (January 28).	Open committee discussion January 27, 9 a.m. to 4:30 p.m.; open public hearing January 28, 9 a.m. to 10 a.m., open committee discussion January 28, 10 a.m. to 4:30 p.m.; John T. McElroy (HFD-510), 5600 Fishers Lane, Rockville, MD 20857, 301-443-1430.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee. Those who desire to make such a presentation should notify the contact person before January 18, 1980, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The Panel will review data submitted under the over-the-counter (OTC) review's call for data for this Panel (see also 21 CFR 330.10(a)(2)). The Panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Committee name	Date, time, and place	Type of meeting and contact person
9. Psychopharmacologic Drugs Advisory Committee	January 28, 9 a.m., Conference Rms. G and H, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 4:30 p.m.; Robert C. Nelson (HFD-120), 5600 Fishers Lane, Rockville, MD 20857, 301-443-3830.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in the practice of psychiatry and related fields.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss Loxapine (Loxitane (R)—Lederle)—evaluation of efficacy for the new indication of paranoid schizophrenia; and Haloperidol (Haldol (R) McNeil)—review and evaluation of reports of sudden and unexpected deaths associated with the use of this drug.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee

deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this Federal Register notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, MD 20857 between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

Dated: December 6, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-37879 Filed 12-13-79; 8:45 am]
BILLING CODE 4110-03-M

[Docket No. 79F-0415]

The Goodyear Tire & Rubber Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Goodyear Tire and Rubber Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of *n*-alkylbenzenesulfonic acid and its ammonium, calcium, magnesium, potassium and sodium salts as emulsifiers and/or surface active agents in materials used in the fabrication of food-contact articles.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, 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 9B3451) has been filed by the Goodyear Tire and Rubber Co., Akron, OH 44316, proposing that § 178.3400 *Emulsifiers and/or surface active agents* (21 CFR 178.3400) be amended to provide for the use of *n*-alkylbenzenesulfonic acid an its ammonium, calcium, magnesium, potassium and sodium salts as emulsifiers and/or surface active agents in the manufacture of articles or components of articles intended for food contact.

The agency has determined that the proposed action falls under § 25.1(f)(1)(v) (21 CFR 25.1(f)(1)(v)) and is exempt from the requirements of an environmental impact analysis report, and that no environmental impact statement is necessary.

Dated: November 30, 1979.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 79-37878 Filed 12-13-79; 8:45 am]
BILLING CODE 4110-03-M

[FDA 225-80-6001]

Joint Program To Dispose of Hazardous Radium Sources; Memorandum of Understanding With the Environmental Protection Agency

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has executed a memorandum of understanding with the Environmental Protection Agency. The purpose of the understanding is to establish a joint program to assist the States in disposing of hazardous radium sources and specifying the responsibilities of each agency.

FOR FURTHER INFORMATION CONTACT: Gary Dykstra, Regulatory Operations Section (HFC-22), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3470.

SUPPLEMENTARY INFORMATION: Pursuant to the notice published in the Federal Register of October 3, 1974 (39 FR 35679) stating that future memoranda of understanding and agreements between FDA and others would be published in the Federal Register, the FDA is issuing the following memorandum of understanding:

Memorandum of Understanding Between the Environmental Protection Agency and the Food and Drug Administration

Purpose. The Food and Drug Administration (FDA) and the Environmental Protection Agency (EPA) are aware of the need to remove hazardous radium sources from active use or storage. The purpose of this Agreement is to establish a joint program to assist the States in the disposal of these sources and to specify the respective responsibilities of each Agency.

Responsibilities. EPA responsibilities under this Agreement will be performed by the Office of Radiation Programs (ORP); FDA responsibilities will be performed by the Bureau of Radiological Health (BRH). Specific responsibilities are as follows:

1. Both Agencies will advertise this program and will actively encourage the transfer of radium sources for disposal.
2. EPA will have the responsibility for all actions and costs associated with the transfer and temporary storage of the sources. Shipment of sources requiring special precautions, shipping containers, vehicles, etc., may be refused at the decision of EPA.
3. BHR will have the responsibility for all actions and costs associated with the transfer of the sources from the temporary storage site to a final disposal site. This action is to be completed prior to the final termination of this Agreement.

Duration of Agreement. The time period covered by this Agreement is July 1, 1979, through September 30, 1981. Prior to the termination date, this Agreement will either be renewed or other arrangements will be made for continuation of the radium collection, storage, and disposal program. This Agreement may be terminated by either party upon 90 days written notice to the other party.

Project Officers. The EPA project officer is Mr. Charles R. Porter, Eastern

Environmental Radiation Facility, U.S. EPA, P.O. Box 3009, Montgomery, Alabama 36109, (FTS) 534-7615; FDA project officer is Mr. Caleb B. Kincaid (HFX-4), Bureau of Radiological Health, FDA, 5600 Fishers Lane, Rockville, Maryland 20857, (FTS) 443-1365. These officers may be contacted on matters regarding the Agreement.

Authority. The Authority under which this Agreement is drawn may be found in the Economy Act of 1932 as amended (31 USC 686).

Approval.

s/*David M. Rosenbaum,* Deputy Assistant Administrator for Radiation Programs (ANR-458), Environmental Protection Agency.

Date: July 31, 1979.

s/*Joseph P. Hile,* Associate Commissioner, Food and Drug Administration, Department of Health, Education, and Welfare.

Date: October 10, 1979.

Effective date. This Memorandum of Understanding became effective October 10, 1979:

Dated: December 7, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-38133 Filed 12-13-79; 8:45 am]

BILLING CODE 4110-03-M

Health Care Financing Administration

Medicare Program; Coverage of Oxygen for Use in a Patient's Home

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Proposed notice.

SUMMARY: We request comments on a proposed policy concerning oxygen and oxygen equipment used by Medicare patients at home. The proposed policy includes principles and criteria for Medicare contractors to use in processing claims for reimbursement of oxygen services provided at home.

Oxygen and oxygen equipment are covered under the durable medical equipment benefit of the Supplementary Medical Insurance program (Part B of Medicare). Our proposed policy is intended to ensure uniform reimbursement determinations by Medicare contractors nationwide. We are also using this notice to inform patients, physicians, providers of oxygen and oxygen-related equipment, and the general public of our proposed policy.

DATES: Closing date for receipt of comments February 12, 1980.

ADDRESSES: Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 17073, Baltimore, Maryland 21235. Please refer to file code MAB-116N. Physicians, suppliers, agencies and organizations are requested to submit comments in duplicate. Physicians who comment are requested to describe their professional qualifications with respect to treatment of pulmonary diseases, since the comments of specialists in that field are of particular interest.

Beginning 2 weeks from today, the public may review the comments on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. at the Health Care Financing Administration, Room 5220, 330 C Street SW., Washington, D.C. 202-245-0365.

FOR FURTHER INFORMATION, CONTACT: Henry J. Hehir, Director, Division of Medical Services Coverage Policy, 301-594-8561, or, for medical information: Wylie Slagel, M.D., Special Assistant to the Director, Health Standards and Quality Bureau, 301-597-2753.

SUPPLEMENTARY INFORMATION:

The Problem

Section 1861(s)(6) of the Social Security Act provides for payment under Part B of Medicare for durable medical equipment (DME) used in the patient's home (including oxygen equipment). However, section 1862(a)(1) of the Act excludes from coverage items and services that are not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member.

Medicare has been paying for oxygen services in a patient's home under the DME authority. A physician's prescription for the services is required. In addition, Medicare carriers evaluate the factors involved in each case, as they do with all Medicare claims for payment, to determine whether the "reasonable and necessary" rule is met. Because we have lacked uniform criteria to determine when a valid medical need for oxygen exists, we believe situations have developed in which patients receive oxygen instead of a more desirable alternative therapy or continue to receive the services after the need has passed. This is not only wasteful of program funds, but can also be harmful to the patient. We have concluded that more refined criteria than simply a prescription are necessary to assure that oxygen services are provided only when "reasonable and necessary" to accomplish a medical purpose, and that Medicare beneficiaries are not being exposed to possible harm.

Therefore, to implement section 1862(a)(1), we have drafted for public comment the criteria set forth below, which we propose to issue as instructions to Medicare contractors. We are also raising in this Notice several questions on which we would like responses from all those interested in this aspect of Medicare policy. In addition, suggestions for guidelines on appropriate application of the criteria to individual cases are welcome.

Proposed Criteria for Coverage

In order to be reimbursed under Medicare, oxygen services in the home would have to be furnished under the following conditions:

A. Prescription

1. In submitting a claim for reimbursement, the beneficiary must include a prescription, written by a physician who has recently examined the patient, that specifies:

(a) A diagnosis of the disease requiring home use of oxygen;

(b) The flow rate, frequency, and duration of use;

(c) The method of delivery of the oxygen; and

(d) An estimate of how long the patient will need oxygen services.

2. In addition to the diagnosis, the prescription must include information sufficient to support a determination by the carrier that there is a medical need for a therapeutic program of oxygen in the home. A prescription for "Oxygen PRN" or "Oxygen as needed" does not meet this requirement, since there is no basis for determining the amount of oxygen and the type of oxygen equipment that is reasonable and necessary.

3. Based on the information in the prescription, the Medicare carrier must periodically review the individual case to determine whether a medical need continues. This review is done according to procedures in § 4105.2 of the Medicare Carriers Manual.

(In brief, this section of the manual tells carriers the appropriate intervals for a patient's reevaluation when a physician has estimated the need for oxygen will be "indefinite". To determine continuing medical need, the carrier is instructed to make direct contact with the patient's physician and also to verify the patient is in his "home" and has been during the prior use period.)

B. Laboratory Report

1. We propose that the beneficiary's claim must also include a laboratory report of a blood gas study (oxygen partial pressure expressed as an arterial

PO_2 value) as evidence of the oxygen deficiency that requires administration of oxygen in the home.

(We are considering whether to adopt as a criterion for coverage of oxygen a single arterial PO_2 value, e.g., at or less than 55 mm Hg., or a range of acceptable PO_2 values, e.g., 55 to 60 mm Hg. Comments are especially requested on this point.)

Carriers will be required to review each case not meeting the criterion adopted to determine whether other factors support a finding of medical necessity.

2. Carriers must not request repeated studies to determine a PO_2 level unless there is convincing evidence of the medical need for them.

C. Health Conditions

We have reviewed the more common health conditions found in patients using home oxygen services and are proposing the following guidelines for determining Medicare coverage:

Coverage is considered appropriate for:

1. Patients with severe chronic obstructive pulmonary disease who demonstrate severe hypoxemia in the stable chronic state. Commonly associated with this condition are (a) recurring congestive heart failure due to chronic cor pulmonale, (b) erythrocytosis requiring repeated venisection, (c) impairment of cognitive processes, and (d) restlessness or insomnia. Since these patients can be expected to improve with oxygen therapy when used at least 12 hours each day, coverage is appropriate. For many such patients, nocturnal oxygen therapy may be sufficient to control signs and symptoms.

2. Patients who demonstrate severe hypoxemia only during activities or during periods of dyspnea. These patients may also improve with home use of oxygen.

Coverage is not appropriate for:

1. Patients with angina pectoris in the absence of hypoxemia. Since this condition is generally not the result of a low oxygen level in the blood and since other treatments are preferred, home oxygen use is not recommended and will not be covered.

2. Patients who experience breathlessness without cor pulmonale or evidence of hypoxemia. Although intermittent oxygen use is sometimes prescribed to relieve this condition, we consider this use potentially harmful and psychologically addicting. Since there is no medical need for oxygen use in these cases, Medicare coverage is not supportable.

3. Patients with severe peripheral vascular disease resulting in clinically evident desaturation in one or more extremities. There is no evidence that increased PO_2 will improve the oxygenation of tissues with impaired circulation.

4. Patients with terminal illnesses that do not affect the lungs. The use of oxygen is not medically necessary and therefore should not be covered.

D. Portable Oxygen System

A portable oxygen system is covered only when necessary to complement a stationary system needed by the patient. Coverage is based on a physician's finding that there is a medically therapeutic need for portable oxygen. To permit a carrier to determine that a claim for oxygen equipment is covered, the physician's prescription for the stationary system must define circumstances under which the portable system will be used, that is, the medically therapeutic purpose to be served by a portable oxygen system that cannot be met by the stationary system. The need for it must be specified even if the stationary system includes portable system equipment.

E. Limitations of DME Coverage

The DME benefit provides coverage of equipment that a patient can use in his home. It does not cover home care or other health care services such as periodic visits by respiratory therapists.

Major Issues

We are particularly interested in comments, opinions, and suggestions regarding:

1. What objective evidence, other than direct arterial blood gas studies, can demonstrate desaturation?

2. Whether the PO_2 standard or other evidence of oxygen deficiency we adopt should be an absolute requirement or used as a screening guide to be considered along with other factors.

3. What evidence can document the need for nocturnal oxygen in a patient who does not show significant desaturation during the day?

4. Are there other indications for home oxygen in the absence of arterial desaturation that we should take into account in deciding whether to cover it?

5. What special provisions would be necessary to accommodate the needs of patients who are now receiving oxygen, and

a. Would not meet the proposed criteria, or

b. Have developed a psychological dependence on oxygen?

6. Since flow rates greater than 8 liters per minute are potentially hazardous for home users of oxygen, is it reasonable for us to set requirements with respect to flow meter limitations on oxygen equipment? If so, what should these requirements be?

Medicare contractors are authorized by their contracts with the Secretary to make determinations of coverage and reimbursement by applying the Medicare regulations and the general instructions issued to them. After consideration of all public comments, we will publish coverage criteria and principles on oxygen use in the home as general instructions to all Medicare contractors. We will also inform the public by notice in the Federal Register of our final policy.

(Secs. 1102, 1832(a)(1), 1833(a)(1), 1842(b)(3), 1861(s)(6), 1862(a)(1) and 1871 of the Social Security Act (42 U.S.C. 1302, 1395K(2)(1), 1395(a)(1), 1395u(b)(3), 1395x(s)(6), 1395u(a)(1): and 1395hh)

(Catalog of Federal Domestic Assistance Program No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: November 27, 1979.

Leonard D. Schaeffer,

Administrator, Health Care Financing Administration.

[FR Doc. 79-38322 Filed 12-13-79; 8:45 am]

BILLING CODE 4110-35-M

Office of the Secretary Data Acquisition Activities Involving Educational Agencies and Institutions

AGENCY: Office of the Assistant Secretary for Education, Department of Health, Education, and Welfare.

ACTION: Notice of Data Acquisition Activities Involving Educational Agencies and Institutions.

SUMMARY: The paperwork control requirements in section 400A of the General Education Provisions Act, added by Pub. L. 95-561, require public announcement of certain data requests that Federal agencies address to educational agencies and institutions. The Education Division of HEW proposes to collect the data described below from educational agencies or institutions during School Year 1979-80.

FOR FURTHER INFORMATION CONTACT:

Mrs. Elizabeth M. Proctor, FEDAC Staff, 400 Maryland Avenue, SW., Washington, D.C. 20202 Phone (202) 245-1022.

SUPPLEMENTARY INFORMATION: Under the Paperwork Control Amendments of 1978, Section 400A of the General Education Provisions Act, the Secretary of Health, Education, and Welfare is responsible for reviewing and approving collection of information and data acquisition activities of all Federal agencies

(1) whenever the respondents are primarily educational agencies or institutions; and

(2) whenever the purpose of the activities is to request information needed for the management of, or the formulation of, policy related to Federal educational programs or research or evaluation studies related to the implementation of Federal education programs. The Secretary has delegated authority to the Assistant Secretary for Education.

We published interim FEDAC review procedures on August 8, 1979 (44 FR 46535), which are now effective. One requirement is that "no information or data will be requested of any educational agency or institution unless that request has been approved and publicly announced by the February 15 immediately preceding the beginning of the new school year, unless there is an urgent need for this information or a very unusual circumstance exists regarding it." I determine an unusual circumstance exists regarding the data activities listed below because of the newness of the review requirements.

Descriptions of proposed data acquisition activities for School Year 1979–80 are being published for comment. Most of these data acquisition activities were also listed—but not described in as much detail—in the Federal Register of February 15, 1979. Other activities previously approved were also in that list.

Each agency or institution subject to the request for data, its representative organizations, or any member of the public, may comment on the proposed data acquisition activity. The Federal Education Data Acquisition Council Staff accepts comments at the above address. Comments should refer to the specific sponsoring agency and form number and they must be received on or before January 14, 1980.

I ask the affected educational agencies and institutions to cooperate in the following data collection activities that are being reviewed by the Federal Education Data Acquisition Council (FEDAC) staff.

Dated: December 10, 1979.

Mary F. Berry,

Assistant Secretary for Education.

The proposed data collection activities are:

Description of a Proposed Collection of Information and Data Acquisition Activity

(a) Title of proposed activity. Study of Research Participation and other Characteristics of Recent Science and Engineering Faculty and Research Staff.

(b) Agency/bureau/office. National Science Foundation/Directorate for Scientific, Technological and International Affairs/Division of Science Resources Studies.

(c) Agency form number. NSF–E–0004.

(d) Legislative authority for this activity. Sec. 3(a)(6) . . . "to provide a central clearing house for the collection, interpretation, and analysis of data on the availability of . . . scientific and technical resources . . ." National Science Foundation Act of 1950 as amended.

(e) Concise description of the proposed activity. This survey will collect information on science faculty demographic characteristics and research activities. All institutions, including medical schools, that awarded at least one Ph.D. in science and engineering in 1975–76 and which received at least $1.4 million in Federal R&D obligations will be surveyed.

(f) Voluntary/obligatory nature of response. Voluntary.

(g) Justification of how information collected will be used. The survey will enable the National Science Foundation to understand better than is now possible the following issues:

1. The current extent of research activity in selected departments in Ph.D. granting institutions, particularly as conducted by recent versus more senior doctorates.

2. The level of representation on selected departmental staffs of younger doctorates, women, and minorities.

3. The role of non-faculty doctoral research staff in conducting academic research.

Using information on issues 1–3, the Foundation will consider the need for federal programs to improve opportunities for academic research. The survey results will be compared with past Foundation supported surveys to study changes in important faculty characteristics over the last 12 years.

(h) Data acquisition plan.

1. Method of collection: Mail.

2. Time of collection: Spring, 1980.

3. Frequency: One time.

4. Methods of Analysis: The results will be tabulated and weighted to correct for nonresponse. Cross-tabulations and time series comparisons of survey responses will be prepared.

(i) Timetable for dissemination of the collected data. The contractor's report of the survey results will be available in January 1981. NSF report on survey will be published in early 1981.

(j) Respondent.

1. Type: Heads of selected science and engineering departments in universities and medical schools.

2. Number: 2000

3. Estimated average person-hours per respondent: 1

(k) Estimated costs and person-hours to the respondents: 2000 hours and $20,000.

(l) Estimated costs to the Federal agency to collect, process, and analyze the data: Total costs, including time of federal employees, are expected to be approximately $160,000.

(m) A list of the specific data to be collected from each type of repondent:

Information on full-time faculty and (where appropriate) non-faculty research doctorates will be requested by age group, racial/ethnic group, tenure status, rank, and extent of research activity (including number of proposals submitted). Department heads will be asked whether they believe more recent doctorates recieve an appropriate share of research funds and their opinions as to the possible impact upon staffing and research of such developments as declines in undergraduate enrollments and an increase in the mandatory retirement age.

(n) Name and address of individual or office from which a copy of full plan and the data instrument may be obtained: Larry W. Lacy, Room L–611, National Science Foundation, Washington, D.C. 20550.

Description of a Proposed Collection of Information and Data Acquisition Activity

(a) Title of proposed activity, Elementary and Secondary School Civil Rights Survey; School Year 1980–81.

(b) Agency/bureau/office. Office for Civil Rights.

(c) Agency form number. OS/CR 101 and 102.

(d) Legislative authority for this Activity. The following are the relevant legislative authorities; *Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.):* . . . Each recipient shall keep records and submit to the responsible Department official or his/her designee timely, complete and accurate compliance reports at such times, and in such form and containing such information, as the responsible Department official or his/her designee may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this part . . . (45 CFR 80.6(b)) (Pub. L. 88–352); *Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.):* The procedural regulation applicable to Title VI of the Civil Rights Act of 1964 are adopted and incorporated by reference (45 CFR 86.71). These procedures may be found at 45 CFR 80.6–80.11 and 45 CFR Part 81. (Pub. L. 92–318); *Section 504 of the*

Rehabilitation Act of 1973 (29 U.S.C. 794.): the procedural provisions applicable to Title VI of the Civil Rights Act of 1964 are adopted and incorporated by reference. The procedures are found at 45 CFR 80.6–80.10 and 45 CFR Part 81. (Pub. L. 93–112).

(e) Concise description of the proposed activity. This will be a mail survey to be conducted via contract. The survey will cover approximately 6,000 districts and approximately 53,000 schools within these districts. The contract is scheduled to cover a 21 month period initiated in the fourth quarter of FY 1980 and concluding in the third quarter of FY 1982. The end product will be an edited data file with documentation, and analysis of the collected data that can assist OCR in identifying school districts which may be in potential violation of Title VI, title IX of Section 504.

(f) Voluntary/obligatory nature of response. Obligatory.

(g) Justification of how information collected will be used. The major purpose of this data collection activity is to review an individual school district's potential compliance with Title VI of the Civil rights Act of 1964, Title IX of the Education Amendments of 1972 and Section 504 of the Rehabilitation Act of 1973. Specifically, the information collected will be used to monitor and investigate possible cases of discrimination on the basis of race, ethnicity, national origin, sex, and/or handicapping conditions. The primary plan for analysis centers around comparisons between:

(1) The number of actions taken within a specific school regarding the assignment of students, administration of discipline, etc., and the total pupil composition of the school;

(2) Pupil composition in specific schools as compared with the total population in a specific district, and

(3) The number of actions taken in specific district regarding the assignment of students, administration of discipline, etc., and the total pupil composition of the district in that State, Region, or the U.S.

In some issue areas discrimination is widespread; therefore, it is also necessary to rank districts or schools within a designated geographical area in order to focus on those districts indicating the greatest possibility of non-compliance.

(h) Data acquisition plan.

(1) Method of collection: Mail.

(2) Time of collection: Fall 1980.

(3) Frequency: Biennially.

(4) Method(s) of analysis: Discrete Multivariate Statistical Analysis and Summary Tabulated Reports.

(i) Timetable for dissemination of the collected data. Computer tapes will be available for dissemination by September 1981. The directory will be available by December 1981.

(j) Respondents.

OS/CR 101.

(1) Type: Local Education Agencies.

(2) Estimated number: Approximately 6,000.

(3) Estimated average person-hours per respondent: 1½.

OS/CR 102.

(1) Type: Public Elementary and Secondary Schools

(2) Estimated number: Approximately 53,000 schools in respondent LEA's

(3) Estimated average person-hours person respondent: 5

(k) Cost to the respondent in dollars and person hours. Estimated 274,000 person hours at approximately $5,000,000.

(1) Cost to the Federal Agency to collect, process and analyze the data. Approximately $975,000.

(m) List of the specific data to be collected. Each selected LEA will complete the "School System Summary Report" (Form OS/CR 101) which requests information on the school system as a whole. This includes school system summary enrollment data on the racial/ethnic origin of pupils, total male, total female and total handicapped; provision of appropriate free educational services to handicapped pupils; information on policies or practices that restrict participation of pregnant pupils; pupils expelled from school by racial/ethnic origin, total male, total female and total handicapped for the school year 1979–80; and different curriculum requirements for male and female pupils.

Each school in the selected LEA's will complete the "Individual School Report" (Form OS/CR 102). This form asks that each individual school report enrollment data by race/ethnicity, total male, total female and total handicapped; pupils enrolled and in need of bilingual education by race/ethnicity; pupils in programs for the gifted or talented by race/ethnicity, total male, and total female; pupils who received corporal punishment or who were suspended by race/ethnicity, total male, total female and total handicapped for the academic school year 1979–80. Enrollment data are requested for pupils in home economics and industrial arts by male and female; enrollment in selected classes by race/ethnicity, total male, and total female; pupils participating in athletic programs by male and female; pupils who received high school diplomas or equivalency in the previous years by race/ethnicity, total male, total female and total handicapped; special education by race/ethnicity, total male, total female, pupils in need of bilingual education, and total amount of time spent in programs; and accessibility of programs to pupils in wheelchairs.

Under agreement with the Department of Agriculture, Form OS/C 102 will collect information on the individual school's participation in any of the programs operated by that Department's Food and Nutrition Services. The programs and related data to be requested are:

Lunch, School Breakfast, Nonfood Assistance, Special Milk and/or Food Distribution programs; Pupil meal participation for breakfast and lunch by full price, free and reduced price; number of children with approved applications on file by race/ethnicity; and number of children with denied applications on file by race/ethnicity.

(n) Name and address of individual or office from which a copy of the full plan and the data instrument(s) may be obtained. Ruth McVay, DHEW, Office for Civil Rights, 330 Independence Avenue, S.W., Washington, D.C. 20201.

Description of a Proposed Collection of Information and Data Acquisition Activity

(a) *Title of Proposed Activity.* Application for Federal Assistance (Non-construction programs) 13.416 Teacher Centers Program, 13,417 Higher Education Personnel Training.

(b) *Agency/bureau/office.* Office of Education, Bureau of School Improvement.

(c) *Agency form number.* OE–335.

(d) *Legislative authority for the activity.* "Any local educational agency desiring to receive a grant under this section shall make application therefor at such time, in such manner, and containing or accompanied by such information, as the Commisioner may by regulation require. Each application shall be submitted through the State educational agency of the State in which the applicant is located. Each such State agency shall review the application, make comments thereon, and recommend each application the State agency finds should be approved. Only applications so recommended shall be transmitted to the Commissioner for his approval." HEA 1965 Title V Part B, sec. 532 (c)(1) (20 U.S.C. 1119a)

"Notwithstanding the provisions of subsection (a)(1) of this section with respect to the requirement that teacher centers be operated by local educational

agencies, 10 per centum of the funds expended under this section may be expended directly by the Commissioner to make grants to institutions of higher education to operate teacher centers, subject to the other provisions of this section." HEA 1965 Title V Part B, sec. 532 (f) (20 U.S.C. 1119a)

(e) *Concise description of the proposed activity.* Lack of sufficient funds require that applicants compete for available funds. The Teacher Centers Program makes awards to LEA's and IHE's to improve the classroom performance of teachers.

(f) *Voluntary/obligatory nature of response.* Required to obtain or maintain benefits.

(g) *Justification of how information collected will be used.* Determination of grant eligibility, quality, and amount of award.

(h) *Data acquisition plan.*

(1) Method of collection: Mail.

(2) Time of collection: winter 1980, 1981.

(3) Frequency: annual.

(i) *Timetable for dissemination of the collected data.* Within 6 months of application date.

(j) *Respondents.*

(1) Type: Local education agencies.

(2) Estimated number by type: Universe 135.

(3) Estimated average person-hours response time per type of respondent: 40.

(1) Type: Colleges and universities.

(2) Estimated number by type: Universe 15.

(3) Estimated average person-hours response time per type of respondent: 40.

(k) *Estimated costs and person-hours to the respondents (total).* Colleges and Universities—5400 hours—$9,000. Local educational agencies—600 hours—$81,000.

(l) Estimated costs to the Federal agency to collect, process and analyse the data (Contract, S & E). $50,000.

(m) *A list of the specific data to be collected from each type of respondent.*

§ 197.11 Evaluation criteria.

Applications for grants (except applications for continuation grants under § 197.7) are evaluated by the Commissioner on the basis of the criteria in this section. Each criterion will be weighted as indicated, with the total for all criteria being 100 points. An application must receive a minimum of 50 points to be considered for funding. In evaluating an application, the Commissioner considers:

(a) The extent of the teacher center policy board's authority and responsibility for supervision of the project (10 points).

(b) The potential of the proposed teacher center for increasing the effectiveness of the teachers served, in terms of the learning needs of their students (20 points).

(c) The soundness of the proposed plan of operation, including consideration of the extent to which—

(1) The objectives of the proposed projects are sharply defined, clearly stated, and capable of being attained by the proposed procedures (10 points); and

(2) The adequacy of provisions for reporting on the effectiveness of the project and dissemination of its results, and for determining the extent to which the objectives are accomplished (10 points).

(d) The appropriateness of size, scope, and duration of the project so as to secure productive results (5 points).

(e) The adequacy of qualifications and experience of personnel designated to carry out the proposed project (5 points).

(f) The adequacy of the facilities and resources (5 points).

(g) The reasonableness of estimated cost in relation to anticipated results, including the proportion of the budget represented by costs for released time or substitutes (5 points).

(h) The potential of the teacher center to impact upon and improve the grantee's overall program of inservice training for teachers (5 points).

(i) The representativeness of the teacher center policy board under § 197.4(b) (10 points).

(j) The extent to which Federal funds will support new or expanded activities rather than supporting activities which are already being paid for from other resources (5 points). (Implements Sec. 532, 20 U.S.C. 1119a.)

(n) *Name and address of individual or office from which a copy of the full plan and the data instrument(s) may be obtained.* Charles Lovett, Division of Educational Systems Development, Teacher Centers Program, 1832 M Street, N.W.—Suite 819 (Riviere Bldg.) Washington, D.C. 20036.

Description of a Proposed Collection of Information and Data Acquisition Activity

(a) Title of proposed activity. The Documentation of Consistent and Essential Characteristics of Effective Secondary School Programs in the Newark, N.J. Area, and the Feasibility of their Transfer to Schools with Low Academic Achievement Levels.

(b) Agency/bureau/office. Office of Education/Bureau of Elementary and Secondary Education/Immediate Office of the Deputy Commissioner.

(c) Agency form number. OE 739.

(d) Legislative authority for this activity. Sec. 422. "(a) The Commissioner shall . . . (3) collect data and information on applicable programs for the purpose of obtaining objective measurements of the effectiveness of such programs in achieving their purposes; and . . ." (P.L. 91-230; 20 U.S.C. 1231a).

(e) Concise description of the proposed activity. In November, 1978 the U.S. Commissioner of Education's Urban High School Reform Initiative identified the definition of successful urban high school programs as a research priority. This project will study a selected sample of inner city high schools in Newark, New Jersey with a predominantly or exclusively minority student population in order to determine the characteristics of those schools as they seem to be related to educational effectiveness. A systematic review, assessment and summary of relevant literature will be undertaken; data on academic achievement of the students will be collected and analyzed; classroom instruction, general school atmosphere and quality of relationships between teachers and pupils will be observed and charted; relevant school populations will be interviewed; and an advisory panel of educators, concerned social scientists and business leaders will be asked to review and respond to the methods and findings of this study.

(f) Voluntary/obligatory nature of response. Voluntary.

(g) How information collected will be used. The information gathered will be shared with the Newark, New Jersey school system, and will be disseminated to urban school districts as applicable. In addition, the data will be considered in making policy decisions affecting urban secondary schools, and will be used to impact legislative and funding strategies, Federal and statewide.

(h) Data acquisition plan.

(1) Method of collection: Interview by telephone or on site.

(2) Time of collection: Interviews will be conducted in Winter and Spring, 1980.

(3) Frequency: One time.

(4) Method of analysis: Data relating to academic achievement in the sample schools will be cross-tabulated and evaluated. Observations during on-site visits will be charted. Descriptive data obtained from interviews will be tabulated. Since the data from observations and interviews will be more qualitative than quantitative in nature, a rigorous statistical analysis of the data is neither required nor appropriate.

(i) Timetable for Dissemination of the Collected Data. A report of the findings of this study will be submitted to the U.S. Office of Education at the end of the twelfth project month, or September 30, 1980.

(j) Respondents.

1. Type: Employees in Postsecondary education.
2. Number: 6 Sample.
3. Estimated average person-hours per respondent: 0.5.

1. Type: Employers.
2. Number: 5 Sample.
3. Estimated average person-hours per respondent: 0.5.

1. Type: Local Education Agencies.
2. Number: 2 Universe.
3. Estimated average person-hours per respondent: 0.5.

1. Type: Parents.
2. Number: 50 Sample.
3. Estimated average person-hours per respondent: 0.5.

1. Type: Principals.
2. Number: 14 Universe.
3. Estimated average person-hours per respondent: 0.5.

1. Type: School Administrators/Supervisors.
2. Number: 42 Universe.
3. Estimated average person-hours per respondent: 0.5.

1. Type: State Education Agencies.
2. Number: One Universe.
3. Estimated average person-hours per respondent: 0.5.

1. Type: Students.
2. Number: 100 Sample.
3. Estimated average person-hours per respondent: 0.5.

1. Type: Teachers.
2. Number: 60 Sample.
3. Estimated average person-hours per respondent: 0.5.

1. Type: Teachers Aides.
2. Number: 28 Sample.
3. Estimated average person-hours per respondent: 0.5.

(k) Estimated costs and person-hours to the respondent (total) $1,610; 161 hours.

(l) Cost to Federal Agency to collect, process, and analyze the data. $98,770.

(m) A list of the specific data to be collected. (1) Quantitative Data to be Collected from School Records:

Results of standardized testing: reading and math scores
Numbers of graduates going on to post-secondary education
Number of suspensions/expulsions
Drop-out rate
Truancy rate
Quantitative measures of success of special enrichment/remediation programs
Pupil/teacher/supervisor ratio
School population data
Numbers and types of course offerings/enrollment in courses

(2) Interview Guide. Question 1—When you look at the high schools in your city, in which schools do you see programs and practices that you think are effective in educating the children?

Question 2—Can you describe them for us by relating them, if possible, to any of the following elements which may be factors in your judgment, and/or provide the data to support your judgment: Curriculum; Educational organization of the school; Academic achievement of students; Advancement to post-secondary education; Administration of the school; Personnel; Extra-curricular activities; Parent involvement; Interaction among pupils/teachers/parents/community groups; Special programs; Student body; Disciplinary record; Atmosphere/climate; Attendance: drop-outs and truancy; Organization of the school system; Physical plant; Location.

(n) Name and address of individual or office from which a copy of the full plan and data instrument(s) may be obtained. Ms. Judy Griffin, Executive Assistant to the Deputy Commissioner, Bureau of Elementary and Secondary Education, U.S. Office of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202, Room 4111.

Given the possibility that this study will be replicated in other urban secondary school settings, a multi-year approval is requested.

Description of a Proposed Collection of Information and Data Acquisition Activity

(a) Title of proposed activity. Grant application under the Law-Related Education Act.

(b) Agency/bureau/office. U.S. Office of Education/Bureau of School Improvement/Law-Related Education Program.

(c) Agency form number. OE 740.

(d) Legislative authority for the activity. "The Commissioner shall carry out a program of grants and contracts to encourage State and local educational agencies and other public and private nonprofit agencies, organizations, and institutions to provide law-related education programs. . . Financial assistance under this part may be made only upon application to the Commissioner. The application shall be submitted at such time, in such form, and containing such information as the Commissioner shall prescribe by regulation." (Sec. 347(a) and (c), Pub. L. 95-561, 20 U.S.C. 3002(a) and (c)).

(e) Concise description of the proposed activity. One million dollars are appropriated for the Law-Related Education Act for Fiscal Year 1980. Apart from a small number of contracts not subject to this data request, all of these funds are awarded as direct, competitive grants. Grantees are selected based on applications that they submit. The Office of Education uses the application to ensure that the proposed projects are eligible under the Act and regulations and to select the highest quality projects for funding.

(f) Voluntary/obligatory nature of response. Required to obtain or continue a grant.

(g) Justification of how information collected will be used. The form requests programmatic and budgetary information from applicants so that Office of Education staff and non-Federal reviewers will have adequate, relevant information with which to make funding decisions. The information collected will be used to determine compliance with published requirements and the quality of the project under published criteria.

(h) Data acquisition plan.

(1) Method of collection: Mail.

(2) Time of collection: Winter of each Fiscal Years 1980–1983.

(3) Frequency: Annually.

(i) Timetable for dissemination of the collected data. N/A.

(j) Respondents.

(1) Type: Any State educational agency, local educational agency, or other public or nonprofit agency or organization.

(2) Estimated number by type: 500 applications.

(3) Estimated average person-hours response time per type of respondent: 40 hours for each type of respondent.

(k) Estimated cost and person-hours to the respondents (Total) $500/40 hours per applicant.

(l) Estimated costs to the Federal agency to collect, process and analyze the data: $50 per application.

(m) A list of the specific data to be collected from each type of respondent:

Information required by the standard application form.
Budget information regarding the proposed project.
Information on the applicant's experience in law-related education and on programs that it carries out.
Information on the proposed project, including
The nature of law-related education activities involved.
The objectives of the project.
The activities and strategies to achieve the objectives.

Other information to respond to requirements and criteria in the regulations.

(n) Name and address of individual or office from which a copy of the full plan and the data instrument may be obtained. Law-Related Education Program, Bureau of School Improvement, U.S. Office of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

[FR Doc. 79-38325 Filed 12-13-79; 8:45 am]

BILLING CODE 4110-89-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Idaho; Wilderness Inventory Decision

The Federal Land Policy and Management Act of 1976 (FLPMA) requires the Secretary of the Interior to inventory roadless areas and roadless islands of the public lands to identify those areas possessing wilderness characteristics as described in the Wilderness Act of 1964.

The Federal Register notice of August 10, 1979, announced the Idaho final initial wilderness inventory decision, and indicated a total of 212,615 acres in southwest Idaho to be in the decision deferred category, due to the fact that some inventory units extended into Oregon, Nevada, and Utah. After analysis of public comment and coordination with BLM offices in the adjoining states, reevaluation of the Idaho inventory units resulted in the following intended final decision for the initial wilderness inventory for Idaho where inventory units extend into the three adjoining states.

The decision on the initial inventory makes one of two findings regarding BLM lands:

1. That they clearly and obviously do not meet the criteria for identification as Wilderness Study Areas; or
2. That they may possibly meet the criteria and should receive more intensive inventory.

The criteria for identifying units as Wilderness Study Areas is contained in wording in Section 2(c) of the Wilderness Act.

Those units of BLM land that clearly and obviously do not meet the above criteria do not qualify as Wilderness Study Areas and are dropped from the inventory process.

Those units of BLM land that may possibly meet the above criteria would receive more intensive inventory (the second major step in the inventory process) before a determination is made regarding Wilderness Study Area status.

The Boise and Burley District Offices are now conducting the intensive inventory on lands so identified. Public participation in this inventory is encouraged and may be arranged by contacting the district offices. The public review period on intensive inventory is tentatively scheduled to begin in April, 1980.

After the intensive inventory, the BLM's wilderness review moves into the study phase, which involves the process of determining if Wilderness Study Areas will be recommended as suitable or non-suitable for wilderness designation. This determination, made through the BLM's land-use planning system, considers all values, resources, and uses of the public lands.

Following the study, the reporting phase consists of forwarding or reporting suitable or non-suitable recommendations through the Secretary of the Interior and the President to Congress. Mineral surveys required by law, environmental statements, and other data are submitted with these recommendations.

Congress makes the final determination on whether Wilderness Study Areas are designated wilderness. Once designated and added to the National Wilderness Preservation System, areas will be managed by BLM according to provisions of the 1964 Wilderness Act and the 1976 Federal Land Policy and Management Act.

The proposed decision on the initial inventory for these State line units was announced in the March 27, 1979, Federal Register. A 90-day comment period was conducted, including public meetings/open houses.

Those public responses received during the comment period that addressed specific factors related to wilderness characteristics were carefully analyzed and field checked. Comments that related to other resource values, resource conflicts, or that expressed opinions for or against wilderness were reviewed but were not utilized in arriving at the intended final decision. The inventory process is only for the purpose of determining wilderness characteristics; comments not related to characteristics will be analyzed during the study phase.

Units requiring intensive inventory:

	Acres
16-48a Spring Creek	39,165
16-48b Owyhee River	33,708
16-48c Little Owyhee River	26,817
16-53 South Fork Owyhee River	47,516
16-56a Upper Little Owyhee River [1]	4,309
16-59 Juniper Basin	15,248
16-70e Oregon Butte [1,2]	3,393
17-19 Upper Bruneau River	22,797
17-21 Jarbidge Addition	5,881
17-26 Salmon Falls Creek	5,977
22-1 Little Goose Creek [1]	2,063

Acres

[1] Units 16-56a, 16-70e, and 22-1 are dependent on the BLM units in the adjacent state to meet the size criteria.

[2] Unit 16-70e was originally recommended for release from the wilderness review process, however, after reevaluation is proposed for intensive inventory in conjunction with a contiguous inventory unit in Oregon.

Unit originally proposed for intensive inventory—now clearly and obviously lacking characteristics:

	Acres
21-2 Shoshone Creek	4,855

The acreage for the above listed inventory units totals 206,914 acres for intensive inventory and 4,855 acres dropped, a total of 211,769. The difference between this acreage figure and that shown in the August 10, 1979, Federal Register notice being the result of recalculation of acreage figures, the addition of Unit 16-70e, and dropping of small acreages on the fringes of units 16-48b and 16-56a.

Upon publication of this intended final decision in the Federal Register, a 30-day protest period is initiated, during which persons wishing to protest any of the intended final decisions shall have 30 days to file a written protest.

Protests should address specific inventory units and must include a clear and concise statement of reasons for the protest, including any supporting data available. Protests may be filed with the Idaho State Office or the Boise or Burley District Offices of the BLM and must be postmarked or received by the end of the 30-day period, January 14, 1980.

For further information on any of the inventory units, contact the following BLM offices:

Idaho State Office—BLM, Federal Building, Box 042, 550 W. Fort Street, Boise, Idaho 83724.

Boise District Office—BLM, 230 Collins Road, Boise, Idaho 83702.

Burley District Office—BLM, Route #3, Box 1, 200 South Oakley Highway, Burley, Idaho 83318.

Dated: December 3, 1979.

Lorin J. Welker,

Acting State Director.

[FR Doc. 79-37973 Filed 12-13-79; 8:45 am]

BILLING CODE 4310-84-M

Wyoming; Decision on Wilderness Inventory; Overthrust Belt Units

This decision is issued under the authority of section 603 of the Federal Land Policy and Management Act of October 21, 1976, and under the guidelines provided in step 6 of the Wilderness Inventory Handbook of September 27, 1978, issued by the U.S. Department of the Interior, Bureau of Land Management.

A proposed wilderness intensive inventory decision concerning seven wilderness inventory units located on

the Overthrust Belt in western Wyoming in the Rock Springs District and six other units located in the Rawlins District was issued on August 15, 1979. A 90-day public comment period ending on November 16, 1979, was provided. All comments received by that date were considered in reaching this decision. Other comments received after that date were also considered to the extent possible in reaching a decision.

Two wilderness inventory units and one subunit as described below have been determined to possess wilderness characteristics in all or part of the unit, as set forth in section 2(c) of the Wilderness Act of 1964. They are therefore designated as wilderness study areas (WSA's). These units will be further evaluated, along with all other resource values, through the Bureau planning process and a wilderness study report will be prepared. A recommendation will then be made to the Congress regarding whether or not the unit should be made a part of the National Wilderness System.

The designation of these units as WSA's will retain them under the constraints of interim management (sec. 603(c) of the Federal Land Policy and Management Act) pending a decision by the Congress. These units are:

Rock Springs District (Overthrust Belt):		Acres
WY-040-110	Lake Mountain	13,970
WY-040-221	Raymond Mountain	33,236
Rawlins District:		
WY-030-303a	Prospect Mountain	1,099

The following 10 wilderness inventory units, or partial units, have been determined to not possess wilderness characteristics as set forth in section 2(c) of the Wilderness Act and are dropped from further consideration under the wilderness review process, and released from the constraints of interim management as specified in section 603(c) of the Federal Land Policy and Management Act.

Rock Springs District (Overthrust Belt):		Acres
WY-040-109	Cabin Creek	7,040
WY-040-111	Beaver Creek	5,080
WY-040-126	Red Canyon	5,300
WY-040-222	IGO Speedway	6,646
WY-040-223	Coal Creek	13,174

Unit WY-040-233 was proposed as a WSA in the August 15, 1979, Federal Register Notice. Based on further examination and analysis it has been determined that this unit does not possess wilderness characteristics.

Rawlins District:		Acres
WY-030-114	Copper Mountain	8,704
WY-030-116	Moneta Sand Dunes	8,640
WY-030-117	Moneta Sand Dunes	10,048
WY-030-134	Agate Flats	22,544
WY-030-303b	Prospect Mountain	4,700

The decision on the following unit is being deferred pending further analysis of inventory data and public comment. This unit will be included in the proposed decision for other units in Wyoming in early April 1980 and will be subject to public comment for 90 days after said proposed decision.

Rawlins District:		Acres
WY-030-115	Lysite Badlands	14,272

Any person(s) who has disagreement with this decision and has information which may influence this decision may file a protest with: State Director (931), Bureau of Land Management, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyoming 82001.

Protests must be filed with the State Director by 4:30 p.m. January 17, 1980. No specific form need be used in filing a protest. However, protests must be specifically identified as follows: "Protest to Wyoming State Director's Wilderness Intensive Inventory Decision—Overthrust Belt Units."

Should any protests be filed on any inventory unit the State Director will consider such protests and issue a decision which will be subject to appeal on that inventory unit(s) to the Department of the Interior, Board of Land Appeals (IBLA). If the decision on the protest remains consistent with this decision only the protestant may appeal to the IBLA. If the decision on the protest reflects changes from this decision based upon information submitted by the protestant any adversely affected person(s) may appeal to the IBLA.

This decision will become effective as of 4:30 p.m. January 17, 1980 (close of protest period) for all inventory units on which no protest is filed. A Federal Register notice and press release will be issued after January 17, 1980, announcing status of all units.

A detailed synopsis of this decision, including 1:1,000,000 scale maps showing the wilderness inventory units affected, may be obtained without cost from any of the BLM offices listed below. A 1:500,000 scale map plus transparent overlay depicting the affected inventory units are available for purchase from the Wyoming State Office of BLM as follows:

1:500,000 scale colored status map—$5.00 each copy

Transparent overlay No. 4 dated December 1979—$4.00 each copy

Paper copy of overlay No. 4—$2.50 each copy

Additional information on this program is available on request from all BLM offices in Wyoming as listed below. These offices are also available for contact regarding input to the wilderness inventory.

State Director, Bureau of Land Management, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, WY 82001, 307-778-2220, ext. 2413.

Worland District Office, District Manager, P.O. Box 119, 1700 Robertson Avenue, Worland, WY 82401, 307-347-6151.

Grass Creek Resource Area [1]

Washakie Resource Area [1]

Cody Resource Area, Area Manager, P.O. Box 528, Federal Building, 1131 13th, Cody, WY 82414, 307-587-2216.

Rawlins District Office, District Manager, P.O. Box 670, 1300 Third Street, Rawlins, WY 82301, 307-324-7171.

Divide Resource Area [1]

Medicine Bow Resource Area [1]

Lander Resource Area, Area Manager, P.O. Box 589, Lander, WY 82520, 307-332-4220.

Rock Springs District Office, District Manager, P.O. Box 1869, Highway 187 N, Rock Springs, WY 82901, 307-382-5350.

Green River Resource Area [1]

Salt Wells Resource Area [1]

Pinedale Resource Area, Area Manager, Molyneux Building, Pinedale, WY 82941, 307-367-4358.

Kemmerer Resource Area, Area Manager, P.O. Box 632, Kemmerer, WY 83101, 307-887-3933.

Casper District Office, District Manager, 951 Union Blvd., Casper, WY 82601, 307-265-5550, ext. 5101.

Platte River Resource Area [1]

Buffalo Resource Area, Area Manager, P.O. Box 670, Buffalo, WY 82834, 307-684-5580.

Newcastle Resource Area, Area Manager, Highway 16 Bypass, Newcastle, WY 82701, 307-746-4453.

Delmar D. Vail,

Acting State Director.

[FR Doc. 79-38197 Filed 12-13-79; 8:45 am]

BILLING CODE 4310-84-M

Outer Continental Shelf North Atlantic Oil and Gas Lease Sale No. 42; Additional Location for Submission of Bids

Bidders on tracts in OCS oil and gas lease sale No. 42 are advised that in order to facilitate the submission of bids an additional location for the submission of bids in being provided. Bids will be received at both State Suite C of the Biltmore Plaza Hotel, Kennedy Plaza, Providence, Rhode Island and at the Chorus Room of the Veterans Memorial Auditorium, corner of Brownell and Francis Streets, Providence, Rhode Island. All other dates and times and all terms and conditions of the sale announced in the Federal Register on November 16, 1979, 44 FR 66150, are unaffected by this announcement.

Bidders submitting bids on December 17, 1979, from 1:00 p.m., e.s.t., to 5:00 p.m., e.s.t., or on December 18, 1979, from 8:30 a.m., e.s.t., to 9:30 a.m., e.s.t., may deliver bids to either State Suite C, Biltmore Plaza Hotel or the Chorus

[1] Located at District Office.

Room of the Veterans Memorial Auditorium. Any bids submitted at the Chorus Room of the Veterans Auditorium will be transported to the Biltmore Plaza Hotel and opened at that location after 10:00 a.m., e.s.t., December 18, 1979.

Arnold E. Petty,

Acting Associate Director, Bureau of Land Management.

Approved: December 11, 1979.

Heather L. Ross,

Acting Assistant Secretary of the Interior.

[FR Doc. 79-38323 Filed 12-13-79; 8:45 am]

BILLING CODE 4310-84-M

[F-14956-A and F-14956-B]

Alaska Native Claims Selections

On July 24, and December 2, 1974, the White Mountain Native Corporation, for the Native village of White Mountain filed selection applications F-14956-A and F-14956-B under the provisions of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (1976)) (ANCSA), for the surface estate of certain lands in the vicinity of White Mountain.

The State of Alaska filed general purposes grant selection applications on November 14, 1978, pursuant to Sec. 6(b) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b)), for certain lands in the Bering Straits area. Applications F-44512, F-44513 F-44514, F-44531 and F-44532, all as amended, selected all available lands in T. 9 S., R. 23 W., T. 9 S., R. 25 W., T. 9 S., R. 26 W., T. 10 S., R. 23 W., and T. 10 S., R. 24 W., Kateel River Meridian, respectively. White Mountain Native Corporation properly selected lands located within the above townships in village selection application F-14956-B on December 2, 1974. Section 6(b) of the Alaska Statehood Act of July 7, 1958, provides that the State may select *Vacant, unappropriated* and *unreserved* public lands in Alaska.

Therefore, in view of the above the following State selection applications are hereby rejected as to the following described lands:

Kateel River Meridian, Alaska (Unsurveyed)

State Selection F-44512

T. 9 S., R. 23 W.
- Secs. 1 to 23, inclusive, all;
- Secs. 24 and 25, excluding Yuonglik River;
- Secs. 26 to 29, inclusive, all;
- Secs. 30, 31 and 32, excluding Mudyutok River;
- Secs. 33 to 36, inclusive, all.

Containing approximately 22,528 acres.

State Selection F-44513

T. 9 S., R. 25 W.
- Secs. 25 to 36, inclusive, all.

Containing approximately 7,a604 acres.

State Selection F-44514

T. 9 S., R. 26 W.
- Sec. 36, all.

Containing approximately 640 acres.

State Selection F-44531

T. 10 S., R. 23 W.
- Secs. 1 and 2 (fractional), all;
- Secs. 3 and 4, excluding unnamed sloughs;
- Secs. 5 and 6, excluding Mudyutok River and unnamed sloughs;
- Secs. 7, excluding unnamed sloughs;
- Secs. 8 and 9, excluding Mudyutok River and unnamed slough;
- Secs. 10 and 11 (fractional), all;
- Secs. 15 and 16 (fractional), all;
- Secs. 17 and 18, excluding unnamed sloughs;
- Secs. 19 and 20, excluding unnamed sloughs;
- Secs. 21, 29, 30 and 31 (fractional), all.

State Selection F-44532

T. 10 S., R. 24 W.
- Sec. 1, excluding Fish River;
- Sec. 2, excluding Fish River and unnamed slough;
- Secs. 3 and 10, excluding unnamed slough;
- Secs. 11 and 12, excluding Fish River and unnamed sloughs;
- Sec. 13, excluding unnamed slough;
- Sec. 14, excluding Fish River;
- Secs. 15 and 22, all;
- Sec. 23, excluding Fish River;
- Sec. 24, excluding Fish River and unnamed sloughs;
- Sec. 25, excluding Fish River;
- Secs. 26 and 27, all;
- Secs. 34 and 35, all;
- Sec. 36 (fractional), all.

Containing approximately 10,380 acres.

Aggregating approximately 50,511 acres.

Further action on the subject State selection applications, as to those lands not rejected herein, will be taken at a later date. State selection application F-44512, is hereby rejected in its entirety and the case will be closed when this decision becomes final.

As to the lands described below, the applications submitted by White Mountain Native Corporation are properly filed and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include may lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a), aggregating approximately 83,850 acres, is considered proper for acquisition by White Mountain Native Corporation and is hereby approved for conveyance pursuant to Sec. 14(a) of the Alaska Native Claims Settlement Act:

Kateel River Meridian, Alaska (Unsurveyed)

T. 8 S., R. 23 W.
- Secs. 30 to 36, inclusive, all.

Containing approximately 4,476 acres.

T. 8 S., R. 24 W.
- Secs. 21 and 22, all;
- Secs. 23 and 24, excluding Fish River;
- Sec. 25, excluding Native allotment F-16242 and Fish River;
- Sec. 26, excluding Fish River;
- Secs. 27 and 28, all;
- Secs. 33, 34 and 35, excluding Fish River;
- Sec. 36, all.

Containing approximately 7,115 acres.

T. 9 S., R. 23 W.
- Secs. 1 to 23, inclusive, all;
- Secs. 24 and 25, excluding Yuonglik River;
- Secs. 26 to 29, inclusive, all;
- Secs. 30, 31 and 32, excluding Mudyutok River;
- Secs. 33 to 36, inclusive, all.

Containing approximately 22,528 acres.

T. 9 S., R. 24 W.
- Secs. 1 to 4, inclusive, all;
- Sec. 5, excluding Fish River;
- Secs. 6 and 7, all;
- Sec. 8, excluding Fish River;
- Sec. 9, excluding Native allotment F-026210 and Fish River;
- Sec. 10, excluding Native allotment F-026210;
- Secs. 11 to 14, inclusive, all;
- Secs. 15 and 16, excluding Native allotment F-026210, Fish River and unnamed slough;
- Sec. 17, excluding Fish River;
- Secs. 18, 19 and 20, all;
- Sec. 21, excluding unnamed slough;
- Secs. 22 and 23, excluding Fish River;
- Sec. 24, all;
- Sec. 25, excluding Fish and Mudyutok Rivers;
- Sec. 26, excluding Fish River and unnamed slough;
- Sec. 27, all;
- Sec. 28, excluding unnamed slough;
- Secs. 29 to 32, inclusive, all;
- Secs. 33 and 34, excluding unnamed sloughs;
- Sec. 35, excluding Fish River and unnamed slough;
- Sec. 36, excluding Fish River.

Containing approximately 21,748 acres.

T. 9 S., R. 25 W.
- Secs. 25 to 36, inclusive, all.

Containing approximately 7,604 acres.

T. 9 S., R. 26 W.
- Sec. 36, all.

Containing approximately 640 acres.

T. 10 S., R. 23 W.
- Secs. 1 and 2 (fractional), all;
- Secs. 3 and 4, excluding unnamed sloughs;
- Secs. 5 and 6, excluding Mudyutok River and unnamed sloughs;
- Sec. 7, excluding unnamed slough;
- Secs. 8 and 9, excluding Mudyutok River and unnamed slough;
- Secs. 10 and 11 (fractional), all;
- Secs. 15 and 16 (fractional), all;
- Secs. 17 and 18, excluding unnamed sloughs;
- Secs. 19 and 20, excluding unnamed sloughs;
- Secs. 21, 29, 30 and 31 (fractional), all.

Containing approximately 9,359 acres.

T. 10 S., R. 24 W.
- Sec. 1, excluding Fish River;

Sec. 2, excluding Fish River and unnamed slough;
Secs. 3 and 10, excluding unnamed slough;
Secs. 11 and 12, excluding Fish River and unnamed sloughs;
Sec. 13, excluding Fish River and unnamed slough;
Sec. 14, excluding Fish River;
Secs. 15 and 22, all;
Sec. 23, excluding Fish River;
Sec. 24, excluding Fish River and unnamed sloughs;
Sec. 25, excluding Fish River;
Secs. 26 and 27, all;
Secs. 34 and 35, all;
Sec. 36 (fractional), all.

Containing approximately 10,380 acres.
Aggregating approximately 83,850 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F-14956-EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: Travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

60 Foot Road—The uses allowed on a sixty (60) foot wide road easement are: Travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles, tract vehicles, four-wheel drive vehicles, automobilies, and trucks.

One Acre Site—The uses allowed for a site easement are: Vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

a. (EIN 1 C1, C3, D1, L) An easement for an existing access trail twenty-five (25) feet in width from the right bank of the Fish River in Sec. 16, T. 9S., R. 24W., Kateel River Meridian, westerly to public lands in Sec. 2, T. 10S., R. 26W., Kateel River Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter use.

b. (EIN 2 C1, C3, D1, L) An easement for an existing access trail twenty-five (25) feet in width from Sec. 15, T. 10S., R. 23W., Kateel River Meridian, northwesterly to White Mountain in Sec. 26, T. 9S., R. 24W., Kateel River Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter use.

c. (EIN 5a C3, C5, D1, L) An easement for an existing access trail twenty-five (25) feet in width from trail EIN 2 C1, C3, D1, L in Sec. 9, T. 10S., R. 23W., Kateel River Meridian, northeasterly to connect with Golovin trail EIN 8a C5 in Sec. 6, T. 10S., R. 22W., Kateel River Meridian. The uses allowed are those listed above for a twenty-five (25) food wide trail easement. The season of use will be limited to winter.

d. (EIN 13a C3, D9) An easement sixty (60) feet in width for an existing road from the White Mountain airstrip in Secs. 23 and 26, T. 9 S., R. 24 W., Kateel River Meridian, southerly to the village of White Mountain. The uses allowed are those listed above for a sixty (60) foot wide road easement.

e. (EIN 18 C5, D9) A one acre site easement upland of the mean hightide line in Sec. 25, T. 9 S., R. 24 W., Kateel River Meridian, on the left bank of the Fish River. The uses allowed are those listed above for a one (1) acre site easement.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. The following third-party interest, if valid, created and identified by the Bureau of Indian Affairs as provided by Sec. 14(g) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(g)):

Memorandum of Agreement made and entered into on April 6, 1946, between the Department of Interior, The Alaska Native Affairs and the Department of Commerce for use by the Weather Bureau.

4. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

White Mountain Native Corporation is entitled to conveyance of 115,200 acres of land selected pursuant to Sec. 12(a) of the Alaska Native Claims Settlement Act. To date 83,850 acres of this entitlement have been approved for conveyance; the remaining entitlement of 31,350 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of the Alaska Native Claims Settlement Act, conveyance to the subsurface estate of the lands described above shall be granted to the Bering Straits Native Corporation when conveyance is granted to White Mountain Native Corporation for the surface estate, and shall be subject to the same conditions as the surface conveyance.

Only the following inland water body, within the described lands, is considered to be navigable:

Fish River and interconnecting sloughs.

The Mudyutok River is tidally influenced from its mouth to its confluence with the Fish River. The Yuonglik River is tidally influenced to Sec. 24, T. 9 S., R. 23 W., Kateel River Meridian.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the Federal Register and once a week for four (4) consecutive weeks, in the Nome Nugget. Any party claiming a property interest in land affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate and any parties who failed or refused to sign the return receipt shall have until January 14, 1980, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance

with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken the adverse parties to be served are:

State of Alaska, Department of Natural Resources, Division of Research and Development, 323 East Forth Avenue, Anchorage, Alaska 99501.
White Mountain Native Corporation, White Mountain, Alaska 99784.
Bering Straits Native Corporation, Box 1008, Nome, Alaska 99762.

Sue A. Wolf,
Chief, Branch of Adjudication.

[FR Doc. 79-38329 Filed 12-13-79, 8:45 am]
BILLING CODE 4310-84-M

[AA-6683-A through AA-6683-K]

Alaska Native Claims Selections

On January 25 and November 25, 1974, New Stuyahok Limited, for the Native village of Stuyahok filed selection applications AA-6683-A through AA-6683—K under the provisions of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (1976)) (ANCSA), for the surface estate of certain lands in the vicinity of New Stuyahok.

On November 14, 1978, the State of Alaska filed general purposes grant selection applications AA-21685, AA-21686, AA-21700, AA-21701, AA-21702, AA-21712, AA-21713, AA-21714, AA-21727 and AA-21728, all as amended pursuant to Sec. 6(b) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b)), for certain lands in the New Stuyahok area.

The following described lands have been properly selected by Stuyakok Limited. Section 6(b) of the Alaska Statehood Act of July 7, 1958, provides that the State may select *vacant, unappropriated* and *unreserved* public lands in Alaska. Therefore, the following State selection applications are hereby rejected as to the following described lands:

Seward Meridian, Alaska (Unsurveyed)

State Selection AA-21685

T. 6 S., R. 45 W.,
Sec. 5, all;
Sec. 6, excluding Native allotment AA-6403 Parcel B;
Sec. 7, all;
Secs. 19 to 23, inclusive, all;
Secs. 26 to 30, inclusive, all.
Containing approximately 8,158 acres.

State Selection AA-21686

T. 6 S., R. 46 W.,
Secs. 1, 2, 3 and 4, excluding Mulchatna River;
Secs. 5 and 6, excluding Nushagak River;
Sec. 7, all;
Sec. 8, excluding Nushagak River;
Sec. 9, excluding Nushagak and Mulchatna Rivers;
Secs. 10, 11 and 12, excluding Mulchatna River;
Sec. 13, all;
Sec. 14, excluding Native allotment A-054030;
Sec. 15, excluding Native allotment AA-8162 Parcel A and Nushagak River;
Sec. 16, excluding Native allotment AA-6394 Parcel A and Nushagak and Mulchatna Rivers;
Sec. 17, excluding Native allotments AA-6394 Parcel A, AA-7837 Parcel B and Nushagak River;
Secs. 18, 19 and 20, all;
Secs. 21 and 22, excluding Nushagak River;
Secs. 23 and 24, all;
Sec. 25, excluding Native allotment AA-8137 Parcel A;
Sec. 26, all;
Sec. 27, excluding Nushagak River;
Secs. 28 and 29, all;
Sec. 33, excluding Native allotment AA-6385;
Sec. 34, excluding Native allotment AA-6385 and Nushagak River;
Sec. 35, excluding Nushagak River;
Sec. 36, excluding Native allotment A-054026 Parcel C.
Containing approximately 17,470 acres.

State Selection AA-21700

T. 7 S., R. 46 W.,
Sec. 1, all;
Sec. 2, excluding Native allotments AA-6420, AA-6375 Parcel B and Nushagak River;
Secs. 3 and 10, excluding Native allotment AA-6375 Parcel B and Nushagak River;
Sec. 11, excluding Native allotments AA-6413, AA-6375 Parcel B and Nushagak River;
Secs. 12 and 13, all;
Sec. 14, excluding Native allotments AA-7812 Parcel A, AA-6392 Parcel A and Nushagak River;
Sec. 15, excluding Native allotment AA-6392 Parcel A and Nushagak River;
Sec. 16, all;
Sec. 21, excluding Nushagak River;
Sec. 22, excluding Native allotment A-054033 Parcel B and Nushagak River;
Sec. 23, excluding Native allotment A-054033 Parcel B;
Secs. 24 and 26, all;
Sec. 27, excluding Native allotment AA-8292 and Nushagak River;
Secs. 28, 31 and 32, excluding Nushagak River;
Secs. 33, 34 and 35, all.
Containing approximately 11,599 acres.

State Selection AA-21701

T. 7 S., R. 47 W.,
Secs. 26 and 27, all;
Secs. 34 and 35, all;
Sec. 36, excluding Nushagak River.
Containing approximately 3,175 acres.

State Selection AA-21702

T. 7 S., R. 48 W.,
Sec. 32, all.
Containing approximately 640 acres.

State Selection AA-21712

T. 8 S., R. 46 W.,
Sec. 2, excluding Native allotment AA-6375 Parcel A;
Secs. 3 and 4, excluding Native allotment AA-6400;
Sec. 5, excluding Native allotments AA-6422, AA-6398 and Nushagak River;
Sec. 6, excluding Nushagak River;
Secs. 7, 8 and 9, all;
Sec. 10, excluding Native allotment AA-6392 Parcel B;
Secs. 14 to 23, inclusive, all;
Secs. 29 to 32, inclusive, all.
Containing approximately 14,006 acres.

State Selection AA-21713

T. 8 S., R. 48 W.,
Sec. 5, excluding Native allotment AA-6412;
Secs. 7 to 12, inclusive, all;
Sec. 13, excluding Native allotment AA-6317;
Secs. 14 to 35, inclusive, all;
Sec. 36, excluding Nushagak River.
Containing approximately 19,500 acres.

State Selection AA-21714

T. 8 S., R. 49 W.,
Sec. 13, all;
Secs. 24, 25 and 26, all;
Secs. 35 and 36, all.
Containing approximately 3,840 acres.

State Selection AA-21727

T. 9 S., R. 47 W.,
Sec. 5, all;
Sec. 6, excluding Native allotment AA-6406.
Containing approximately 1,112 acres.

State Selection AA-21728

T. 9 S., R. 48 W.,
Secs. 1 and 2, all;
Sec. 3, excluding Native allotment AA-7694 Parcel B and Nushagak River;
Sec. 4, excluding Nushagak River;
Secs. 5, 6 and 7, all;
Secs. 8, 9 and 10, excluding Nushagak River;
Secs. 11, 12 and 14, all;
Sec. 15, excluding Native allotment AA-7691 Parcel A;
Sec. 16, excluding Native allotments AA-7766 Parcel B, AA-7852 Parcel B and Nushagak River;
Secs. 17 and 18, excluding Nushagak River.
Containing approximately 9,196 acres.
Aggregating approximately 88,696 acres.

Further action on the above State selection applications, as to those lands not rejected herein will be taken at a later date. The State selected lands rejected above were not valid selections and will not be charged against the village corporation as State selected lands.

As to the lands described below, the applications submitted by Stuyahok Limited, as amended, are properly filed, and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands,

selected pursuant to Sec. 12(a), aggregating approximately 107,004 acres, is considered proper for acquisition by Stuyahok Limited and is hereby approved for conveyance pursuant to Sec. 14(a) of the Alaska Native Claims Settlement Act:

Seward Meridian, Alaska (Unsurveyed)

T. 6 S., R. 45. W.,
Sec. 5, all;
Sec. 6, excluding Native Allotment AA-6403 Parcel B;
Sec. 7, all;
Secs. 19 to 23, inclusive, all;
Secs. 26 to 30, inclusive, all.
Containing approximately 8,158 acres.

T. 6 S., R. 46 W.,
Secs. 1, 2, 3 and 4, excluding Mulchatna River;
Secs. 5 and 6, excluding Nushagak River;
Sec. 7, all;
Sec. 8, excluding Nushagak River;
Sec. 9, excluding Nushagak and Mulchatna Rivers;
Secs. 10, 11 and 12, excluding Mulchatna River;
Sec. 13, all;
Sec. 14, excluding Native allotment A-054030;
Sec. 15, excluding Native allotment AA-8162 Parcel A and excluding Nushagak River;
Sec. 16, excluding Native allotment AA-6394 Parcel A and Nushagak and Mulchatna Rivers;
Sec. 17, excluding Native allotments AA-6394 Parcel A, AA-7837 Parcel B and Nushagak River;
Secs. 18, 19 and 20, all;
Secs. 21 and 22, excluding Nushagak River;
Secs. 23 and 24, all;
Sec. 25, excluding Native allotment AA-8137 Parcel A;
Sec. 26, all;
Sec. 27, excluding Nushagak River;
Secs. 28 and 29, all;
Sec. 33, excluding Native allotment AA-6385;
Sec. 34, excluding Native allotment AA-6385 and Nushagak River;
Sec. 35, excluding Nushagak River;
Sec. 36, excluding Native allotment A-054026 Parcel C.
Containing approximately 17,470 acres.

T. 7 S., R. 46 W.,
Sec. 1, all;
Sec. 2, excluding Native allotments AA-6420 Parcel A, AA-6375 Parcel B and Nushagak River;
Secs. 3, and 10, excluding Native allotment AA-6375 Parcel B and Nushagak River;
Sec. 11, excluding Native allotments AA-6413, AA-6375 Parcel B and Nushagak River;
Secs. 12 and 13, all;
Sec. 14, excluding Native allotments AA-7812 Parcel A, AA-6392 Parcel A and Nushagak River;
Sec. 15, excluding Native allotment AA-6392 Parcel A and Nushagak River;
Sec. 16, all;
Sec. 21, excluding Nushagak River;
Sec. 22, excluding Native allotment A-054033 Parcel B and Nushagak River;
Secs. 23, excluding Native allotment A-054033 Parcel B;
Secs. 24 and 26, all;
Sec. 27, excluding Native allotment AA-8292 and Nushagak River;
Secs. 28, 31 and 32, excluding Nushagak River;
Secs. 33, 34 and 35, all.
Containing approximately 11,599 acres.

T. 8 S., R. 46 W.,
Sec. 2, excluding Native allotment AA-6375 Parcel A;
Secs. 3 and 4, excluding Native allotment AA-6400;
Sec. 5, excluding Native allotments AA-6422, AA-6398 and Nushagak River;
Sec. 6, excluding Nushagak River;
Secs. 7, 8 and 9, all;
Sec. 10, excluding Native allotment AA-6392 Parcel B;
Secs. 14 to 23, inclusive, all;
Secs. 29 to 32, inclusive, all.
Containing approximately 14,006 acres.

T. 7 S., R. 47 W.,
Secs. 26 and 27, all;
Secs. 34 and 35, all;
Sec. 36, excluding Nushagak River.
Containing approximately 3,175 acres.

T. 8 S., R. 47 W.,
Secs. 1, 2 and 3, excluding Nushagak River;
Secs. 4 to 8, inclusive, all;
Secs. 9 and 10, excluding Nushagak River;
Sec. 11, excluding Native allotment AA-6379 and Nushagak River;
Sec. 12, excluding Nushagak River;
Sec. 13, all;
Sec. 14, excluding Native allotment AA-6379;
Secs. 15, 16 and 17, excluding Nushagak River;
Sec. 18, all;
Sec. 19, excluding Native allotments A-054028, A-054031 Parcel B and Nushagak River;
Sec. 20, excluding Native allotments A-054035, A-054817 and Nushagak River;
Sec. 21, excluding Native allotments A-054034 Parcel A, A-054035 and Nushagak River;
Secs. 22 to 27, inclusive, all;
Sec. 28, excluding Nushagak River;
Sec. 29, excluding U.S. Survey 4495, Native allotments A-054031 Parcel A, A-054033 Parcel A, A-054037 and Nushagak River;
Sec. 30, excluding Native allotments A-054027, A-054029, A-054840 Parcel A, AA-6721, AA-6410 and Nushagak River;
Sec. 31, excluding Native allotments A-054027, AA-6376 and Nushagak River;
Sec. 32, excluding Native allotments A-054026 Parcel A, A-054031 Parcel A and Nushagak River;
Sec. 33, excluding Native allotments A-054026 Parcel B;
Secs. 34, and 35, all;
Sec. 36, excluding Native allotment AA-6390 Parcel A.
Containing approximately 18,308 acres.

T. 9 S., R. 47 W.,
Sec. 5, all;
Sec. 6, excluding Native allotment AA-6406.
Containing approximately 1,112 acres.

T. 7 S., R. 48 W.,
Sec. 32, all.
Containing approximately 640 acres.

T. 8 S., R. 48 W.,
Sec. 5, excluding Native allotment AA-6412;
Secs. 7 to 12, inclusive, all;
Sec. 13, excluding Native allotment AA-6317;
Secs. 14 to 35, inclusive, all;
Sec. 36, excluding Nushagak River.
Containing approximately 19,500 acres.

T. 9 S., R. 48 W.,
Secs. 1 and 2, all;
Sec. 3, excluding Native allotment AA-7694 Parcel B and Nushagak River;
Sec. 4, excluding Nushagak River;
Secs. 5, 6 and 7, all;
Secs. 8, 9 and 10, excluding Nushagak River;
Secs. 11, 12 and 14, all;
Sec. 15, excluding Native allotment AA-7691 Parcel A;
Sec. 16, excluding Native allotments AA-7766 Parcel B, AA-7852 Parcel B and Nushagak River;
Secs. 17 and 18, excluding Nugashak River.
Containing approximately 9,196 acres.

T. 8 S., R. 49 W.,
Sec. 13, all;
Secs. 24, 25 and 26, all;
Secs. 35 and 36, all.
Containing approximately 3,840 acres.
Aggregating approximately 107,004.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1602, 1613(f)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file AA-6683-EE, are reserved to the United States. All easements are subject to applicable Federal, State, or municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsleds, animals, snowmobiles, two and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

One Acre Site—The uses allowed for a site easement are: vehicle parking (e.g., aircraft, boats, ATV's snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading or unloading shall be limited to 24 hours.

a. (EIN 17 C4) A one (1) acre site easement upland of the ordinary high water mark in Sec. 11, T. 7 S., R. 46 W., Seward Meridian, on the right bank of the Nushagak River. The uses allowed are those listed above for a one (1) acre site.

b. (EIN 17a C4) An easement for a proposed access trail twenty-five (25) feet in width from site easement EIN 17 C4 in Sec. 11, T. 7 S., R. 46 W., Seward Meridian, westerly to public lands. The uses allowed

are those listed above for a twenty-five (25) foot wide trail easement.

c. (EIN 19 C4) A one (1) acre site easement upland of the ordinary high water mark in Sec. 3, T. 8 S., R. 46 W., Seward Meridian, at the end of a slough off the Nushagak River. The uses allowed are those listed above for a one (1) acre site.

d. (EIN 19a C4) An easement for a proposed access trail twenty-five (25) feet in width from site easement EIN 19 C4 in Sec. 3, T. 8 S., R. 46 W., Seward Meridian, southeasterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

e. (EIN 32 C4) A one (1) acre site easement upland of the ordinary high water mark in Sec. 6, T. 6 S., R. 46 W., Seward Meridian, on the right bank of the Nushagak River. The uses allowed are those listed above for a one (1) acre site.

f. (EIN 32a C4) An easement for a proposed access trail twenty-five (25) feet in width from site easement EIN 32 C4 in Sec. 6, T. 6 S., R. 46 W., Seward Meridian, westerly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

g. (EIN 33 C4) A one (1) acre site easement upland of the ordinary high water mark in Secs. 6 and 7, T. 6 S., R. 45 W., Seward Meridian, on the left bank of the Mulchatna River. The uses allowed are those listed above for a one (1) acre site.

h. (EIN 33a C4) An easement for a proposed access trail twenty-five (25) feet in width from site easement EIN 33 C4 in Secs. 6 and 7, T. 6 S., R. 45 W., Seward Meridian, easterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

i. (EIN 35 E) An easement for an existing access trail twenty-five (25) feet in width along the Nushagak River throughout the entire selection. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter use.

The grant of the lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid exsiting rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way or easement, and the right of the lessee, contractee, permittee or grantee to the complete enjoyment of all rights, privileges and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Airport lease A-058768, containing approximately 72.12 acres, located within Secs. 29, 30, 31 and 32, T. 8 S., R. 47 W., Seward meridian, issued to the State of Alaska, Department of Transportation and Public Facilities, under the provisions of the act of May 24, 1928 (45 Stat. 728-729; 49 U.S.C. 211-214)); and

4. Requirements of Sec. 14 (c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Stuyahok Limited is entitled to conveyance of 115,200 acres of land selected pursuant to Sec. 12(a) of the Alaska Native Claims Settlement Act. To date, approximately 107,004 acres of this entitlement have been approved for conveyance; the remaining entitlement of approximately 8,196 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of the Alaska Native Claims Settlement Act, conveyance of the subsurface estate of the lands described above shall be granted to Bristol Bay Native Corporation when conveyance is granted to Stuyahok Limited for the surface estate, and shall be subject to the same conditions as the surface conveyance.

Only the following inland water bodies within the described lands, are considered to be navigable;

Nushagak River;
Mulchatna River.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the Federal Register and once a week, for four (4) consecutive weeks, in the Anchorage Times. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who fail or refuse to sign the return receipt shall have until January 14, 1980, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights, which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the adverse parties to be served are:

State of Alaska, Division of Lands, 323 East Fourth Avenue, Anchorage, Alaska 99501.
Stuyahok Limited, New Stuyahok, Alaska 99636.
Bristol Bay Native Corporation, P.O. Box 198, Dillingham, Alaska 99576.

Sue A. Wolf,
Chief, Branch of Adjudication.

[FR Doc. 79-38330 Filed 12-13-79; 8:45 am]
BILLING CODE 4310-84-M

[AA-6673-A through AA-6673-K]

Alaska Native Claims Selections

On January 15 and October 23, 1974, Kokhanok Native Corporation, for the Native village of Kokhanok filed selection applications AA-6673-A through AA-6673-K under the provisions of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (1976)) (ANCSA), for the surface estate of certain lands in the vicinity of Kokhanok.

On November 14, 1978, the State of Alaska filed general purposes grant selection applications AA-21694, AA-21695, AA-21708, AA-21709, AA-21719, AA-21720, AA-21721, and AA-21722, all as amended, pursuant to Sec. 6(b) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b)), for certain lands in the Kokhanok area.

The following described lands have been properly selected by Kokhanok Native Corporation. Section 6(b) of the Alaska Statehood Act of July 7, 1958, provides that the State may select *vacant, unappropriated* and *unreserved* public lands in Alaska.

Therefore, the following State selection applications are hereby rejected as to the following described lands:

Seward Meridian, Alaska (Unsurveyed)

State Selection AA-21694

T. 7 S., R. 30 W.,
Secs. 18 and 19, all;
Secs. 25 to 36, inclusive, all.
Containing approximately 8,907 acres.

State Selection AA-21695

T. 7 S., R. 31 W.,
Sec. 7 excluding Native allotment AA-6507 and Iliamna Lake;
Secs. 13 and 14, all;
Secs. 15 to 22, inclusive, excluding Iliamna Lake;
Sec. 23, excluding U.S. Survey 4672, Native allotment AA-7344 and Iliamna Lake;
Secs. 24 and 25, all;
Sec. 26, excluding Native allotment AA-7344 and Iliamna Lake;
Secs. 27 to 33, inclusive, excluding Iliamna Lake;
Sec. 34, excluding Native allotments AA-6232, AA-7555 Parcels A and B and Iliamna Lake;
Sec. 35, excluding U.S. Survey 4576, Native allotments AA-6232, AA-7555 Parcels A and B and Iliamna Lake; Sec. 36, all.

Containing approximately 8,889 acres

T. 7 S., R. 32 W.,
Sec. 12, excluding Native allotment AA-7527 Parcel B and Iliamna Lake;
Secs. 26 and 27, excluding Iliamna Lake;
Secs. 34, 35 and 36, excluding Iliamna Lake.

Containing approximately 420 acres.

State Selection AA-21708

T. 8 S., R. 30 W.,
Secs. 5 to 8, inclusive, all;
Secs. 17 to 26, inclusive, all;
Sec. 27, excluding ANCSA Sec. 3(e) application AA-9004;
Secs. 28 to 36, inclusive, all.

Containing approximately 15,326 acres.

State Selection AA-21709

T. 8 S., R. 31 W.,
Sec. 1, excluding Native allotment AA-6222;
Sec. 2, excluding Native allotments AA-6222 and A-059683;
Secs. 3, 4 and 5, excluding Iliamna Lake;
Secs. 6 and 7, excluding Native allotment AA-6219 and Iliamna Lake;
Sec. 8, excluding U.S. Survey 3427, Native allotment AA-6211 Parcel D and Iliamna Lake;
Sec. 9, excluding U.S. Survey 3427, Native allotment AA-7546 and Iliamna Lake;
Secs. 10 to 13, inclusive, all;
Sec. 14, excluding Native allotment A-063810 and Iliamna Lake;
Sec. 15, excluding Native allotments AA-6213 Parcel A, A-063810 and Iliamna Lake;
Secs. 16 to 19, inclusive, excluding Iliamna Lake;
Secs. 20 and 21, excluding Native allotment AA-8065 Parcel C and Iliamna Lake;
Secs. 22 and 23, excluding Native allotments AA-7544, A-063810 and Iliamna Lake;
Sec. 24, all;
Sec. 25, excluding U.S. Survey 3228 and Iliamna Lake;
Secs. 26 and 27, excluding Iliamna Lake;
Sec. 28, excluding Native allotments AA-7899, AA-8065 Parcel D and Iliamna Lake;
Sec. 29, excluding Native allotments AA-7898, AA-7899 and Iliamna Lake;
Sec. 30, excluding Native allotment AA-8065 Parcel B and Iliamna Lake;
Sec. 31, excluding Iliamna Lake;
Sec. 32, excluding Native allotments AA-7898, AA-7899 and Iliamna Lake;
Sec. 33, excluding Native allotment AA-7899 and Iliamna Lake;
Sec. 34, excluding Native allotments AA-6259, AA-8065 Parcel A, A-063274 Parcel B and Iliamna Lake;
Sec. 35, excluding Native allotment AA-8252 and Iliamna Lake;
Sec. 36, excluding U.S. Survey 3228, Native allotment AA-8252 and Iliamna Lake.

Containing approximately 11,920 acres.

State Selection AA-21719

T. 9 S., R. 31 W.,
Sec. 1, all;
Sec. 2, excluding Native allotments AA-2714 and A-052690 Parcel B;
Sec. 3, excluding Native allotments AA-2714, AA-6211 Parcel B, AA-7345, AA-8252, A-052510, A-052690 Parcel B and Iliamna Lake;
Sec. 4, excluding Native allotments AA-8063, AA-8252, A-052510 and Iliamna Lake;
Sec. 5, excluding Iliamna Lake;
Sec. 6, excluding Native allotment AA-6123 and Iliamna Lake;
Sec. 7, excluding Iliamna Lake;
Sec. 8, all;
Sec. 9, excluding Native allotment A-052510;
Sec. 10, excluding Native allotments AA-6211 Parcel B, A-052510 and A-052690 Parcel B;
Secs. 15 to 18, inclusive, all.

Containing approximately 7,039 acres.

State Selection AA-21720

T. 9 S., R. 32 W.,
Sec. 1, excluding Native allotment AA-6123 and Iliamna Lake;
Sec. 2, excluding U.S. Survey 5546 and Iliamna Lake;
Sec. 3, excluding Iliamna Lake;
Secs. 4 to 11, inclusive, all;
Sec. 12, excluding Native allotment AA-6260 and Iliamna Lake;
Sec. 13, excluding Native allotment AA-6260;
Secs. 14 to 19, inclusive, all;
Sec. 30, all.

Containing approximately 11,814 acres.

State Selection AA-21721

T. 8 S., R. 33 W.,
Secs. 33 and 34, excluding Iliamna Lake;
Sec. 35, excluding Native allotments AA-6261, AA-6264, AA-6267 and Iliamna Lake;
Sec. 36, excluding U.S. Survey 894, Native allotment AA-6261 and Iliamna Lake.

Containing approximately 250 acres.

T. 9 S., R. 33 W.,
Secs. 1 and 2, all;
Sec. 3, excluding Native allotment AA-6261;
Sec. 4, excluding Native allotments AA-6261, AA-6264 and AA-6267;
Sec. 5, all;
Sec. 6, excluding Iliamna Lake;
Sec. 7, all;
Sec. 8, excluding Native allotment AA-6268;
Sec. 9, excluding Native allotments AA-6263 and AA-6268;
Sec. 10, excluding Native allotment AA-6263;
Secs. 11 and 12, all;
Secs. 13 and 14, excluding Native allotment A-052505;
Secs. 15 and 22, all;
Sec. 23, excluding Native allotments AA-6216, AA-6262 and A-052505;
Sec. 24, excluding Native allotments AA-6216 and A-052505;
Secs. 25, 26 and 27, all.

Containing approximately 12,229 acres.

State Selection AA-21722

T. 9 S., R. 34 W.,
Secs. 1 and 2, excluding Iliamna Lake;
Sec. 9, excluding Native allotments AA-6210, AA-6266 and Iliamna Lake;
Sec. 10, excluding Iliamna Lake;
Sec. 11, excluding native allotment AA-6205 and Iliamna Lake;
Sec. 12, all.

Containing approximately 1,665 acres.
Aggregating approximately 78,459 acres.

Further action on the above State selection applications as to those lands not rejected herein, will be taken at a later date. The State selected lands rejected above were not valid selections and will not be charged against the village corporation as State selected lands.

As to the lands described below, the applications submitted by Kokhanok Native Corporation, as amended, are properly filed, and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 87,343 acres, is considered proper for acquisition by Kokhanok Native Corporation and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA:

Seward Meridian, Alaska (Unsurveyed)

T. 7 S., R. 30 W.,
Secs. 18 and 19, all;
Secs. 25 to 36, inclusive, all.

Containing approximately 8,907 acres.

T. 8 S., R. 30 W.,
Secs. 5 to 8, inclusive, all;
Secs. 17 to 26, inclusive, all;
Sec. 27, excluding ANCSA Sec. 3(e) application AA-9004;
Secs. 28 to 36, inclusive, all.

Containing approximately 15,326 acres.

T. 7 S., R. 31 W.,
Sec. 7, excluding Native allotment AA-0507 and Iliamna Lake;
Secs. 13 and 14, all;
Secs. 15 to 22, inclusive, excluding Iliamna Lake;
Sec. 23, excluding U.S. Survey 4672, Native allotment AA-7344 and Iliamna Lake;
Secs. 24 and 25, all;
Sec. 26, excluding Native allotment AA-7344 and Iliamna Lake;
Secs. 27 to 33, inclusive, excluding Iliamna Lake;

Sec. 34, excluding native allotments AA-6232, AA-7555 Parcels A and B and Iliamna Lake;
Sec. 35, excluding U.S. Survey 4576, Native allotments AA-6232, AA-7555 Parcels A and B and Iliamna Lake;
Sec. 36, all.

Containing approximately 8,889 acres.

T. 8 S., R. 31 W.,
Sec. 1, excluding Native allotment AA-6222;
Sec. 2, excluding Native allotments AA-62222 and A-059683;
Secs. 3, 4 and 5, excluding Iliamna Lake;
Secs. 6 and 7, excluding Native allotment AA-6219 and Iliamna Lake;
Sec. 8, excluding U.S. Survey 3427, Native allotment AA-6211 Parcel D and Iliamna Lake;
Sec. 9, excluding U.S. Survey 3427, Native allotment AA-7546 and Iliamna Lake;
Secs. 10 to 13, inclusive, all;
Sec. 14, excluding Native allotment A-063810 and Iliamna Lake;
Sec. 15, excluding Native allotments AA-6213 Parcel A, A-063810 and Iliamna Lake;
Secs. 16 to 19, inclusive, excluding Iliamna Lake;
Secs. 20 and 21, excluding Native allotment AA-8065 Parcel C and Iliamna Lake;
Secs. 22 and 23, excluding Native allotments AA-7544, A-063810 and Iliamna Lake;
Sec. 24, all;
Sec. 25, excluding U.S. Survey 3228 and Iliamna Lake;
Secs. 26 and 27, excluding Iliamna Lake;
Sec. 28, excluding Native allotments AA-7899, AA-8065 Parcel D and Iliamna Lake;
Sec. 29, excluding native allotments AA-7898, AA-7899 and Iliamna Lake;
Sec. 30, excluding Native allotment AA-8065 Parcel B and Iliamna Lake;
Sec. 31, excluding Iliamna Lake;
Sec. 32, excluding Native allotments AA-7898, AA-7899 and Iliamna Lake;
Sec. 33, excluding Native allotment AA-7899 and Iliamna Lake;
Sec. 34, excluding Native allotments AA-6259, AA-8065 Parcel A, A-063274 Parcel B and Iliamna Lake;
Sec. 35, excluding Native allotment AA-8252 and Iliamna Lake;
Sec. 36, excluding U.S. Survey 3228, Native allotment AA-8252 and Iliamna Lake.

Containing approximately 11,920 acres.

T. 9 S., R 31 W.,
Sec. 1, all;
Sec. 2, excluding Native allotments AA-2714 and A-052690 Parcel B;
Sec. 3, excluding Native allotments AA-2714, AA-6211 Parcel B, AA-7345, AA-8252, A-052510, A-052690 Parcel B and Iliamna Lake;
Sec. 4, excluding Native allotments AA-8063, AA-8252, A-052510 and Iliamna Lake;
Sec. 5, excluding Iliamna Lake;
Sec. 6, excluding Native allotment AA-6123 and Iliamna Lake;
Sec. 7, excluding Iliamna Lake;
Sec. 8, all;
Sec. 9, excluding Native allotment A-052510;
Sec. 10, excluding Native allotments AA-6211 Parcel B, A-052510 and A-052690 Parcel B;
Secs. 15 to 18, inclusive, all.

Containing approximately 7,039 acres.

T. 7 S., R. 32 W.
Sec. 12, excluding Native allotment AA-7527 Parcel B and Iliamna Lake;
Secs. 26 and 27, excluding Iliamna Lake;
Secs. 34, 35 and 36, excluding Iliamna Lake.

Containing approximately 420 acres.

T. 8 S., R. 32 W.,
Sec. 1, excluding Native allotment AA-6210 and Iliamna Lake;
Secs. 2 to 5, inclusive, excluding Iliamna Lake;
Secs. 8 and 9, exluding Iliamna Lake;
Secs. 10 and 11, all;
Sec. 12, excluding Native allotment AA-6219;
Sec. 13, all;
Secs. 14, 15 and 16, excluding Iliamna Lake;
Secs. 21 to 27, inclusive, excluding Iliamna Lake;
Sec. 29, excluding Iliamna Lake;
Secs. 31 to 36, inclusive, excluding Iliamna Lake.

Containing approximately 8,884 acres.

T. 9 S., R. 32 W.,
Sec. 1, excluding Native allotment AA-6123 and Iliamna Lake;
Sec. 2, exluding U.S. Survey 5546 and Iliamna Lake;
Sec. 3, excluding Iliamna Lake;
Secs. 4 to 11, inclusive, all;
Sec. 12, excluding Native allotment AA-6260 and Iliamna Lake;
Sec. 13, excluding Native allotment AA-6260;
Secs. 14 to 19, inclusive, all;
Sec. 30, all.

Containing approximately 11,814 acres.

T. 8 S., R. 33 W.,
Secs. 33 and 34, excluding Iliamna Lake;
Sec. 35, excluding Native allotments AA-6261, AA-6264, AA-6267 and Iliamna Lake;
Sec. 36, excluding U.S. Survey 894, Native allotment AA-6261 and Iliamna Lake.

Containing approximately 250 acres.

T. 9 S., R. 33 W.,
Secs. 1 and 2, all;
Sec. 3, excluding Native allotment AA-6261;
Sec. 4, excluding Native allotments AA-6261, AA-6264 and AA-6267;
Sec. 5, all;
Sec. 6, excluding Iliamna Lake;
Sec. 7, all;
Sec. 8, excluding Native allotment AA-6268;
Sec. 9, excluding Native allotments AA-6263 and AA-6268;
Sec. 10, excluding Native allotment AA-6263;
Secs. 11 and 12, all;
Secs. 13 and 14, excluding Native allotment A-052505;
Secs. 15 and 22, all;
Sec. 23, excluding Native allotments AA-6216, AA-6262 and A-052505;
Sec. 24, excluding Native allotments AA-6216 and A-052505;
Secs. 25, 26 and 27, all.

Containing approximately 12,229 acres.

T. 9 S., R. 34 W.,
Secs. 1 and 2, excluding Iliamna Lake;
Sec. 9, excluding Native allotments AA-6210, AA-6266 and Iliamna Lake;
Sec. 10, excluding Iliamna Lake;
Sec. 11, excluding Native allotment AA-6205 and Iliamna Lake;
Sec. 12, all.

Containing approximately 1,665 acres.
Aggregating approximately 87,343 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file AA-6673-EE, are reserved to the United States. All easements are subject to applicable Federal, State, or municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

One Acre Site—The uses allowed for a site easement are: Vehicle parking (e.g., aircraft, boats, ATV's snowmobiles, cars, trucks), temporary camping, loading, or unloading shall be limited to 24 hours.

a. (EIN 4a D9) A one (1) acre site easement upland of the ordinary high water mark in Sec. 35, T. 8 S., R. 33 W., Seward Meridian, at the mouth of Gibraltar Greek on the south shoreline of Lake Iliamna. The uses allowed are those listed above for a one (1) acre site.

b. (EIN 8a D9) A one (1) acre site easement upland of the ordinary high water mark in Sec. 3, T. 9 S., R. 31 W., Seward Meridian, at the mouth of Sid Larson Bay Creek on the east shoreline of Sid Larson Bay. The uses allowed are those listed above for a one (1) acre site.

c. (EIN 12b D9) A one (1) acre site easement upland of the ordinary high water mark in Sec. 35, T. 7 S., R. 31 W., Seward Meridian, at the mouth of and on the left bank of the Copper River on the east shore of Copper River Bay. The uses allowed are those listed above for a one (1) acre site.

d. (EIN 12k D9) A one (1) acre site easement upland of the ordinary high water mark in Sec. 34, T. 7 S., R. 30 W., Seward Meridian, at the mouth of an unnamed stream on the left bank (looking downstream) of the Copper River. The uses allowed are those listed above for a one (1) acre site.

e. (EIN 12n E) An easement for a proposed access trail twenty-five (25) feet in width from site easement EIN 12k D9 on the Copper River in Sec. 34, T. 7 S., R. 30 W., Seward Meridian, thence southwesterly

approximately one-half (½) mile to the unnamed lake in the same section. The uses allowed are those listed above for a twenty-five (25) foot wide trail.

f. (EIN 12o E) An easement for a proposed access trail twenty-five (25) feet in width from the unnamed lake in Secs. 33 and 34, T. 7 S., R. 30 W., Seward Meridian, thence southerly to public land. The uses allowed are those listed above for a twenty-five (25) foot wide trail.

g. (EIN 17b C5) An easement for a proposed access trail twenty-five (25) feet in width from site easement EIN 4a D9 on the south shore of Lake Iliamna in Sec. 35, T. 8 S., R. 33 W., Seward Meridian, thence southerly to public land. The uses allowed are those listed above for a twenty-five (25) foot wide trail.

h. (EIN 21 E) An easement for a proposed access trail twenty-five (25) feet in width from site easement EIN 8a D9 at the mouth of Sid Larson Bay Creek in Sec. 3, T. 9 S., R. 31 W., Seward Meridian, thence approximately three-quarters (¾) of a mile southesterly to public land. The uses allowed are those listed above for a twenty-five (25) foot wide trail.

i. (EIN 22 E) A one (1) acre site easement upland of the ordinary high water mark in Sec. 7, T. 9 S., R. 31 W., Seward Meridian, on the south shore of an unnamed bay within Kakhonak Bay. The uses allowed are those listed above for a one (1) acre site.

j. (EIN 22a E) An easement for a proposed access trail twenty-five (25) feet in width from site easement EIN 22 E on the south shore of Kakhonak Bay in Sec. 7, T. 9 S., R. 31 W., Seward Meridian, thence approximately one and a half (1½) miles southerly to public land. The uses allowed are those listed above for a twenty-five (25) foot wide trail.

k. (EIN 23 E) A one (1) acre site easement upland of the ordinary high water mark in Sec. 24, T. 8 S., R. 30 W., Seward Meridian, on the northwest shore of Kakhonak Lake. The uses allowed are those listed above for a one (1) acre site.

l. (EIN 23a E) An easement for a proposed access trail twenty-five (25) feet in width from site easement EIN 23 E on Kakhonak Lake in Sec. 24, T. 8 S., R. 30 W., Seward Meridian, thence northerly approximately one-quarter (¼) mile to public land.

The uses allowed are those listed above for a twenty-five (25) footwide trail.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the unsurveyed lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 [72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g)]), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 [43 U.S.C. 1601, 1616(b)(2) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Airport lease A-058767, containing approximately 82 acres, located within SW¼ Sec. 29 and N½ Sec. 32, T. 8 S., R. 32 W., Seward Meridian, issued to the State of Alaska, Department of Transportation and Public Facilities, under the provisions of the act of May 24, 1928 (45 Stat. 728-729; 49 U.S.C. 211-214); and

4. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Kokhanok Native Corporation is entitled to conveyance of 92,160 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 87,343 acres. The remaining entitlement of approximately 4,817 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA, conveyance of the subsurface estate of the lands described above shall be issued to Bristol Bay Native Corporation when the surface estate is conveyed to Kokhanok Native Corporation, and shall be subject to the same conditions as the surface conveyance.

Within the above described lands, only the following inland water body is considered to be navigable:

Iliamna Lake.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the Federal Register and once a week, for four (4) consecutive weeks, in the Anchorage Times. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until January 14, 1980, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

State of Alaska, Department of Natural Resources, Division of Research and Development, 323 East Fourth Avenue, Anchorage, Alaska 99501.

Kokhanok Native Corporation, Kokhanok, Alaska 99606.

Bristol Bay Native Corporation, P.O. Box 198, Dillingham, Alaska 99576.

Sue A. Wolf,

Chief, Branch of Adjudication.

[FR Doc. 79-38331 Filed 12-13-79; 8:45 am]
BILLING CODE 4310-84-M

Office of Surface Mining and Reclamation

[Federal Lease No. C-27103]

Availability for Public Review of Proposed Major Modification to the Hawk's Nest Mine ("East Lease")

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Availability for Public Review of Proposed Major Modification to a Coal Mining and Reclamation Plan.

SUMMARY: Pursuant to § 211.5 of Title 30 and § 1500.2 of Title 40, Code of Federal Regulations, notice is given that the Office of Surface Mining has received a major modification to an existing mining and reclamation plan. The proposed modification is described below:

Location of Lands To Be Affected by Modification

Applicant: Western Slope Carbon, Inc.
Mine Name: Hawk's Nest.
State: Colorado.
County: Gunnison.
Township, Range, Section: T. 13 S., R. 90 W., 6th P.M., Section 1: Lots 13, 14, 19, 20; Section 12: Lots 1, 2, and those parts of Lot 5, SW¼ NE¼ and the SE¼ NW¼ north of the North Fork of the Gunnison River.
Office of Surface Mining Reference No.: CO 0014.

This proposal is for an increase in the size of the Hawk's Nest Mine permit area. The proposal was submitted as a result of Western Slope Carbon, Inc. obtaining an additional 290 acres of coal land (Federal Coal Lease C-27103) adjoining the currently operating Hawk's Nest East Mine. Coal production at the Hawk's Nest Mine in 1978 was 330,997 tons, which will be increased to a projected 600,000 tons in 1980 and 1 million tons in 1985. These projections are independent of the proposed modification however, if the application is approved, of the above total projected coal production an estimated 400,000 tons of coal would be removed from the E seam in the East Lease annually.

The proposed mining of the East Lease would be accomplished by driving two sets of five entry mains from the existing workings in East Mine into the East Lease. Production sections will be turned north off of the eastward trending main entries. The surface disturbance would be approximately one acre and would consist of a ventilation shaft and an access road to the shaft portal. The surface disturbance associated with subsidence may affect approximately 290 acres.

The Hawk's Nest Mine was briefly discussed in the Regional analysis of the West-Central Colorado Coal Final Environmental Impact Statement issued by the Bureau of Land Management (BLM) in March of 1979. In addition the Bureau of Land Management prepared an environmental assessment on the coal lease application (March 13, 1979). Both of these documents are available for review at the BLM District Office in Montrose and in the BLM State Office, 1600 Broadway St., Room 700, Colorado State Bank Building, Denver, Colorado 80202.

This notice is issued at this time for the convenience of the public. The Office of Surface Mining has not yet determined whether the proposed modification is technically adequate. It is possible that OSM will request additional information from the company during the forthcoming technical review. Any further information so obtained would also be available for public review.

No action on the proposed coal mining and reclamation plan shall be taken by the Regional Director for a period of 30 days after publication of this Notice of Availability in the Federal Register. Prior to taking any action on this proposed amendment, the Office of Surface Mining will issue a Notice of Pending Decision pursuant to § 211.5(c)(2) of Title 30, Code of Federal Regulations.

The mine plan modification submitted by Western Slope Carbon, Inc. for the East Lease is available for public review during normal working hours in the Library, Office of Surface Mining, Region V, second floor, Brooks Towers, 1020 15th Street, Denver, Colorado. Comments on the proposed modification may be submitted during the 30-day period after publication of this notice to the Regional Director, Office of Surface Mining, at the same address.

FOR FURTHER INFORMATION CONTACT:

Thomas Pike, Office of Surface Mining, Region V, Brooks Towers, 1020 15th Street, Denver, Colorado 80202 telephone: (303) 837-3773

John Hardaway, Office of Surface Mining, Region V, Brooks Towers, 1020 15th Street, Denver, Colorado 80202 telephone: (303) 837-3773

Donald A. Crane,

Regional Director.

[FR Doc. 79-38394 Filed 12-13-79; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF LABOR

Employment and Training Administration

Employment Transfer and Business Competition Determinations Under the Rural Development Act; Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or busines activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for sucn goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Administrator, Employment and Training Administration, 601 D Street, NW., Washington, D.C. 20013.

Signed at Washington, D. C., this 5th day of December 1979.

Earl T. Klein,

Director, Office of Program Services.

Applications Received During the Week Ending December 8, 1979

Name of applicant and location of enterprise	Principal product or activity
Kleer-Vu Industries, Inc., Brownsville, Tennessee.	Bindery establishment.
Winner Chemicals, Inc., Paulsboro, New Jersey.	Manufacture of plastic containers (blow-molding bottles) for industrial use.

[FR Doc. 79-37982 Filed 12-13-79; 8:45 am]

BILLING CODE 4510-30-M

Allocations Under Title II and Title VI of the Comprehensive Employment and Training Act ("CETA"); Proposed Discretionary Allocations for Fiscal Year 1980

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice lists the proposed allocation of funds under Title II–A, B, C, and D and Title VI of the Comprehensive Employment and Training Act. The purpose of this notice is to afford the public the opportunity to comment on the discretionary allocations before distribution is made.

FOR FURTHER INFORMATION CONTACT: T. James Walker, Administrator, Administration and Management, 601 D Street NW.—Room 4000, Washington, D.C. 20213, telephone No. (202) 376–7563.

DATES: Pursuant to section 123(d)(3) of Pub. L. 95–524, the proposed distribution which follows is published for the purpose of receiving public comment on or before January 14, 1980. You are asked to address your comments in writing to T. James Walker at the above address.

SUPPLEMENTARY INFORMATION:

Table I

The allocation for Fiscal Year 1980, of $90 million in discretionary funds under Title II D of the Comprehensive Employment and Training Act (CETA) is proposed to aid prime sponsors experiencing substantial reductions in funding. Title II–D funds provide for transitional employment opportunities for the economically disadvantaged.

In order to ensure an equitable distribution of the discretionary resources available, the Department has analyzed each prime sponsor's Fiscal Year 1979 Title II–D allocation and compared it with the Fiscal Year 1980 allocation and the overall reduction in Title II–D funds between Fiscal Year 1979 and Fiscal Year 1980.

The Department established the policy that the Fiscal Year 1980 Title II–D discretionary funds should be used to assist those prime sponsors which had decreases in allocations between Fiscal Year 1979 and Fiscal Year 1980 in excess of 25 percent. This decision results in the available discretionary funds being provided to those prime sponsors which experienced the most severe percentage cuts in Title II–D funding levels. The 310 prime sponsors which qualified for the discretionary funds (i.e. which had an allocation decrease of over 25 percent) received an amount of funds equal to 38.7 percent of the portion of their decrease in excess of 25 percent.

The Native Americans program was treated as another prime sponsor in determining who was eligible for and the amount of discretionary funds to be provided to Indian programs. The funds will be allocated to Indian prime sponsors through the office of Indian and Native American Programs.

Table II

Title VI is a countercyclical program designed to assist low income unemployed individuals by offering limited-term employment opportunities in the public sector.

The proposed Title VI discretionary funds are being targeted to high unemployment areas in accordance with the language contained in the Labor/HEW Appropriation Act Conference Report. The targeted funds are being distributed only to CETA prime sponsors eligible for Title VI funds which serve areas with an average unemployment rate of at least 6.5 percent for the reference period of June 1978 through May 1979, the latest 12-month period for which data are available. No prime sponsor will receive targeted funds which would result in a total Fiscal Year 1980 availability in excess of its Fiscal Year 1979 total availability.

Table III

The reauthorized Comprehensive Employment and Training Act requires that the Secretary of Labor use discretionary funds to hold harmless the "prime sponsor serving areas within those standard metropolitan statistical areas and central cities for which current population surveys were used to determine annual unemployment data prior to January 1, 1979."

Note.—See Section 202(f)(2)B); Section 233(d)(1)(B), and Section 604(b)(1)(B).

To carry out this provision, the Department allocated all the formula allocated funds using the current methodology for estimating unemployment; then current population survey (CPS) data were substituted for those areas which would be positively impacted by these data and the allocations again were computed. Each area received the higher of either allocation (current methodology for estimating unemployment or the CPS methodology). The positive dollar differences between the two methods are to be covered by the Secretary's discretionary fund.

Table III includes the CPS adjustment by Title for the affected prime sponsors.

Table I.—*U.S. Department of Labor, Employment and Training Administration, Office of Administration and Management: Proposed Title IID Discretionary Allocations Eligible Prime Sponsors, Nov. 26, 1979*

	Allocation
Bridgeport Consortium	543,201
Hartford Consortium	591,936
New Haven Consortium	758,060
Stamford Consortium	169,846
Waterbury City	130,202
Balance of Connecticut	2,510,572
Connecticut	4,732,297
Penobscot/Hancock Consortium	77,164
Cumberland County	207,945
Balance of Maine	297,194
Kennebeck County	110,899
York County	103,119
Maine	796,320
Boston City	432,949
Embrda Consortium	309,725
New Bedford Consortium	111,802
Hampden County Consortium	788,608
Worcester Consortium	673,378
Lowell Consortium	357,903
Fall River Consortium	41,646
Balance of Massachusetts	3,991,159
Pittsfield Consortium	90,668
Massachusetts	6,757,836
Hillsborough County	290,396
Balance of New Hampshire	617,851
New Hampshire	908,247
Providence City	82,907
Balance of Rhode Island	295,790
Rhode Island	378,697
State of Vermont, total	536,862
Region I	14,110,259
Atlantic County	18,723
Bergen County	691,377
Burlington County	40,287
Balance of Camden County	112,802
Camden City	14,493
Balance of Essex County	238,400
Balance of Mercer County	153,937
Middlesex County	514,959
Morris County	265,022
Ocean County	1,453
Balance of Passaic County	120,078
Paterson City	714
Somerset County	76,584
Trenton City	31,315
Balance of Union County	59,938
Balance of New Jersey	236,660
New Jersey	2,584,800
Balance of Albany County	46,620
Broome County	123,677
Chautauqua Consortium	112,073
Chemung County	62,222
Dutchess County	93,688
Erie Consortium	177,678
Hempstead/Long Beach Consortium	364,080
Rochester City	263,233
Balance of Monroe County	251,323
Balance of Nassau County Consortium	261,380
Niagara County	59,509
Oneida County	179,271
Balance of Onondaga County	76,360
Orange County	12,161
Oswego County	31,044
Rensselaer County	6,279
Rockland County	103,449
Saratoga County	51,554
Schenectady County	107,551
Steuben County	70,180
Suffolk Consortium	715,639
Syracuse City	49,016

Table I.—*U.S. Department of Labor, Employment and Training Administration, Office of Administration and Management: Proposed Title IID Discretionary Allocations Eligible Prime Sponsors, Nov. 26, 1979*—Continued

	Allocation
Ulster County	105,405
Balance of New York	289,304
New York City	221,137
New York	3,831,433
Bayamon Municipio	50,454
Mayaguez Municipio	142,868
San Juan Municipio	757,813
Puerto Rico	951,135
Virgin Islands, total	18,660
Region II	7,386,028
Delaware: Wilmington City, total	14,798
District of Columbia, total	37,917
Western Maryland Consortium	86,451
Frederick County	47,096
Maryland	133,547
Lehigh Valley Consortium	97,537
Chester County	85,682
Delaware County	207,439
Berks County	31,690
Schuylkill/Carbon Consortium	12,636
Lancaster County	167,189
Lebanon County	146,885
Balance of Erie County	14,719
Balance of Allegheny County	803,143
Pittsburgh City	309,324
Beaver County	130,016
Washington County	78,446
Westmoreland County	24,954
Tri-County Consortium	11,613
Lawrence County	35,746
Mercer County Consortium	148,799
Southern Allegany Consortium	208,186
Susquehanna Consortium	66,670
York County	136,695
Franklin County	105,479
Balance of Pennsylvania	225,955
Centre County	5,459
Pennsylvania	3,054,262
Peninsula Consortium	35,002
Ramps Consortium	74,641
Roanoke Consortium	226,689
Virginia	336,332
West Virginia Statewide, total	268,444
Region III	3,845,300
Alabama: Birmingham Consortium	70,317
Brevard County	97,850
Broward Consortium	1,241,636
Miami/Dade Consortium	1,010,112
Lee County	258,294
Orange County/Orlando Consortium	168,355
Manatee County	173,604
Marion County	2,293
Palm Beach County	195,022
Seminole County	53,962
St. Petersburg Consortium	364,367
Sarasota County	205,021
Tampa City	361,836
Balance of Hillsborough County	346,609
Volusia County	222,234
Florida	4,701,395
Balance of Georgia	1,648,830
CSRA Consortium	86,498

Table I.—*U.S. Department of Labor, Employment and Training Administration, Office of Administration and Management: Proposed Title IID Discretionary Allocations Eligible Prime Sponsors, Nov. 26, 1979*—Continued

	Allocation
Atlanta City	593,843
Cobb County	320,761
Columbus Area Consortium	5,154
Balance of DeKalb County	239,355
Balance of Fulton County	193, 165
Mid-Georgia Consortium	21,208
Savannah/Chatham Consortium	46,369
Georgia	3,155,183
Blue Grass Manpower Consortium	40,873
Louisville/Jefferson Consortium	167,602
Kenton County	97,650
Kentucky	306,125
Mississippi: Jackson Consortium	114,997
Balance of North Carolina	2,622,188
Alamance County	186,976
Buncombe County	139,979
Cumberland County	62,052
Charlotte City	272,286
Durham City	59,418
Gaston County	89,662
Greensboro Consortium	226,067
Raleigh City	149,890
Robeson County	19,110
Winston Salem Consortium	193,307
Davidson County	54,313
North Carolina	4,075,268
South Carolina State Consortium	1,668,006
Nashville/Davidson County	164,584
Sullivans County	45,940
Tennessee	210,524
Region IV	14,301,817
Chicago City	23,040
Balance of Cook County	972,627
Lake County	266,629
McHenry County	71,025
Rock Island County	141,014
Tazewell County	4,607
LaSalle County	16,014
Rockford Consortium	470,633
Will/Grundy Consortium	206,476
Madison County Consortium	109,922
St. Clair Consortium	260,821
Peoria Consortium	37,314
Balance of Illinois	260,903
Illinois	2,841,025
Hammond City	33,296
Balance of Lake County	78,549
Balance of St. Joseph County	9,015
Vigo County	23,751
Indianapolis City	235,900
Ft. Wayne Consortium	311,548
Indiana	692,061
Lansing Consortium	201,321
Region II Consortium	267,641
Grand Rapids Consortium	267,702
Dearborn City	83,533
Livonia City	23,249
Bay County	39,093
Kalamazoo County	71,825
Oakland County	895,512
Ottawa County	157,527
Saginaw County	17,478
St. Clair County	-217,046
Balance of Wayne County	608,796
Ann Arbor City	96,434
Balance of Washtenaw County	55,375

Table I.—*U.S. Department of Labor, Employment and Training Administration, Office of Administration and Management: Proposed Title IID Discretionary Allocations Eligible Prime Sponsors, Nov. 26, 1979*—Continued

	Allocation
Mid-Counties Consortium	114,179
Michigan	3,116,711
Dakota County	82,949
Balance of Ramsey County	124,355
St. Paul City	381,679
Quad Counties Consortium	377,171
Region III Consortium	230,510
Deluth City	137,351
Balance of Minnesota	619,721
Minnesota Rural CEP	189,005
Balance of Hennepin County	186,221
Minneapolis City	679,520
Minnesota	3,008,482
Columbiana County	61,933
Trumbull County	207,580
Balance of Mahoning County	190,123
Youngstown City	66,907
Cuyahoga Consortium	977,676
Cincinnati City	15,743
Butler County	236,298
Clark County	138,967
Balance of Hamilton County	201,586
Lorain County	131,890
Akron Consortium	374,471
Canton Consortium	668,105
Columbus Consortium	626,056
Central Ohio Rural Consortium	62,440
Toledo Consortium	86,285
Balance of Ohio	1,465,824
Portage County	295,240
Scioto County	196,943
Lake County	182,069
Dayton City	72,981
Montgomery/Preble Consortium	291,576
Ohio	6,550,693
Milwaukee County	985,357
Winne/Fond Consortium	174,078
Trico CETAC	173,749
Wisconsin	1,333,184
Region V	17,542,156
Arkansas: Central Arkansas Consortium	49,251
Baton Rouge City	212,273
Calcasieu/Jeff Consortium	66,894
Ouachita Parish	86,571
New Orleans City	346,601
Jefferson Parish	285,907
Louisiana	998,246
Albuquerque Consortium	396,670
Balance of New Mexico	291,354
New Mexico	688,024
Comance County	41,220
Balance of Oklahoma County	82,114
Oklahoma City Consortium	283,653
Balance of Cleveland County	78,626
Tulsa Consortium	189,434
Balance of Oklahoma	367,581
Oklahoma	1,042,628
Texarkana Consortium—Texas	22,735
Texas Panhandle Consortium	26,411
Capital Area Consortium	115,491
Coastal Bend Consortium	346,666
Dallas County Consortium	22,763
West Central Texas Consortium	44,834
El Paso Consortium	5,668

Table I.—*U.S. Department of Labor, Employment and Training Administration, Office of Administration and Management: Proposed Title IID Discretionary Allocations Eligible Prime Sponsors, Nov. 26, 1979*—Continued

	Allocation
Balance of Tarrant County	30,616
Galveston County	132,732
Central Texas Consortium	58,332
Alamo Consortium	962,857
Region XI Consortium	42,978
Webb County	46,587
Gulf Coast Consortium	2,385
East Texas Manpower Consortium	110,486
Balance of Texas	344,611
Texas	2,316,152
Region VI	5,094,301
Linn County Manpower Consortium	25,884
Davenport/Scott Consortium	3,380
Iowa	29,264
Kansas City Consortium	136,784
Wichita City	45,660
Topeka Consortium	29,279
Kansas	211,723
Balance of Missouri	1,480,418
Springfield City	74,517
Balance of Jackson County	45,197
Kansas City Consortium	1,022,384
Jefferson/Franklin Consortium	257,566
St. Louis County	358,493
St. Louis City	296,090
Independence City	81,979
St. Charles County	165,965
Missouri	3,782,609
Lincoln City	13,452
Omaha Consortium	422,925
Nebraska	436,377
Region VII	4,459,973
Adams County	80,950
Arapahoe County	42,781
Colorado Springs Consortium	19,542
Denver City/County	262,535
Jefferson County Consortium	49,245
Larimer County	6,335
Pueblo County	77,404
Colorado	538,792
Butte Rural CEP	78,052
Balance of Montana	609,995
Montana	688,047
State of North Dakota, total	225,730
South Dakota: Minnehaha County, total	15,802
Utah Statewide Consortium, total	806,427
State of Wyoming, total	62,549
Region VIII	2,337,347
Phoenix City	1,211,137
Balance of Maricopa County	845,990
Tucson City	155,869
Balance of Pima County	400,064
Arizona	2,613,060
Balance of Alameda County	602,792
Berkeley City	71,355
Balance of Contra Costa County	510,932
Marin County	113,305
Oakland City	205,747
Richmond City	45,183
San Francisco City/County	483,374

Table I.—*U.S. Department of Labor, Employment and Training Administration, Office of Administration and Management: Proposed Title IID Discretionary Allocations Eligible Prime Sponsors, Nov. 26, 1979*—Continued

	Allocation
San Mateo County	537,188
Sonoma County	97,302
Glendale City	185,302
Long Beach City	354,510
Balance of Los Angeles County	3,180,941
Los Angeles City	2,137,745
Orange County Manpower Consortium	1,349,440
Pasadena City	80,958
Torrance City	169,003
Humboldt County	1,064
Santa Clara Valley	550,527
Sunnyvale City	77,954
Yolo County	23,205
Santa Cruz County	110,088
Inland Manpower Association	974,862
San Luis Obispo County	89,148
San Diego RETC	2,492,693
California	14,444,618
Balance of Nevada	117,421
Las Vegas Consortium	695,234
Washoe County	114,562
Nevada	927,217
American Samoa, total	8,105
Guam, total	83,659
Pacific Islands, total	105,579
Region IX	18,182,238
Portland City	130,652
Balance of Clackamas County	58,372
Multnomah/Washington Consortium	330,709
Mid-Willamette Valley Consortium	15,471
Oregon	535,204
Clark County	18,421
King/Snohomish Consortium	1,303,327
Kitsap County	126,661
Washington	1,448,409
Region X	1,983,613
State and local total	89,243,032
Native Americans	756,968
National total	90,000,000

Table II.—*U.S. Department of Labor, Employment and Training Administration, Office of Administration and Management: Proposed Fiscal Year 1980 Title VI Discretionary Allocation, Nov. 26, 1979*

	Allocation
Connecticut: Waterbury City	113,879
Maine: Balance of Maine	486,454
Boston City	887,758
Embrda Consortium	368,219
New Bedford Consortium	259,249
Brockton Consortium	206,568
Fall River Consortium	173,120
Pittsfield Consortium	162,989
Massachusetts	2,057,903
Providence City	210,636

Table II.—*U.S. Department of Labor, Employment and Training Administration, Office of Administration and Management: Proposed Fiscal Year 1980 Title VI Discretionary Allocation, Nov. 26, 1979*—Continued

	Allocation
Balance of Rhode Island	700,824
Rhode Island	911,260
Region I	3,569,496
Atlantic County	294,186
Burlington County	329,507
Camden City	210,755
Cumberland County	212,373
Elizabeth City	167,782
Balance of Essex County	536,075
Gloucester County	232,110
Balance of Hudson County	617,413
Jersey City	355,347
Monmouth County	556,455
Newark City	798,035
Ocean County	335,789
Balance of Passaic County	339,851
Paterson City	285,193
Trenton City	133,522
Balance of Union County	408,671
Balance of New Jersy	455,545
New Jersey	6,268,869
Buffalo City	796,120
Chautauqua Consortium	252,034
Erie Consortium	615,295
Hempstead/Long Beach Consortium	799,340
Niagara County	293,974
Orange County	253,820
Oswego County	148,303
St. Lawrence County	159,846
Suffolk Consortium	1,203,447
Syracuse City	193,858
Ulster County	157,306
Westchester Consortium	866,208
Yonkers City	309,787
Balance of New York	1,941,193
New York City	8,924,959
New York	16,915,490
Bayamon Municipio	168,783
Caguas Municipio	196,899
Carolina Municipio	101,118
Mayaguez Municipio	120,330
Ponce Municipio	273,921
San Juan Municipio	378,286
Balance of Puerto Rico	5,535,104
Puerto Rico	6,774,441
Region II	29,958,800
Delaware Manpower Consortium	529,057
Wilmington City	134,739
Delaware	663,796
District of Columbia, total	929,377
Balance of Maryland	497,903
Baltimore Consortium	1,906,786
Western Maryland Consortium	271,743
Maryland	2,676,432
Bucks County	425,014
Delaware County	546,157
Philadelphia City/County	2,818,779
Balance of Lackawanna County	164,034
Scranton City	113,772
Luzerne County	448,828
Schuylkill/Carbon Consortium	237,290
Erie City	140,244
Balance of Erie County	140,429
Pittsburgh City	442,267
Westmoreland County	396,025
Tri-County Consortium	262,836
Fayette County	167,802
Lawrence County	83,808

Table II.—*U.S. Department of Labor, Employment and Training Administration, Office of Administration and Management: Proposed Fiscal Year 1980 Title VI Discretionary Allocation, Nov. 26, 1979*—Continued

	Allocation
Mercer County Consortium	326,670
Southern Allegany Consortium	635,676
Lycoming Consortium	193,706
Balance of Pennsylvania	920,702
Northumberland County	134,116
Pennsylvania	8,598,455
Region III	12,868,060
Balance of Alabama	1,876,962
Mobile Consortium	456,181
Tuscaloosa County	103,854
Alabama	2,436,997
Balance of Florida	1,047,183
Brevard County	262,151
Miami/Dade Consortium	1,471,981
Heartland Manpower Consortium	553,301
Okaloosa County	94,344
Marion County	97,110
Palm Beach County	467,510
Pasco County	143,247
Florida	4,136,827
Atlanta City	556,932
Columbus Area Consortium	137,985
Georgia	694,917
Kentucky: Eastern Kentucky Rural CEP	460,898
Balance of Mississippi	1,776,897
Harrison County Consortium	131,757
Mississippi	1,908,654
North Carolina: Robeson County	105,461
Region IV	9,743,754
Chicago City	3,412,014
Macon County	128,011
Madison County Consortium	229,049
Shawnee Consortium	104,691
Illinois	3,873,765
Gary City	205,387
Indianapolis City	772,208
Delaware/Blackford Consortium	138,607
Indiana	1,116,402
Balance of Michigan	1,832,674
Flint/Genessee Consortium	645,192
Grand Rapids Consortium	646,401
Muskegon/Oceana Consortium	228,786
Detroit City	2,322,880
Bay County	112,472
Berrien County	226,556
Balance of Macomb County	474,625
Monroe County	142,249
St. Clair County	161,363
Balance of Washtenaw County	173,511
Mid-Counties Consortium	170,749
Northeast Michigan Consortium	255,508
Michigan	7,392,966
Youngstown City	169,104
Cleveland City	794,197
Cincinnati City	546,625
Allen County	105,200
Clermont/Warren Consortium	217,751

Table II.—*U.S. Department of Labor, Employment and Training Administration, Office of Administration and Management: Proposed Fiscal Year 1980 Title VI Discretionary Allocation, Nov. 26, 1979*—Continued

	Allocation
Richland/Morrow Consortium	162,024
Scioto County	74,194
Ashtabula County	107,174
Dayton City	222,599
Ohio	2,398,868
Wisconsin: Wisconsin Northwest CEP	188,830
Region V	14,970,831
Texarkana Consortium—Arkansas	46,410
Balance of Arkansas	1,459,515
Arkansas	1,505,925
Rapides Parish	110,856
Calcasieu/Jeff Consortium	177,876
Ouachita Parish	117,495
New Orleans City	469,960
Balance of Louisiana	1,647,511
Louisiana	2,523,698
Texarkana Consortium—Texas	73,333
South East Texas Consortium	337,917
Cameron County	240,887
El Paso Consortium	506,229
Hidalgo County Consortium	430,645
Webb County	147,413
Texas	1,736,484
Region VI	5,766,107
Iowa: Woodbury County	18,648
Missouri: St. Louis City	655,432
Region VII	674,080
Colorado: Pueblo County	123,795
Region VIII	123,795
Arizona: Balance of Arizona	14,612
Berkeley City	221,083
Oakland City	563,317
Richmond City	110,263

Table II.—*U.S. Department of Labor, Employment and Training Administration, Office of Administration and Management: Proposed Fiscal Year 1980 Title VI Discretionary Allocation, Nov. 26, 1979*—Continued

	Allocation
San Francisco City/County	970,527
Santa Barbara County	300,295
Sonoma County	273,206
Los Angeles City	3,273,629
Ventura County	556,059
Balance of California	1,287,126
Humboldt County	226,815
Solano County	186,074
Butte County	210,106
Sacramento Consortium	844,483
Yolo County	124,266
Placer County	38,629
Stockton/San Joaquin Consortium	604,314
Stanislaus County	449,192
Shasta County	209,815
Monterey County	338,608
Santa Cruz County	229,613
Fresno City/County	716,437
Kern County	524,907
Merced County	235,970
Inland Manpower Association	1,190,910
Tulare County	286,465
California	13,972,109
Hawaii: Honolulu City/County	734,993
Region IX	14,721,714
Municipality of Anchorage	218,838
Balance of Alaska	469,340
Alaska	688,178
Lane County	305,834
Jackson County Consortium	212,692
Balance of Oregon	851,902
Oregon	1,370,428
Spokane Consortium	292,267
Tacoma City	192,603
Balance of Pierce County	206,749
Yakima County	273,015
Balance of Washington	1,296,240
Thurston County	99,054
Washington	2,359,928
Region X	4,419,534
National total	96,815,171

Table III.—*U.S. Department of Labor—Employment and Training Administration, Office of Administration and Management, Fiscal Year 1980 CPS Adjustments by Title, November 26, 1979*

	Title II BC	Title II D	Title VI	YCCIP	YETP	Total
Boston City	532,298	1,143,789	1,206,032	82,469	242,656	3,207,244
EMHRDA Consortium	232,514	711,050	713,533	36,024	208,059	1,901,180
Brockton Consortium	0	299,914	273,995	2,417	124,245	700,571
Balance of Massachusetts	5,341,342	3,790,617	3,964,730	235,302	984,953	14,336,944
Massachusetts	6,106,154	5,945,370	6,178,290	356,212	1,559,913	20,145,939
Region I	6,106,154	5,945,370	6,178,290	356,212	1,559,913	20,145,939
Burlington County	487,856	877,612	924,125	51,484	249,842	2,590,919
Bal of Camden County	647,071	1,129,791	1,160,477	57,579	366,913	3,361,831
Camden City	229,075	444,429	475,002	29,199	108,242	1,285,947
Elizabeth City	0	136,019	141,709	0	24,504	302,232
Bal of Essex County	420,612	716,482	701,111	0	187,074	2,025,279
Gloucester County	277,203	514,449	552,698	31,548	128,933	1,504,831
Morris County	336,679	632,695	596,920	0	216,992	1,783,286
Newark City	172,018	444,479	477,010	0	93,434	1,186,941

Table III.—*U.S. Department of Labor—Employment and Training Administration, Office of Administration and Management, Fiscal Year 1980 CPS Adjustments by Title, November 26, 1979—Continued*

	Title II BC	Title IID	Title VI	YCCIP	YETP	Total
Somerset County	159,637	198,288	195,185	0	64,217	617,327
Bal of Union County	474,407	720,547	694,604	0	220,107	2,109,665
New Jersey	3,204,558	5,814,791	5,918,841	169,810	1,660,258	16,768,258
Buffalo City	362,418	907,934	964,755	23,773	201,726	2,460,606
Erie Consortium	319,858	1,254,202	1,251,423	20,974	378,837	3,225,294
Bal of Nassau County CSRT	0	16,252	14,350	0	0	30,602
Niagara County	3,492	383,885	404,813	9,408	81,638	883,236
Rockland County	29,926	262,983	267,924	8,372	89,503	658,708
Suffolk Consortium	0	504,317	445,330	0	202,816	1,152,463
Westchester Consortium	1,735,377	3,472,041	3,472,920	112,862	917,252	9,710,452
Yonkers City	417,890	1,035,473	1,063,474	42,389	218,784	2,778,010
New York	2,868,961	7,837,087	7,884,989	217,778	2,090,556	20,899,371
Region II	6,073,519	13,651,878	13,803,830	387,588	3,750,814	37,667,629
District of Columbia	0	52,572	75,004	0	8,548	136,124
Dist of Columbia	0	52,572	75,004	0	8,548	136,124
Baltimore Consortium	109,724	5,094,218	4,997,606	82,201	1,276,077	11,559,826
Maryland	109,724	5,094,218	4,997,606	82,201	1,276,077	11,559,826
Philadelphia City/County	168,425	2,481,729	2,489,568	123,396	326,188	5,589,306
Bal of Allegheny County	0	0	0	3,252	0	3,252
Pittsburgh City	0	0	0	2,396	0	2,396
Beaver County	0	0	0	457	0	457
Washington County	0	0	0	1,964	0	1,964
Westmoreland County	0	0	0	2,732	0	2,732
Pennsylvania	168,425	2,481,729	2,489,568	134,197	326,188	5,600,107
Region III	278,149	7,628,519	7,562,178	216,398	1,610,813	17,296,057
Kenton County	766	146,498	164,868	13,219	44,381	369,732
Balance of Kentucky	0	234,844	229,857	0	0	464,701
Kentucky	766	381,342	394,725	13,219	44,381	834,433
Region IV	766	381,342	394,725	13,219	44,381	834,433
Bal of Cook County	164,138	418,537	739,171	118,196	193,362	1,633,404
Lake County	4,978	0	0	5,258	0	10,236
Balance of Illinois	0	555,295	490,348	0	207,518	1,253,161
Illinois	169,116	973,832	1,229,519	123,454	400,880	2,896,801
Indianapolis City	719,965	1,227,848	1,228,104	58,933	270,063	3,504,913
Balance of Indiana	589,199	106,222	117,520	0	0	812,941
Indiana	1,309,164	1,334,070	1,345,624	58,933	270,063	4,317,854
Dearborn City	525	7,741	12,563	2,116	4,006	26,951
Detroit City	273,113	1,678,126	1,546,046	30,472	18,230	3,545,987
Livonia City	0	5,035	8,893	1,652	2,607	18,187
Warren City	0	0	0	3,932	0	3,932
Bal of Macomb County	0	0	0	11,034	0	11,034
Oakland County	304,362	265,235	358,028	24,850	121,223	1,073,698
St. Clair County	0	0	0	4,213	0	4,213
Bal of Wayne County	0	68,826	121,551	22,479	0	212,856
Michigan	578,000	2,024,963	2,047,081	100,748	146,066	4,896,858
Dakota County	0	0	0	3,470	0	3,470
Bal of Ramsey County	0	0	0	3,000	0	3,000
St. Paul City	0	0	0	7,315	0	7,315
Quad Counties CSRT	0	0	0	6,769	0	6,769
Bal of Hennepin County	0	171	302	10,420	0	10,893
Minneapolis City	0	105	93	9,649	0	9,847

Table III.—*U.S. Department of Labor—Employment and Training Administration, Office of Administration and Management, Fiscal Year 1980 CPS Adjustments by Title, November 26, 1979—Continued*

	Title II BC	Title IID	Title VI	YCCIP	YETP	Total
Minnesota	0	276	395	40,623	0	41,294
Cuyahoga CSRT	0	79,529	137,432	31,376	40,187	288,524
Cleveland City	95,231	819,182	766,662	37,577	34,206	1,752,858
Cincinnati City	406,435	1,409,470	1,368,117	51,943	439,556	3,675,521
Bal of Hamilton County	0	255,900	299,851	31,057	63,943	650,751
Clermont/Warren CSRT	151,294	638,320	614,698	18,033	203,594	1,625,939
Ohio	652,960	3,202,401	3,186,760	169,966	781,486	7,993,593
Milwaukee County	356,564	1,844,751	1,853,940	51,995	480,741	4,587,991
WOW Consortium	0	58,449	103,225	9,561	28,375	199,610
Wisconsin	356,564	1,903,200	1,957,165	61,556	509,116	4,787,601
Region V	3,065,804	9,438,742	9,766,544	555,300	2,107,611	24,934,001
Greater Pasadena CSRT	0	164,708	235,438	28,294	52,747	481,187
Houston City	0	672,050	597,446	302	347,829	1,617,627
Bal of Harris County	0	310,857	515,020	75,623	140,973	1,042,473
Gulf Coast Consortium	0	288,387	346,332	25,669	52,393	712,981
Texas	0	1,436,002	1,694,236	130,088	593,942	3,854,268
Region VI	0	1,436,002	1,694,236	130,088	593,942	3,854,268
Kansas City Consortium	0	47,735	42,151	7,717	0	97,603
Johnson/Leavenworth CSRT	0	0	0	6,061	0	6,061
Kansas	0	47,735	42,151	13,778	0	103,664
Bal of Jackson County	0	4,924	8,695	2,018	2,548	18,185
Kansas City Consortium	0	374,676	366,075	16,242	43,004	799,997
St. Louis City	817,540	1,796,327	1,828,457	88,402	351,188	4,881,914
Independence City	0	4,764	8,413	1,963	2,466	17,606
Missouri	817,540	2,180,691	2,211,640	108,625	399,206	5,717,702
Region VII	817,540	2,228,426	2,253,791	122,403	399,206	5,821,366
Bal of Alameda County	915,339	921,740	913,130	39,564	300,431	3,090,204
Berkeley City	92,457	185,593	199,505	14,217	42,372	534,144
Bal of Contra Costa CNTY	886,111	529,303	545,269	31,054	134,290	2,126,027
Marin County	204,729	319,573	312,831	12,217	107,578	956,928
Oakland City	239,152	485,441	520,825	36,777	109,643	1,391,838
Richmond City	47,715	98,086	104,991	7,326	21,663	279,981
San Francisco City/County	438,983	929,393	989,906	67,506	201,307	2,627,095
San Mateo County	155,237	418,805	449,456	31,789	172,259	1,227,546
Glendale City	0	11,806	13,007	0	1,513	26,326
Long Beach City	444,582	48,803	51,686	0	1,221	546,292
Bal of Los Angeles County	1,750,681	571,540	580,958	0	76,704	2,979,883
Los Angeles City	544,649	331,817	372,651	0	0	1,249,117
Orange Cnty Manpower CSRT	2,298,845	330,108	291,503	43,510	132,916	3,096,882
Pasadena City	4,571	22,086	21,779	0	428	48,864
Torrance City	0	28,689	28,029	0	1,580	58,298
San Diego RETC	643,846	981,697	1,164,139	87,612	324,799	3,202,093
California	8,666,897	6,214,480	6,559,665	371,572	1,628,904	23,441,518
Region IX	8,666,897	6,214,480	6,559,665	371,572	1,628,904	23,441,518
National Total	25,008,829	46,924,759	48,213,259	2,152,780	11,695,584	133,995,211

Signed at Washington, D.C., 28th day of November 1979.

T. James Walker,

Administrator, Administration and Management.

[FR Doc. 79-38143 Filed 12-13-79; 8:45 am]

BILLING CODE 4510-13-M

Office of the Secretary

[TA-W-6458]

S. Abraham and Co., Inc., Philadelphia, Pa.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 27, 1979 in response to a worker petition received on November 21, 1979 which was filed by United Garment Workers of America on behalf of workers and former workers producing uniforms at S Abraham and Company, Incorporated, Philadelphia, Pennsylvania. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

S. Abraham and Company, Incorporated, Philadelphia, Pennsylvania produces custom-made and stock-uniforms for police departments, arm services and airlines. U.S. imports of uniforms were negligible in 1977, 1978 and the first half of 1979.

Conclusion

After careful review, I determine that all workers of S. Abraham and Company, Incorporated, Philadelphia, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 7th day of December 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-38145 Filed 12-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W- 6127 and 6128]

National Standard Co., Columbiana, Ala., and Childersburg, Ala.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 1, 1979, in response to a worker petition received on September 24, 1979, which was filed on behalf of workers and former workers producing steel tensile wire, bead wire and tire cord wire at the Columbiana, Alabama (TA-W-6127) and Childersburg, Alabama (TA-W-6128) plants of National Standard Company. The investigation revealed that the plants primarily produced bead wire, tire cord wire and hose wire. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Sales of bead wire by the Columbiana and Childersburg, Alabama plants of National Standard Company increased in quantity and value in 1978 and 1977 and during January-September 1979 compared to January-September 1978. Production of hose wire in July 1978. Sales of hose wire during January-September 1979 exceeded total 1978 sales.

Sales of tire cord wire by the Columbiana and Childersburg, Alabama plants declined in 1978 and during the first nine months of 1979.

A survey conducted by the Department indicated that major customers of National Standard Company reduced purchases of tire cord wire from the firm in 1978 and the first nine months of 1979 as they were unable to satisfy themselves that the company's tire cord wire met their specifications. Customers surveyed further indicated that the total capacity of domestic producers cannot support the total demand for tire cord wire by the domestic tire industry. Customers must rely upon both domestic and foreign sources to meet their requirements for tire cord wire.

Conclusion

After careful review, I determine that all workers of the Columbiana, Alabama and Childersburg, Alabama plants of National Standard Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. Signed at Washington, D.C. this 7th day of December 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-38146 Filed 12-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6239]

Sophia Electrical Supply Shop, Inc., Sophia, W. Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 18, 1979, in response to a worker petition received on October 16, 1979, which was filed by the United Steelworkers of America on behalf of workers and former workers repairing electric motors at Sophia Electric, Sophia, West Virginia. The investigation revealed that the correct name of the company is the Sophia Electrical Supply Shop, Inc. and that the firm is primarily engaged in the repair of mine motors and machinery.

Sophia Electrical Supply Shop, Inc. is engaged in providing the service of repairing mine motors and machinery.

Thus, workers of Sophia Electrical Supply Shop, Inc. do not produce an article within the meaning of section 222(3) of the Act except as necessary in repair operations. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Sophia Electrical Supply Shop, Inc. by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Sophia Electrical Supply Shop, Inc. and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any other company which produces an article.

All workers engaged in repairing mine motors and machinery at Sophia Electrical Supply Shop, Inc. are employed by that firm. All personnel actions and payroll transactions are controlled by Sophia Electrical Supply Shop, Inc. All employee benefits are provided and maintained by Sophia Electrical Supply Shop, Inc. Workers are not, at any time, under employment or supervision by customers of Sophia Electrical Supply Shop, Inc. Thus, Sophia Electrical Supply Shop, Inc., and not any of its customers, must be considered to be the "workers' firm".

Conclusion

After careful review, I determine that all workers of Sophia Electrical Supply Shop, Inc., Sophia, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 7th day of December 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-38147 Filed 12-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6280-6286 and 6310]

Clinchfield Coal Co.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In the matter of Open Fork Mine, Dickenson County, Virginia; Yowling Branch Mine, Russell County, Virginia; Chaney Creek Mine, Russell County, Virginia; Wilder Mine, Russell County, Virginia; Hagy #1 Mine, Buchanan County, Virginia; Hagy #2 Mine, Buchanan County, Virginia; Smith Gap Mine, Dickenson County, Virginia; Maple House Branch Mine, Dickenson County, Virginia.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigations were initiated on October 29, 1979 (TA-W-6280-6286) and October 31, 1979 (TA-W-6310) in response to a worker petition received on October 10, 1979 which was filed by the United Mine Workers of America on behalf of workers and former workers engaged in the mining of coal at the following mines of the Clinchfield Coal Company: Open Fork Mine, Dickenson County, Virginia; Yowling Branch Mine, Russell County, Virginia; Chaney Creek Mine, Russell County, Virginia; Wilder Mine, Russell County, Virginia; Hagy #1 Mine, Buchanan County, Virginia; Hagy #2 Mine, Buchanan County, Virginia; Smith Gap Mine, Dickenson County, Virginia; Maple House Branch Mine, Dickenson County, Virginia. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Yowling Branch, Chaney Creek, Wilder, Hagy #1, Hagy #2, and Smith Gap mines of the Clinchfield Coal Company mine coal for export and for sale to domestic utility companies for use in producing steam. The coal mined at the Open Fork and Maple House Branch mines is primarily exported or sold to domestic utility companies, however a small amount of the coal is also sold to domestic metallurgical coal users. The production and employment declines at these two mines are attributable primarily to a loss of export and domestic utility sales, and not to a loss of sales to domestic metallurgical coal users.

Imports of bituminous coal for use in producing steam are negligible, being less than one percent of domestic production. Imports have no relevant effect on export sales, and therefore cannot be considered to have contributed to a loss of such sales at any of the mines.

Conclusion

After careful review, I determine that all workers of the Clinchfield Coal Company's Open Fork Mine, Dickenson County, Virginia; Yowling Branch Mine, Russell County, Virginia; Chaney Creek Mine, Russell County, Virginia; Wilder Mine, Russell County, Virginia; Hagy #1 Mine, Buchanan County, Virginia; Hagy #2 Mine, Buchanan County, Virginia; Smith Gap Mine, Dickenson County, Virginia; and Maple House Branch Mine, Dickenson County, Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 10th day of December 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-38400 Filed 12-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6203 and 6204]

Cowden Manufacturing Co.; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigations were initiated on October 16, 1979 in response to a worker petition received on October 10, 1979 which was filed by the International Brotherhood of Teamsters Warehousemen and Chauffers on behalf of workers and former workers producing ladies' jeans at the Springfield, Kentucky plant and producing men's, boys' and ladies' jeans at the Mt. Sterling, Kentucky plant of Cowden Manufacturing Company. The investigation revealed that the Springfield plant also produces ladies' skirts.

Springfield, Ky., Plant

In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met with respect to the Springfield, Kentucky plant of Cowden Manufacturing Company:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Company-wide sales of ladies' jeans by Cowden Manufacturing Company increased in the fourth quarter of 1978 compared to the fourth quarter of 1977 and increased in each of the first three quarters of 1979 as compared to the corresponding quarter of 1978.

While production of ladies' jeans and skirts at the Springfield, Kentucky plant of Cowden declined in the fourth quarter of 1978 compared to the fourth quarter of 1977 and in the January-September 1979 period compared to the January-September 1978 period, company-wide production of ladies' jeans and skirts increased substantially during the same time periods. Company headquarters allocates production to its plants. Consequently, the decline in production at the Springfield plant was more than offset by increasing production at the other plants producing ladies' jeans.

Average employment of production workers at the Springfield plant increased in the January-October period of 1979 compared to the like period of 1978.

Mt. Sterling, Ky., Plant

In the following determination, with respect to the production of ladies' jeans at the Mt. Sterling, Kentucky plant of Cowden Manufacturing Company and without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Company-wide sales of ladies' jeans by Cowden Manufacturing Company increased in the fourth quarter of 1978 compared to the fourth quarter of 1977 and increased in each of the first three quarters of 1979 as compared to the corresponding quarter of 1978.

Production of ladies' jeans at Mt. Sterling, Kentucky plant increased, in quantity, from 1977 to 1978 and in the January-September period of 1979 compared to the like period of 1978.

With respect to the production of men's and boys' jeans at the Mt. Sterling plant, all of the criteria have been met.

U.S. imports of men's and boys' woven cotton and man-made jeans and dungarees increased both absolutely and relative to domestic production from 1977 to 1978 and then decreased absolutely during the January-June period of 1979 compared to the like period in 1978.

Major customers of Cowden Manufacturing Company who were surveyed indicated they reduced purchases of men's and boys' blue jeans from Cowden in 1978 compared to 1977 and increased purchases of blue jeans from foreign sources during that period. Total sales of men's and boys' jeans by Cowden Manufacturing Company increased during the period January–September 1979 compared to the same period in 1978.

The workers at the Mt. Sterling, Kentucky plant of Cowden Manufacturing Company are engaged in employment related primarily to the production of men's, boys' and ladies' jeans. Workers are not separately identifiable by product line.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's and boys' jeans produced at the Mt. Sterling, Kentucky plant of Cowden Manufacturing Company contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of the Mt. Sterling, Kentucky plant of Cowden Manufacturing Company, engaged in employment related to the production of men's and boys' jeans who became totally or partially separated from employment on or after September 24, 1978 and before May 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further determine that all workers of the Springfield, Kentucky plant of Cowden Manufacturing Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 10th day of December 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-38402 Filed 12-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6151 and 6161]

Emerson Electric Co.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on October 4, 1979, and October 9, 1979, in response to worker petitions received on September 26, 1979 and October 1, 1979, respectively, which were filed on behalf of workers and former workers producing electric motors at the Kennett, Missouri (TA-W-6151) and Paragould, Arkansas (TA-W-6161) plants of the Emerson Electric Company. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of AC fractional horsepower motors decreased absolutely in quantity in the first half of 1979 compared to the same 1978 period.

Total sales of AC fractional horsepower motors by the Emerson Electric Company Motor Division increased in value from fiscal year 1978 to fiscal year 1979. Division export sales of motors increased in value from FY 1978 to FY 1979. Emerson electric also imports some motors which decreased in value from FY 1978 to FY 1979. The value of company exports exceeded the value of company imports in FY 1978 and FY 1979.

One major customer purchased electric motors from both the Kennett, Missouri and Paragould, Arkansas plants. Officials of this company indicated that they did not purchase imports of fractional horsepower motors.

Conclusion

After careful review, I determione that all workers of the Kennett, Missouri and Paragould, Arkansas plants of the Emerson Electric Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 7th day of December 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-38403 Filed 12-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6171]

The General Tire & Rubber Co.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on October 10, 1979 in response to a worker petition received on September 27, 1979 which was filed on behalf of workers and former workers producing tires at the Mayfield, Kentucky plant of The General Tire and Rubber Company. The investigation revealed that the plant produces primarily passenger car tires and truck tires. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A Department survey was conducted with customers that accounted for the decline in sales at General Tire. The survey revealed that these customers either did not purchase or purchased negligible imports of passenger car tires and truck tires or decreased purchases of imported passenger car tires and truck tires from 1977 to 1978 and during the first nine months of 1979.

Conclusion

After careful review, I determine that all workers of the Mayfield, Kentucky plant of The General Tire and Rubber Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 7th day of December 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-38404 Filed 12-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6172]

Grandinetti, Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 10, 1979 in response to a worker petition received on October 3, 1979 which was filed on behalf of the workers and former workers producing small appliances at Grandinetti, Incorporated, Lynwood, California. It is concluded that all of the requirements have been met.

Imports of electric hair dryers increased both absolutely and relative to domestic production in 1977 compared with 1976 and in 1978 compared with 1977. The ratio of imports to domestic production of electric hair dryers exceed 800 percent in 1978.

Imports of electric hair appliances (including curling irons,) increased absolutely and relative to domestic production in 1977 compared with 1976. Imports declined slightly in 1978 compared with 1977.

Imports of slow-cookers (crock pots) began to decline in the summer of 1977 and have been negligible since 1978.

In 1976 Grandinetti, Incorporated, operated eight plants producing small appliances. As of December 1978, all production facilities were closed. Two Grandinetti plants located at 10855 and 10890 Stanford Streets in Lynwood, California were still in operation during the possible impact period. These plants were closed in October and December 1978. The company's offices, located at 2800 Norton Street, Lynwood, California were closed in March 1979.

A Department survey revealed that customers of Grandinetti, Incorporated reduced purchases from the company while increasing purchases of imported hair dryers and curling irons. Customers indicated that they purchased appliances which were marketed under American labels but had in fact been manufactured overseas.

Conclusion

After careful review of the facts obtained in the investigation, I concluded that increases of imports of articles like or directly competitive with hair dryers, curling irons and slow cookers (crock pots) produced at Grandinetti, Incorporated, Lynwood, California contributed importantly to the decline of sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the 10855 Stanford Street plant, the 10890 Stanford Street plant and the 23800 Norton Street company offices, all in Lynwood, California of Grandinetti, Incorporated who became totally or partially separated from employment on or after September 19, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 7th day of December 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-38405 Filed 12-13-79; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 24, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 24, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 10th day of December 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Cohoes Fabrics Printers, Inc. (T.W.U.A.)	Cohoes, N.Y	12/4/79	11/30/79	TA-W-6,557	Print textile fabrics.
Coka Fashions, Inc. (workers)	New York, N.Y	12/5/79	12/3/79	TA-W-6,558	Ladies' coats and rain coats.
Delaware Trucking Company, Inc. (workers)	Muncie, Ind	12/3/79	11/28/79	TA-W-6,559	Tranporting Chrysler auto parts.
Dee-Tee Soldering Company (workers)	Providence, R.I	12/3/79	11/28/79	TA-W-6,560	Jewelry soldering.
E Systems, Mencor Div., Peru Operations (workers).	Peru, Ind	11/26/79	11/20/79	TA-W-6,561	Assemble subassemblies for military radios.
Edmos Corporation, Tait Plant (workers)	Lincolnton, N.C	12/5/79	11/29/79	TA-W-6,562	Textured yarn for double knit knitting machines.
Evenspun Yarn Company (workers)	Philadelphia, Pa	12/3/79	11/29/79	TA-W-6,563	Raw yarn.
Kane Industries (workers)	Smith Grove, Ky	11/23/79	11/15/79	TA-W-6,564	Windbraker jackets—also, men's pants and vests.
Litton Industries, Decotone Division (United Paperworkers International Union).	Westminster, Mass	12/3/79	11/26/79	TA-W-6,565	Print heat transfer paper

Appendix—Continued

Petitioner Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Maremont (workers)	Repley, Tenn	11/28/79	11/20/79	TA-W-6,566	Exhaust systems for automobiles.
Muench-Kreuzer Candle Company (USWA)	Liverpool, N.Y	12/3/79	11/28/79	TA-W-6,567	Office, distribution, and packaging.
Muench-Kreuzer Candle Company (USWA)	Syracuse, N.Y	12/3/79	11/28/79	TA-W-6,568	Candles.
National Dress Company, Inc. (ILGWU)	Belleville, N.J	11/26/79	11/20/79	TA-W-6,569	Contractor of ladies' dresses.
Slimmetry, Inc. (ILGWU)	Newark, N.J	11/26/79	11/20/79	TA-W-6,570	Girdles.
Virginia Crews Coal Company (workers)	Welch, W. Va	12/3/79	11/27/79	TA-W-6,571	Coal and coal products.

[FR Doc. 79-38401 Filed 12-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6206 & 6207]

J. F. McElwain Co.; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 16, 1979 in response to a worker petition received on October 10, 1979 which was filed by the New Hampshire Shoe Workers' Union on behalf of workers and former workers producing soles, heels and insoles at the E Factory and producing men's welt shoes at the B Factory of J. F. McElwain Company, Manchester, New Hampshire. In the following determinations, without regard to whether any of the other criteria have been met for workers at the B Factory, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an apropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

The average number of production workers at the B Factory increased in the first ten months of 1979 compared to the same period of 1978. Employment remained relatively unchanged or increased in every quarter compared with the previous quarter from September 1978 through September 1979. There were no layoffs at the B Factory in October or November 1979 and the company does not expect to lay off any workers from the facility in December 1979 or January 1980.

With respect to workers at the E Factory, all of the criteria have been met.

Workers at the E Factory of J. F. McElwain Company produced soles, heels and insoles used by the company in the production of men's dress and casual shoes.

U.S. imports of men's dress and casual footwear, except athletic, increased relative to domestic production in the first six months of 1979 compared to the same period of 1978.

Workers who produced men's dress and casual shoes at another facility of J. F. McElwain (also located in Manchester, New Hampshire) were certified eligible to apply for adjustment assistance on September 17, 1979 (TA-W-5756). In that investigation, it was determined that a major customer of J. F. McElwain, which accounted for a large proportion of company sales, reduced purchases of men's dress and casual shoes from the company and increased purchases of imports in 1978 compared to 1977 and in the first six months of 1979 compared to the same period of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's dress and casual shoes produced at the E Factory of J. F. McElwain Company, Manchester, New Hampshire contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of J. F. McElwain Company, E Factory, Manchester, New Hampshire who became totally or partially separated from employment on or after September 24, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further determine that all workers of J. F. McElwain Company, B Factory, Manchester, New Hampshire are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washigton, D.C. this 7th day of December 1979.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[FR Doc. 79-38406 Filed 12-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6182]

Mark Mining, Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the rsults of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 15, 1979 in response to a worker petition received on October 3, 1979 which was filed by the United Mine Workers of America on behalf of workers and former workers mining metallurgical coal at Mark Mining, Inc., Somerset, Pennsylvania. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that coal produced by Mark Mining, Inc. is either exported or sold to steel producers in the form of coke or for use in coke production. The Department conducted a survey of these steel producers. This survey indicated that certain of these producers import no coke for their steel production process. All other steel producers surveyed increased their purchases of coke substantially from domestic sources in 1978 compared to 1977 and in the first nine months of 1979

compared to the first nine months of 1978.

Conclusion

After careful review, I determine that all workers of Mark Mining, Inc., Somerset, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 7th day of December 1979.

C. Michael AHO,

Director, Office of Foreign Economic Research.

[FR Doc. 79-38407 Filed 12-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6235]

Molins Machine Co., Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 18, 1979 in response to a worker petition received on October 16, 1979 which was filed on behalf of workers and former workers producing corrugating machines and finishing equipment at the Langston Division of Molins Machine Company, Incorporated in Cherry Hill, New Jersey. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated or are threatened to become totally or partially separated.

Employment of production and salaried workers at the Langston Division increased in the fourth quarter of 1978 compared with the same quarter of 1977 and increased in the first nine months of 1979 compared with the same period of 1978. Employment of production workers increased in each quarter compared to the previous quarter, from the second quarter of 1978 through the third quarter of 1979. The company does not expect layoffs of production workers during the fourth quarter of 1979.

Conclusion

After careful review, I determine that all workers at the Langston Division of Molins Machine Company, Incorporated in Cherry Hill, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 10th day of December 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-38408 Filed 12-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6086]

Neal Coal, Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on September 21, 1979 in response to a worker petition received on September 17, 1979 which was filed on behalf of workers and former workers mining coal at Neal Coal, Incorporated, Summersville, West Virginia. The investigation revealed that the company was formerly known as E and J Coal Company. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The coal mined at Neal Coal, Incorporated is sold to one domestic customer. This customer sells most of its coal for export. Since imports have no relevant effect on export sales, imports cannot be considered to have contributed to a loss of sales or production at Neal Coal, Incorporated.

Conclusion

After careful review, I determine that all workers of Neal Coal, Incorporated, Summersville, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 7th day of December 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-38409 Filed 12-13-79; 8:45 am]

BILLING CODE 4510-28-M

Nonelectric Cooking Ware

On November 5, 1979, the U.S. International Trade Commission (ITC) determined that increased imports of "Nonelectric Cooking Ware" are a substantial cause of serious injury, or the threat thereof, to the domestic industry for purposes of the import relief provisions of the Trade Act of 1974 (44 FR 65824).

Section 224 of the Trade Act directs the Secretary of Labor to initiate an industry study whenever the ITC begins an investigation under the import relief provisions of the Act. The purpose of the study is to determine the number of workers in the domestic industry petitioning for relief who have been or are likely to be certified as eligible for adjustment assistance, and the extent to which existing programs can facilitate the adjustment of such workers to import competition. The Secretary is required to make a report of this study to the President and also make the report public (with the exception of information which the Secretary determines to be confidential).

The U.S. Department of Labor has concluded its report on "Nonelectric Cooking Ware". The report found as follows:

1. Since April 3, 1975, the effective date of the adjustment assistance program the U.S. Department of Labor has received six petitions involving workers producing nonelectric cooking ware. Two petitions received by the Department were from workers at plants producing porcelain-on-steel cooking ware; both petitions were certified. For the other four nonelectric cooking ware petitions two were certified and two were denied. Through July 31, 1979, $839,978 had been paid to 367 workers of the two plants producing porcelain-on-steel cooking ware. No job search or relocation allowances had been paid to the porcelain-on-steel cooking ware workers but 43 entered training and 35 completed training. For the other two certified nonelectric cooking ware petitions $405,417 had been paid to 521 workers through July 31, 1979. No job search or relocation allowances had

been paid to these workers and one worker entered training.

2. Firms in the nonelectric cooking ware industry generally reported a profitable year in 1978, with only two plants reporting losses for the year. Industry employment increased 2.7 percent in 1978 and continued to increase in the first half of 1979, rising 1.4 percent compared to the first half of 1978. Employment developments in the next 12 months will depend on the severity of the current economic slowdown and the possible continued impact of imports. The two segments of the nonelectric cooking ware market that have experienced the most pressure from imports recently are porcelain-on-steel cooking ware and stainless steel cooking ware. Workers at the two plants which have produced or are producing porcelain-on-steel cooking ware have been certified eligible to apply for adjustment assistance.

3. Based on local unemployment rates, Employment Service vacancy data, and data available for individual plants in the nonelectric cooking ware industry, prospects for separated workers range from poor to good. Thirteen areas reported unemployment rates below 5 percent (unadjusted) in August 1979, compared to the national rate of 5.9 percent (unadjusted). The available data indicate that 14 of the 27 areas have at least fair prospects for reemployment of separated workers. Twelve areas have either unfavorable or poor prospects, and conditions in one area are uncertain.

Reemployment prospects for separated workers who worked at the two plants producing porcelain-on-steel cooking ware appear to be fair based on the relatively low unemployment rates, 5.8 percent (unadjusted) for Terre Haute, Indiana and 4.9 percent (unadjusted) for Wheeling, West Virginia, and the relatively favorable job vacancy data.

4. Enrollment and expenditure levels for CETA prime sponsors indicate that nonelectric cooking ware producing areas with relatively poor local economic conditions are served by prime sponsors whose enrollment and expenditures were below planned levels for the quarter ending June 30, 1979. Some prime sponsors for areas with relatively good local economic conditions (including the porcelain-on-steel cooking ware producing areas) have experienced enrollments or expenditure above planned levels; however, better economic conditions in these areas should have allowed most prime sponsors to meet training needs of eligible workers during fiscal year 1979. During fiscal year 1980 funds will be allocated to regions on the basis of past allocations; thus, prime sponsors should be able to continue to meet the training needs of eligible workers.

A comparison of characteristics of CETA clients and nonelectric cooking ware workers shows that a significantly larger proportion of nonelectric cooking ware (including porcelain-on-steel cooking ware) workers are in older age categories and may have limited training opportunities. In addition, most prime sponsors for nonelectric cooking ware areas (but not the prime sponsor for Terre Haute, Indiana porcelain-on-steel cooking ware area) train mostly economically disadvantaged persons. However, the Employment and Training Administration has the authority, within funding limitations, to purchase specific training for displaced import impacted nonelectric cooking ware workers who are not eligible for CETA training.

Copies of the Department report containing nonconfidential information developed in the course of the 6-month investigation may be purchased by contacting the Office of Trade Adjustment Assistance, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 (phone 202-523-7665).

Signed at Washington, D.C. this 6th day of December 1979.

Dean K. Clowes,

Deputy Under Secretary, International Affairs.

[FR Doc. 79-38399 Filed 12-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6186]

Saint Laurie Ltd. New York, N.Y.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on October 15, 1979 in response to a worker petition received on October 9, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's and women's clothing at Saint Laurie Ltd, New York, New York. The investigation revealed that the plant produces primarily men's suits, jackets, slacks and overcoats and women's suits, jackets and skirts. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

> That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Saint Laurie Ltd. began selling directly to the public in the early 1970's. Previously, sales had been made only to retailers. By 1979, sales to the public accounted for the overwhelming majority of Saint Laurie's sales. This shift in marketing strategy proved successful, as company sales generally increased throughout the period from January 1975 through September 1979. Saint Laurie's sales increased from 1977 to 1978 and in the January through October period of 1979 compared to the corresponding period one year earlier.

Average employment of production workers at Saint Laurie, Ltd increased in the foruth quarter of 1978 compared to the fourth quarter of 1977 and increased in the January-October period of 1979 compared to the January-October period of 1978.

Industry-wide imports of men's suits has shown a decreasing trend since 1977. U.S. imports declined on an absolute basis in 1978 compared to 1977 and in the first nine months of 1979 compared to the same period of 1978. The ratio of imports of men's suits to U.S. production and to U.S. consumption also declined from 1977 to 1978.

Conclusion

After careful review, I determine that all workers of Saint Laurie Ltd., New York, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 fo the Trade Act of 1974.

Signed at Washington, D.C. this 10th day of December 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-38410 Filed 12-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6213]

The Wheeling-Pittsburgh Steel Corp.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the

results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on October 16, 1979 in response to a worker petition received on October 10, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers producing roofdecking, painted coils, tensilform, mesh, lath and other miscellaneous products at the Beach Bottom plant of the Wheeling-Pittsburgh Steel Corporation. The investigation revealed that the correct spelling of the name of the town is Beechbottom, West Virginia. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

The average number of production workers increased in 1978 compared to 1977 and in the first ten months of 1979 compared to the same period in 1978. Average quarterly employment increased in every quarter when compared to the same quarter of the previous year from the first quarter of 1978 through the third quarter of 1979. The average number of man hours worked increased in 1978 compared to 1977 and in the first ten months of 1979 compared to the same period in 1978. There is no immediate threat of separations to workers at the Beechbottom plant.

Conclusion

After careful review, I determines that all workers of the Beechbottom, West Virginia plant of the Wheeling-Pittsburgh Steel Corporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 7th day of December 1979.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[FR Doc. 79-38411 Filed 12-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6215]

Wheeling-Pittsburgh Steel Corp.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on October 16, 1979 in response to a worker petition received on October 10, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers producing galvanized sheets and coils at the Martins Ferry, Ohio plant of the Wheeling-Pittsburgh Steel Corporation. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Sales and production increased in quantity in 1978 compared to 1977. Sales increased in quantity in the first three quarters of 1979 compared to the same period in 1978. Production increased in quantity in the first ten months of 1979 compared to the same period in 1978.

Conclusion

After careful review, I determine that all workers of the Martins Ferry, Ohio plant of the Wheeling-Pittsburgh Steel Corporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 7th day of December 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-38412 Filed 12-13-79; 8:45 am]

BILLING CODE 4510-28-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Media Arts Panel (Production: Radio); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Media Arts Panel (Production: Radio) to the National Council on the Arts will be held January 7, 1980, from 9:00 a.m.-5:30 p.m. and January 8, 1980, from 9:00 a.m.-5:30 p.m. in Room 1422, Columbia Plaza Office Building, 2401 E St., NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applications. In accordance with the determination of the Chairman published in the Federal Register of March 17, 1977, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and 9(B) of Section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operation, National Endowment for the Arts.

December 7, 1979.

[FR Doc. 79-38316 Filed 12-13-79; 8:45 am]

BILLING CODE 7537-01-M

Music Panel (Choral Section); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Panel (Choral Section) to the National Council on the Arts will be held January 8, 1980, from 9:00 a.m.-6:00 p.m.; January 9, 1980, from 9:00 a.m.-6:00 p.m.; January 10, 1980, from 9:00 a.m.-6:00 p.m.; and January 11, 1980, from 9:00 a.m.-5:00 p.m. in Room 1426, Columbia Plaza Building, 2401 E St., NW., Washington, D.C.

A portion of this meeting will be open to the public on January 8, 1980, from 9:00 a.m.-12:00 p.m. and January 11, 1980, from 9:00 a.m.-5:00 p.m. Guidelines and future directions will be the topics of discussion.

The remaining sessions of this meeting on January 8, 1980, from 12:00 p.m.-6:00 p.m.; January 9, 1980, from 9:00 a.m.-6:00 p.m.; January 10, 1980, from 9:00 a.m.-6:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the

determination of the Chairman published in the Federal Register March 17, 1977, these sesions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

December 7, 1979.

[FR Doc. 79-38317 Filed 12-13-79; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of Permits Issued Under the Antarctic Conservation Act of 1978, Pub. L. 95-541

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice of permits issued.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers, Permit Office, Division of Polar Programs, National Science Foundation, Washington, D.C. 20550. Telephone (202) 632-4238.

SUPPLEMENTAL INFORMATION: On November 5, 1979, the National Science Foundation published a notice in the Federal Register of permit applications received. On December 5, 1979, a permit was issued to John G. Baust.

Charles E. Myers,

Division of Polar Programs.

[FR Doc. 79-38319 Filed 12-13-79; 8:45 am]

BILLING CODE 7555-01-M

Permit Applications Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received Under Antarctic Conservation Act of 1978, Pub. L. 95-541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to these permit applications by January 14, 1980. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESS: Comments should be addressed to Permit Office, Room 627, Division of Polar Programs, National Science Foundation, Washington, D.C. 20550.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers at the above address or (202) 632-4238.

SUPPLEMENTAL INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95-541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed in 1964 by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain mammals and certain geographic areas as requiring special protection. The regulations establish such a permit system and a way to designate Specially Protected Areas and Sites of Special Scientific Interest. The regulations were presented for public comment in draft form in the 6 March 1979 Federal Register. The appeared in final form in the 7 June 1979 Federal Register. Additional information was published in the 11 October Federal Register, page 58818.

The application received is:

1. *Applicant.*—Robert W. Risebrough, Bodega Marine Laboratory, University of California, Bodega Bay, California 94923.

2. *Activities for which Permit Requested.*—Take birds. Specimens of eggs and adults of Wilson's Petrels and of Adelie Penguins would be obtained for analysis of organochlorine pollutants. Specimens of these species obtained 10 years ago at Palmer Station provided valuable information about contamination patterns in the North Atlantic, where these petrels spend the southern winter, and about the pathways of transport of these pollutants across the Antarctic Convergence to Antarctica. Data obtained in 79-80 would permit an assessment of changes over the past decade.

Enter Specially Protected Area. Permission is sought to enter Litchfield Island in order to undertake a thorough census of all Adelie Penguin colonies in the vicinity of Palmer Station. These data would provide part of a baseline that would permit future assessments of effects of the anticipated large-scale harvesting of krill. Adelie Penguin colonies in the vicinity of Palmer Station would be appropriate biological monitors on a long-term basis.

Import up to 20 eggs and 20 adult specimens into the United States.

3. *Location.*—Antarctic Peninsula, Palmer Station, Litchfield Island.

4. *Dates.*—January 20, 1980-March 31, 1980.

Authority to take this action has been delegated by the Director, NSF to the Director, Division of Polar Programs under National Science Foundation Staff Memorandum O/D 79-16, of May 29, 1979.

A. N. Fowler,

Acting Division Director, Division of Polar Programs.

[FR Doc. 79-38320 Filed 12-13-79; 8:45 am]

BILLING CODE 7555-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-16411; File No. SR-CSE-79-6]

Cincinnati Stock Exchange; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on November 20, 1979 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

Section 3 of Article IV of the By-Laws of the Exchange is proposed to be amended by the addition of a new subsection dealing with delisting of securities at the instance of the issuer of such security. Given below is the current text of Section 3 of Article IV with italics used to indicate the words to be added to the section:

3. *Delisting*

3.1. Delisting by Exchange

Whenever the Board of Trustees determines that it no longer is appropriate for a security to continue to be traded on the Exchange, it may institute proceedings to delist such security. Any issuer or any other person aggrieved by such action may seek relief, pursuant to the Exchange's rules governing adverse action.

3.2. Delisting by Issuer

A security, which in the opinion of the Board of Trustees of the Exchange is eligible for continued listing, may be

removed from the list upon the request or application of the issuer provided:

(1) That the proposal to delist shall be considered at a meeting of the holders of the security;

(2) That notice of such meeting shall be given to said security holders and the Exchange at least thirty days prior to said meeting, which notice shall be accompanied by or have incorporated therein:

(a) A solicitation of proxies for the purpose of voting upon the proposal at the meeting;

(b) Information adequate to apprise the security holders of the nature of the proposed action, the reasons therefor, and the facts supporting such reasons; and

(c) Any letter or notice furnished by The Cincinnati Stock Exchange containing its views with respect to the proposed action and the facts supporting such views;

(3) That at such meeting, the proposal to delist and the filing of application therefore shall be approved affirmatively by the holders of at least 66⅔ percent of the amount of the issue proposed to be delisted;

(4) That at such meeting holders of 10 percent or more of the amount of the issue proposed to be delisted do not disapprove the action; and

(5) That the proxies not marked either in favor of or against the proposal to delist shall not be voted upon such proposal.

Statement of Basis and Purpose

The purpose of the proposed rule change is to provide means for the delisting or securities at the instance of the issuer of such securities. The text of the proposed rule change is substantially identical to that provided by the By-Laws of the Exchange prior to the adoption of the present By-Laws. However, the present By-Laws do not provide a procedure to be followed in delisting when such action is instigated by the issuer of the security. The proposed rule change is designed to correct that oversight.

The basis for the proposed rule change is section 6(b)(5) of the Securities Exchange Act in that the principal purpose of the proposed rule change is to provide a reasonable and controlled method of delisting when instigated by the issuer of listed securities. The Exchange believes that such a provision is necessary to encourage issuers to cause their securities to be listed on the Exchange and to protect the security holders in the event that the issuer should subsequently seek to cause such securities to be delisted. Accordingly, the proposed rule change is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to facilitate transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest.

No comments on the proposed rule change have been solicited or received.

The Exchange believes that the proposed rule change imposes no burden on competition.

On or before January 18, 1980, or within such longer periods (1) as the Commission may designate up to ninety days after such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted within 21 days of the date of this publication.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

December 7, 1979.

[FR Doc. 79-38338 Filed 12-13-79; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 10973; 812-4573]

Ivy Fund, Inc., et al.; Filing of Application Pursuant to Section 6(c) of the Act for Temporary Exemption From Provisions of Section 15(a) of the Act

December 5, 1979.

In the matter of IVY FUND, INC., 201 Devonshire Street, Boston, Massachusetts 02110, and FURMAN SELZ MAGER DIETZ & BIRNEY INCORPORATED 110 Wall Street New York, New York 10005, and, GRANTHAM, MAYO, VAN OTTERLOO & CO. 125 High Street Boston, Massachusetts 02110.

Notice is hereby given that Ivy Fund, Inc. ("Fund"), an open-end, diversified management investment company registered under the Investment Company Act of 1940 ("Act"), Furman Selz Mager Dietz & Birney Incorporated ("Furman Selz"), and Grantham, Mayo, Van Otterloo & Co. ("Grantham Mayo"), both registered investment advisers under the Investment Advisers Act of 1940 (the Fund, Furman Selz and Grantham Mayo hereinafter collectively referred to as the "Applicants") filed an application on November 21, 1979, and an amendment thereto on December 3, 1979, pursuant to Section 6(c) of the Act, for an order of the Commission temporarily exempting the Applicants from the provisions of Section 15(a) of the Act to permit the Fund and Furman Selz to enter into an interim investment advisory contract and Furman Selz and Grantham Mayo to enter into an interim subadvisory contract whereby Furman Selz and Grantham Mayo will manage that portion of the fund's portfolio currently being managed by SCNC Advisory Corporation ("SCNC") until new investment advisory and subadvisory contracts between the above parties have been implemented in accordance with the procedures of Section 15 of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that under the Fund's existing investment advisory contracts, SCNC is responsible for providing advisory services with respect to approximately one-half of the portfolio of the Fund at a rate of compensation of $15,000 per annum. Applicants further state that under the existing investment advisory contracts Furman Selz acts as investment adviser for the remainder of the fund's portfolio and that Grantham Mayo acts as subadviser to this portion of the Fund's portfolio pursuant to a subadvisory contract approved by the shareholders of the Fund on July 7, 1979. The rate of compensation payable by the Fund pursuant to the existing investment advisory contracts is as follows: (a) the Fund pays to SCNC an amount equal to $15,000 per annum; (b) the Fund Pays to Furman Selz an amount equal to ⅜ of 1% per annum of the Fund's average net assets managed

by Furman Selz, reduced by 50% of the compensation retained by Furman Selz for effecting Fund portfolio transactions; and (c) Furman Selz pays to Grantham Mayo an amount equal to ⅜ of 1% per annum of he Fund's average ne assets managed by Furman Selz. Each of the three investment advisory contracts currently in effect between the Fund and SCNC, the Fund and Furman Selz, and Furman Selz and Grantham Mayo will terminate on April 30, 1980, unless the Fund's Board of Directors or the holders of a majority of the outstanding voting securities of the Fund approve the continuation of the contracts for an additional period of time prior to such date. Applicants also state that during the time these investment advisory contracts have been in existence the Fund has had the opportunity to evaluate the dual adviser structure and the advisory services the Fund has received, and that during this time period the directors of the Fund have been impressed with the investment counseling services provided by Grantham Mayo and have concluded that the Fund and its shareholders would best be served by Grantham Mayo rendering investment counseling services with respect to the entire portfolio of the Fund.

Applicants state that during the summer of 1979 officers of the Fund discussed with Grantham Mayo the possibility of Grantham Mayo providing investment counseling services with respect to the entire portfolio of the Fund, and that at a directors meeting held on October 3, 1979, the directors of the Fund authorized the officers to enter into serious negotiations with Grantham Mayo to determine whether an agreement could be reached.

During November 1979, agreement was reached between the Fund and Grantham Mayo whereby Grantham Mayo would provide investment counseling services for the entire portfolio of the Fund in return for an annual fee of ½ of 1% of the Fund's average net assets. It was determined that the best time for Grantham Mayo to begin furnishing such services would be January 1, 1980, and in order for it to be able to do so Grantham Mayo, for the period prior to approval of new investment advisory and subadvisory contracts, would provide investment counseling services under the same fee arrangements as SCNC was providing investment advisory services for its portion of the Fund's portfolio. After its negotiations with Grantham Mayo were concluded the Fund met with Furman Selz to determine whether Furman Selz would be willing to serve as the Fund's investment adviser with respect to the entire portfolio of the Fund, subject to the same arrangements as have existed with respect to the portion of the Fund's portfolio to which Furman Selz currently renders advisory services. In negotiating an arrangement with Furman Selz with respect to the SCNC portion of its portfolio, the Fund was seeking to obtain a reduction in fees payable by it to Furman Selz similar to that contained in its existing investment advisory contract with Furman Selz, which provides that Furman Selz will credit an amount equal to 50% of the net amount of brokerage commissions retained by it in effecting Fund portfolio transactions against the amount of advisory fee payable by the Fund.

Applicants further state that an interim investment advisory agreement with Furman Selz and an interim subadvisory agreement between Furman Selz and Grantham Mayo were submitted to and approved by the directors of the Fund at a special meeting of the directors on November 15, 1979. As of this same date, it was determined by both representatives of SCNC and the Fund that termination of the investment advisory contract between SCNC and the Fund would be desirable and that such termination would take effect on December 31, 1979. Under the interim investment advisory contract to commence January 1, 1979, and to continue until the earlier of April 30, 1980, or the date on which Furman Selz commences the rendering of advisory services pursuant to a new investment advisory contract between the Fund and Furman Selz which has been approved by the Fund's shareholders, Furman Selz will serve as investment adviser to that portion of the Fund's portfolio currently managed by SCNC. The interim investment advisory contract provides that the Fund will pay Furman Selz for its services a sum equal to $15,000 per annum to be prorated for the period during which advisory services are actually rendered. Applicants state that except for the $15,000 annual fee and special provisions relating to approval and termination the interim investment advisory contract contains the same terms and conditions as the existing investment advisory contract between the Fund and Furman Selz, including the provision that the fees payable to Furman Selz shall be reduced by an amount equal to 50% of the compensation retained by it for effecting Fund portfolio transactions during the period. Applicants further state that under the approved interim subadvisory agreement Grantham Mayo will serve as the subadviser for that portion of the Fund's portfolio currently managed by SCNC, and that pursuant to this agreement Furman Selz will pay to Grantham Mayo for its investment counseling services a sum equal to $15,000 per annum prorated for the period during which its services are actually rendered. In addition, Applicants state that except for the $15,000 prorated annual fee and special provisions relating to approval and termination the interim subadvisory contract contains the same terms and conditions as the existing subadvisory contract, and will run to the earlier of April 30, 1980, or the date on which Grantham Mayo commences the rendering of investment counseling services pursuant to a new subadvisory contract between Furman Selz and Grantham Mayo which has been approved by the Fund's shareholders.

It is presently anticipated that Grantham Mayo will be reorganized into the partnership of Grantham, Mayo, Van Otterloo & Co. (the "Partnership") on or before December 31, 1979. The four stockholders of Grantham Mayo will be the four partners of the Partnership and will have substantially the same percentage equity interest in the Partnership as they now have in Grantham Mayo. Applicants state that it is not expected that there will be any material change in control of Grantham Mayo or in the manner in which it conducts its business as a result of this reorganization.

Section 15(a) of the Act provides, among other things, that it shall be unlawful for any person to serve or act as an investment adviser of a registered investment company except pursuant to a written contract which has been approved by the vote of a majority of the outstanding voting securities of such registered investment company. Section 2(a)(20) of the Act, in pertinent part, defines the term "investment adviser of an investment company" to include any person who, pursuant to contract, regularly furnishes advice to an investment company with respect to the desirability of investing in, purchasing or selling securities, or is empowered to determine what securities shall be purchased or sold.

Applicants seek an order of the Commission, pursuant to Section 6(c) of the Act, temporarily exempting Applicants from the provisions of Section 15(a) of the Act for a period of time not to exceed approximately 120 days to permit the Fund to employ Furman Selz as the Fund's investment adviser and Grantham Mayo as the Fund's subadviser under the proposed

interim investment advisory contract and interim subadvisory contract.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from any provision of the Act or from any rule or regulation under the Act if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants state that the directors of the Fund have determined that termination of the Fund's investment advisory contract with SCNC as of December 31, 1979, would be in the best interests of the Fund and its shareholders, and in so doing the Fund's directors have acted in conformity with the policy of the Act and their fiduciary duties. Applicants further state that although the Act contemplates prior shareholder approval of investment advisory contracts, this policy of the Act is served by permitting a Board of Directors that has decided in its business judgment to terminate an advisory relationship to secure replacement advisory services without prior shareholder approval for a limited period of time when obtaining such prior approval would be impracticable.

Applicants argue that it would be impracticable for the Fund to secure shareholder approval of new investment advisory and subadvisory contracts prior to December 31, 1979, for the following reasons: (1) the time remaining in 1979 does not allow sufficient time to prepare proxy materials for filing with the Commission, receipt of any comments from the Commission's staff, printing and mailing of proxy materials to the almost 30,000 shareholders of the Fund, receipt of proxies and holding the meeting itself; and (2) the cost of conducting a separate special shareholders meeting in addition to the planned Annual Meeting of Shareholders to be held in late March or early April of 1980 would significantly burden the Fund financially to the detriment of its shareholders.

Notice is further given that any interested person may, not later than December 27, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the addresses stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-38337 Filed 12-13-79; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 21319; 70-6098]

Jersey Central Power & Light Co.; Proposed Extension of and Adjustment in Short-Term Borrowing Authorization

November 29, 1979.

Notice is hereby given that Jersey Central Power & Light Company ("Jersey Central"), Madison Avenue at Punch Bowl Road, Morristown, New Jersey 07960, an electric utility subsidiary of General Public Utilities Corporation, ("GPU"), a registered holding company has filed with this Commission a post-effective amendment to its application previously filed and amended in this matter pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act as applicable to the proposed transactions. All interested persons are referred to the application, as amended by said post-effective amendment, which is summarized below, for a complete statement of the proposed transactions.

By order dated May 4, 1979 (HCAR No. 21031), this Commission granted Jersey Central authority to issue or renew, from time to time until December 31, 1979, its unsecured promissory notes maturing not more than nine months after the date of issue, evidencing short-term bank borrowings provided that the aggregate principal amount of such unsecured promissory notes outstanding at any one time shall not exceed the lesser of (a) $140,000,000 or (b) the amount permitted by Jersey Central's Charter. Such promissory notes would bear interest at the lending bank's prime interest rate for commercial borrowings at the date of issuance and would be prepayable at any time without premium. By Order dated June 19, 1979 (HCAR No. 21107; File No. 70-6311), this Commission authorized Jersey Central to issue, sell and renew from time to time through October 1, 1981, its promissory notes (having a maturity of not more than six months from the date of issue) pursuant to a Revolving Credit Agreement (the "loan agreement") dated as of June 15, 1979, with a syndicate of commercial banks. Jersey Central is authorized to incur indebtedness under the loan agreement up to an amount which, when added to GPU's borrowings outstanding hereunder, would not exceed the lesser of (a) $139,000,000, or (b) the amount permitted by Jersey Central's Charter.

By post-effective amendment Jersey Central requests that it be permitted to issue and sell its unsecured promissory notes hereunder from time to time during the period ending December 31, 1980; provided that Jersey Central's borrowings hereunder, when added to its borrowings outstanding under the previously authorized loan agreement would not in the aggregate exceed the lesser of (a) $139,000,000, or (b) the amount permitted by Jersey Central's Charter. From time to time, certain lending banks have advised Jersey Central that it would be more convenient if Jersey Central's borrowings were made at an interest rate in excess of the bank's prime rate with a reduction in the compensating balances which Jersey Central would otherwise normally be required to maintain. Jersey Central is normally required to maintain compensating balances ranging from a minimum of 10% of the available line to a maximum of 10% of the line plus 10% of the loan outstanding. Consequently, assuming compensating balances will equal 20% of the aggregate amounts borrowed, the result is presently to increase the effective cost of borrowing to an amount equal to 125% of the prime rate. In order to provide the necessary flexibility, Jersey Central therefore further requests authority to effect such borrowings at rates in excess of the prime rate; provided, however, that any such interest rate, after giving effect to compensating balance requirements, would not result in an effective cost to

Jersey Central in excess of 125% of the lending bank's prime rate in effect from time to time.

Although no commitments or agreements for such borrowings have been made, Jersey Central expects that, as and to the extent that its cash needs require, they would be effected from time to time from one or more of the following banks, the maximum amount currently expected to be borrowed and outstanding at any one time from each such bank being as follows:

Bank	Amount
National Community Bank	$3,000,000
Central Jersey Bank & Trust Company	3,000,000
Mercantile-Safe Deposit & Trust Company	3,000,000
National State Bank, Elizabeth, N.J	2,500,000
First National Bank of Toms River, N.J	1,000,000
The Philadelphia National Bank	1,000,000
	$13,500,000

Jersey Central expects that there may be additional banks from which it may effect such borrowings from time to time. In all other respects the transactions as heretofore authorized by the Commission herein would remain unchanged.

A statement of the fees, commissions and expenses to be incurred in connection with the proposed transactions will be filed by amendment. No state or federal commission, other than this Commission, has jurisdiction in connection with the proposed transactions.

Notice is further given that any interested person may, not later than December 26, 1979, 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, 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, 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 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. 79-38336 Filed 12-13-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16406; File No. S7-613]

Securities Transactions Subject to Section 11(a) of the Securities Exchange Act of 1934

AGENCY: Securities and Exchange Commission.

ACTION: Publication of survey data and solicitation of comments.

FOR FURTHER INFORMATION CONTACT:

Joseph A. Meiburger, Directorate of Economic and Policy Research, (202-523-5497)

or

Arnold Y. Dean, Division of Market Regulation, (202-272-2838).

Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

Introduction

On January 11, 1979, the Commission approved the mailing of a voluntary survey (the "Survey") to all 636 national securities exchange member firms that deal with the public. The Survey was designed to measure the impact of Section 11(a) of the Securities Exchange Act of 1934 (the "Act")[1] upon those members who provide money management or exchange brokerage services to institutional accounts over which they exercise investment discretion ("Discretionary Institutional Accounts").[2] The Survey was designed and analyzed by the Commission's Directorate of Economic and Policy Research and Division of Market Regulation and elicited information regarding the nature and extent of such services, the problems that Section 11(a) has created for member firms, and the remedial steps that these firms have taken or are proposing to take with respect to these problems. In particular, the Commission believed the responses to the Survey would help it to determine whether Temporary Rule 11a2-2(T) (the "effect versus execute" rule) provides a solution to some of these problems. Approximately two-thirds, or 428, of the exchange members surveyed responded to the Survey.[3]

I. Background

The Commission has consistently interpreted the term "effect," for purposes of Section 11(a), to include both (i) transactions executed directly on the exchange by a member and (ii) transactions executed indirectly through another member.[4] Nevertheless, the Commission concluded in 1978 that implementation of Section 11(a) might have unintended and undesirable effects in light of significant developments in the securities markets that had occurred since the enactment of that Section as part of the Securities Acts Amendments of 1975.[5] One of the Commission's concerns was that Section 11(a) would place exchange members, particularly regional and smaller members, at a competitive disadvantage, leading to greater concentration in the securities industry and a reduction in the general availability of money management services to institutional accounts, particularly those smaller institutional accounts which regional and smaller members have traditionally served.[6]

In response to this and other concerns, the Commission adopted the "effect versus execute" rule on a temporary basis in March 1978.[7] The

---

[1] Subject to various statutory exemptions and others created by Commission rules, Section 11(a) of the Act makes it unlawful for a member of a national securities exchange to effect any transaction on that exchange for: (i) its own account, (ii) the account of a person associated with that member, or (iii) an account as to which the member or an associated person of the member exercises investment discretion (collectively referred to as "covered accounts"). The Section became fully effective on February 1, 1979.

[2] The instructions accompanying the Survey defined an institutional account as any account other than (i) a natural person account or (ii) a proprietary account of the exchange member or member firm or a proprietary account of an associated person of the exchange member or member firm. A Discretionary Institutional Account is defined in the instructions as an institutional account with respect to which the exchange member or member firm or an associated person of the exchange member or member firm exercises investment discretion.

[3] The Securities Industry Assocation (the "SIA") provided useful support for the Survey by encouraging its members to respond.

[4] *See* Securities Exchange Act Release Nos. 12055 (Jan. 27, 1976), 41 FR 8075 (Feb. 24, 1976); 13388 (Mar. 8, 1977), 42 FR 16845 (Mar. 29, 1977); and 14503 (Mar. 14, 1978), 43 FR 11542 (Mar. 17, 1978) (the "March 1978 Release").

[5] *See* Letters from Harold M. Williams to Walter F. Mondale, Thomas P. O'Neill, Jr., Harley O. Staggers, and Harrison A. Williams (Feb. 22, 1978); and memorandum of the Securities and Exchange Commission in Support of its Recommendation that the Congress Delay the Full Effectiveness of Section 11(a) until November 1, 1979 ("SEC Memorandum").

[6] *See* SEC Memorandum, p. 7-8.

[7] *See* the March 1978 Release, which also contains a summary of the then current debate over the

Footnotes continued on next page

rule is designed to place exchange members and non-members on the same footing in connection with the execution of orders to which Section 11(a) applies. To qualify under the rule, an order for a covered account must be transmitted from off the exchange floor and neither the exchange member sending the order nor any associated person of that member may participate in the execution of the transaction after the order has been so transmitted. Moreover, the rule's "contract out" clause, Temporary Rule 11a2-2(T)(a)(2)(iv), permits account fiduciaries to select the method of payment that best suits the interests of account beneficiaries.[8]

At the time the Commission adopted the rule it stated that it did not have sufficient data to measure the anticipate anticompetitive effects of Section 11(a) on regional and smaller exchange member firms.[9] Accordingly, it initiated the Survey in order to measure certain of those impacts.

II. Overview of the Survey Results

The Survey responses came from all segments of the industry in proportions roughly equal to their representation in the original mailing, as Table 1 indicates.[10] The results of the Survey reveal the extent to which respondents continue to manage institutional accounts, the size and characteristics of the respondents' institutional money management business, and the degree to which respondents rely on the "effect versus execute" rule.

Eighty-four of the 428 respondents indicated in response to Question 1 (*See* Table 2) that they have provided exchange brokerage services to Discretionary Institutional Accounts at some point since 1973. Seventy-eight firms continued to manage assets in Discretionary Institutional Accounts after the implementation of Section 11(a), but 13 of these firms have stopped providing exchange brokerage services to these accounts. Thus, Section 11(a) directly affects the remaining 65 respondents with regard to their provision of exchange brokerage services to Discretionary Institutional Accounts. The statistical base for the analysis of the Survey consists of 61 firms that provided usable asset and revenue data.

Certain information that was generated by the Survey and that is confidential and not presented in the tables, is summarized below in an aggregate fashion.

Twenty of the 61 respondents that provided asset and revenue data accounted for $8.6 million of the $9.5 million in aggregate commissions earned from Discretionary Institutional Accounts in 1978. Thirteen firms derive approximately 5% or more of their gross revenue from the management of Discretionary Institutional Accounts. One of these 13 is a regional broker-dealer. All but one of these firms are also among the 20 respondents that account for most of this revenue in the industry. As is true of the industry generally, the firms with the smaller accounts among the 13 are more dependent on commission revenue. As a group, these 13 firms derive 13% of their gross revenue from the management of Discretionary Institutional Accounts. Eighty-five percent of this management compensation is in the form of asset-based management fees.

Four of the largest of these 13 firms derive 89% or more of the revenue they earn from the management of Discretionary Institutional Accounts in the form of asset-based fees. Each of these four derive less than 1.8% of their gross revenue from commissions affected by Section 11(a). The nine smaller firms each derive up to 76% of the revenue they earn from the management of Discretionary Institutional Accounts in the form of asset-based fees. For each of them, the commission portion of this management compensation represents between 4.4% and 28.6% of their gross revenue.

Sixty-one of the 65 firms that continue to provide exchange brokerage services to Discretionary Institutional Accounts indicated that they had made use of the "contract out" provision of the "effect versus execute" rule or planned to do so in the future. The other four indicated that they had taken advantage of the "effect versus execute" rule but not the "contract out" provision.

The remaining firms indicated that they have taken one or more of the following steps in light of Section 11(a): (i) dropping exchange memberships, (ii) no longer providing exchange brokerage services and foregoing the related commission revenue, (iii) giving up discretionary authority and foregoing management fees, and (iv) ceasing to manage Discretionary Institutional Accounts.

In addition to the specific question on the impact of Section 11(a), with and without the "effect versus execute" rule, the Survey questionnaire afforded brokers an opportunity to comment generall on the Section and the rule; many took advantage of the opportunity. They expressed extensive support for the "effect versus execute" rule although they also pointed out the regulatory burdern and costs of compliance.

Comments are solicited from interested persons regarding the data generated by the Survey, the validity of the results and conclusions which the Survey data may support with regard to the impact of Section 11(a) on exchange members that provide money managment or exchange brokerage services to Discretionary Institutional Accounts.

DATE: Comment should be received by: February 1, 1980.

ADDRESSES: Interested persons should submit six copies of their views and comments to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, and should refer to File No. S7-613. All submissions will be made available for public inspection at the Commission's Public Reference Section, Room 6101, 1100 L Street, N.W., Washington, D.C.

By the Commission.

George A. Fitzsimmons,

Secretary.

December 5, 1979.

Footnotes continued from last page

scope of the term "effect," a short history of the "effect versus execute" rule, and a description of its operation.

[8] As the Commission stated in the March 1978 Release: There are likely to be circumstances in which those authorized to transact business for discretionary accounts may find it more costly, or otherwise not in the best interests of the account, to pay separately for money management and brokerage. In some cases, the payment of transaction-related fees as an offset to, or perhaps even a substitute for, management fees computed solely on an asset-related basis may better suit the investment needs of those accounts. Those accounts are in the best position to judge whether the arrangements made with their account managers are suitable to their investment needs and whether the performance of those account managers measures up to their needs and expectations.

[9] *See also* SEC Memorandum at n. 14.

[10] Tabulations of the survey data are located at the end of this release.

Table 1.—*Survey Response by Type of Brokerage Firm* [1]

	Firms in survey		Firms responding		Firms responding with money management business	Proportion of respondents with money management business
			NYSE Members			
NYSE member firms:		*Percent*		*Percent*		*Percent*
Regional NYSE members	88	13.8	64	15.0	25	39
New York City retail firms	23	3.6	15	3.5	5	33
National full line firms	10	1.6	5	1.2	5	100
Institutional firms	16	2.5	10	2.3	6	60
Other Classified NYSE members	54	8.5	36	8.4	12	33
Unclassified NYSE members [2]	169	26.5	111	25.9	16	14
NYSE total	360	56.6	241	56.3	69	
			All Brokers			
NYSE members firms	360	57	241	56	69	29
Regional exchange members	276	43	187	44	15	8
Total	636	100	428	100	84	

[1] The categories of brokers used in this analysis were developed by the staffs of the Commission and the SIA. The categories were used in the Commission's series of *Report to Congress on the Effect of the Absence of Fixed Rates of Commissions*, and most recently, in the *Staff Report on the Securities Industry in 1978*. The categories provide a useful analytical framework for examining how Commission actions affect different segments of the broker-dealer community. The categories are mutually exclusive.

[2] Includes some AMEX members.

Table 2.—*Members Providing Exchange Brokerage Services to Discretionary Institutional Accounts*

	Yes	No	No. response	Total
QUESTION 1				
1a. At any time during the period Jan. 1, 1974 to Jan. 31, 1979, did your firm or any affiliate of your firm have any discretionary institutional accounts for which your firm or any affiliate of your firm provided exchange brokerage services?	84	344	0	428
1b. Does your firm or any affiliate of your firm currently have any discretionary institutional accounts for which your firm or any affiliate of your firm provides exchange brokerage services?	65	363	0	428
1c. If your firm or any affiliate of your firm did provide exchange brokerage services to discretionary institutional accounts at any time following Jan. 1, 1974, but discontinued them prior to Feb. 1, 1979, when were these services discontinued?				
Year discontinued:	*Number*			
1974	1			
1975	4			
1976	1			
1977	2			
1978	2			
1979	6			
No date	3			
Total	19			

Table 3.—*Management of Discretionary Institutional Accounts by Type of Firm*

	Assets managed (percent)	Number of accounts (percent)	Revenue from accounts (percent)
NYSE member firms:			
Regional NYSE members	1.0	7.1	2.2
New York City retail firms	8.7	5.3	5.2
National full line firms	13.4	5.6	13.9
Institutional firms	24.0	12.7	23.8
Other classified NYSE members	1.2	2.3	1.7
Unclassified NYSE members	24.4	24.2	27.2
Regional exchange brokers	27.3	42.7	26.1
Total	100	100	100

Table 4.—*Discretionary Institutional Assets and Revenue by Category of Broker—1978 Data*

	Size of accounts		Revenue derived from accounts				Total account revenue as percent of gross revenue [1]
	Total assets managed	Average account size	Commissions	Fees	Total	Fees as percent of total	
	(millions of dollars)		(thousands of dollars)				
NYSE member firms:							
Regional NYSE Members	$234.4	$0.8	$625	$96	$1,585	61	0.6
New York City Retail Firms	1,970.9	10.3	524	3,239	3,763	86	2.0
National Full Line Firms	3,021.6	15.0	1,511	8,569	10,080	85	.5
Institutional Firms	5,428.4	11.9	762	16,446	17,208	96	5.2
Other Classified NYSE Members	266.0	3.2	525	676	1,201	56	.3
Unclassified NYSE Members	5,510.2	6.3	5,350	14,330	19,680	73	3.0
Regional exchange brokers:							
Brokers engaged in general securities business	39.7	1.1	54	35	89	39	0.4
Brokers Affiliated with Money Managers	6,116.0	4.1	179	18,681	18,860	99	180.0
Total	22,587.2	6.3	9,530	62,936	69,766	90	1.8

[1] The revenue derived from discretionary institutional accounts is taken from the money management survey schedule and includes management fees generated by the investment advisors affiliated with these brokers. Total revenue, however, reflects only the operations of the registered broker-dealer, as reported on the FOCUS Report. In the case of the Regional Exchange Brokers affiliated with money managers, revenues of the money management operations dwarf the unconsolidated operations of the affiliated registered broker-dealers.

Table 5.—*Type of Discretionary Institutional Account by Category of Broker—1978 Data*

	Type of account								
	Number of firms	Employee benefit plans	Investment companies	Corporate accounts	Other investment and trading partnerships	Endowment	Foundations	Others	Total
NYSE member firms:									
Regional NYSE Members	25	213	6	29	3	14	8	31	304
New York City Retail Firms	5	140	1	25	5	4	15	8	198
National Full Line Firms	5	135	15	21	———	16	16	17	220
Institutional Firms	6	365	20	69	37	24	48	21	584
Other Classified NYSE Members	12	173	11	37	14	14	37	8	294
Unclassified NYSE Members	16	561	11	156	17	24	49	41	859
Regional exchange brokers	15	1,494	39	30	17	17	28	10	1,635
Totals	84	3,081	103	367	93	113	201	136	4,094

[1] Seventy-nine of the 84 respondents reported information on type of account. Five brokers who left the business before 1978 reported no accounts.

Table 6.—*Financial Impact of Full Implementation of Section 11(a)*

Question 2. What kind of financial impact will the full implementation of Section 11(a) on February 1, 1979 have on your business?

a. Section 11(a) without the "Effect versus Execute" rule (Temporary Rule 11a2–2(T)):

	Without the "Effect vs. Execute Rule"	
	Responses	Percent
Major negative impact	11	13
Significant negative impact	26	31
Minimal negative impact	27	32
No impact	7	8
Minimal positive impact	2	2
Significant positive impact	1	1
Major positive impact	1	1
Unknown	5	6
No Response	4	5
Totals	84	100

b. Section 11(a) if the "Effect versus Execute" rule is adopted permanently:

	With the "Effect vs. Execute Rule"	
	Responses	Percent
Major negative impact	1	1
Significant negative impact	11	13
Minimal negative impact	39	46
No impact	10	12
Minimal positive impact	6	7
Significant positive impact	4	5
Major positive impact	1	1
Unknown	8	10
No response	4	5
Totals	84	100

Table 7.—*Steps Taken To Adapt To Full Implementation of Section 11(a)*

Question 3. In response to the full implementation of Section 11(a) on February 1, 1979, *what steps have been taken or are planned by your firm or its affiliates?*

	Steps taken		Steps planned	
	Number of firms	Percent	Number of firms	Percent
(a) Drop exchange memberships and use independent, exchange members	3	4	1	1
(b) Form a non-broker-dealer subsidiary to manage Discretionary Institutional Accounts and arrange for unaffiliated brokers to execute its accounts' orders	3	4	2	2
(c) Cease carrying Discretionary Institutional Accounts	6	7	2	2
(d) Direct orders for Discretionary Institutional Accounts to unaffiliated firms for execution and not charge transaction-related compensation (pursuant to the "effect versus execute" rule)	26	31	2	2
(e) Obtain contractual approval from the account holders of Discretionary Institutional Accounts, direct orders to unaffiliated firms for execution, and charge transaction-related compensation (pursuant to the "contract out" provision of the "effect versus execute" rule)	48	57	13	15
(f) Use a statutory exemption (*e.g.*, bona fide arbitrage or bona fide hedge)	20	24	1	1
(g) Other (please specify)	6	7	0	0

NOTE: Multiple responses data for 84 firms; three did not respond.

Table 8.—*Commission Portion of Discretionary Institutional Money Management Compensation and the Discretionary Institutional Money Management Portion of Gross Revenue*

	Discretionary institutional money management as a percent of gross revenue			
	0 to 1 pct	1 to 5 pct	5 pct or more	Total
Commission portion of compensation:				
0 to 10 pct	3	3	2	8
10 to 25 pct	4	.....	4	8
25 to 50 pct	5	5	.....	10
50 pct or more	15	5	6	26
Total	27	13	12	[1]52

[1] This tabulation includes 52 of the 61 firms which supplied asset and/or revenue data. It excludes six money managers which have small affiliated broker-dealers. In the case of these six firms, the money managers' fees dwarfed their affiliated broker-dealers' gross revenue. Three other firms either provided no revenue data (but did provide asset data) or indicated their discretionary institutional accounts generated no revenue in 1978.

Table 9.—*Survey Questions 4 through 7*

	Yes	No	Response	Total
4a. Does your firm or any affiliate of your firm have floor brokers on any exchanges?	56	24	4	84
4b. If yes, did they execute, during the twelve months prior to Feb. 1, 1979, transactions for any of your firm's or your affiliate's discretionary institutional accounts?	51	5	4	60
5. Does your firm have any affiliates (*e.g.*, a subsidiary) which have discretionary institutional accounts?	31	49	4	84

6. If your firm *or any affiliate* of your firm currently has discretionary institutional accounts, how many are there and what types of accounts are they?

Employee benefit plans	3,081
Investment companies	103
Corporate accounts	367
Other investment and trading partnerships	93
Colleges and preparatory school endowments	113
Foundations	201
Other types	136
Total	4,094

(Note: Data for 79 firms. Five brokers who left the business before 1978 reported no accounts.)

7. Does your firm or any affiliate of your firm generally set a minimum size for a discretionary institutional account which it will accept (disregard family groups and other exceptional circumstances)?

	Responses	*Percent*
No	31	39
Yes	40	51
No response	8	10
Total	79	100

If Yes, what is the minimum size?

Minimum account size:	*Responses*	*Percent*
Less than $100,000	7	18
$100,000 to $499,999	22	55
$500,000 to $999,999	2	5
$1,000,000 or more	9	22
Total	40	100

Table 10.—*Discretionary Institutional Money Management Revenue*

Question 8. Please provide an appropriate percentage breakdown, by type of fee arrangement as set forth below, of the aggregate revenues your firm or any Affiliate of your firm obtained from all Discretionary Institutional Accounts during the year ended December 31, 1978.

Aggregate Revenue by Type of Fee Arrangement

	Accounts managed for both commissions and fees	Accounts managed for commissions only	Accounts managed for fees only		Total
			Fee includes brokerage	Fee does not include brokerage	
Number of accounts	686	557	249	2,105	3,597
Average size of account	$5,845,166	$368,893	$4,786,816	$8,058,575	
Compensation:					
Fees	16,825,832	0	2,571,179	43,538,887	$62,935,898
Commissions	4,016,759	2,989,458	0	*2,523,579	9,529,796
Total	20,842,591	2,989,458	2,571,179	45,062,466	72,465,694
Fee portion of total (percent)	80.7	0	100	96.6	86.8

Note: Data for 61 firms who provided responses to Question 9.

*This figure represents commission revenue reported by firms that also indicated they manage accounts for fees only (fees which do not include commissions). Telephone conversations with several of them indicate this commission revenue is from orders executed by the broker/manager. Thus, some accounts are effectively managed for fees plus commissions.

Table 11.—*Accounts, Assets, and Revenue by Type of Brokerage Firm*

Question 9. Please provide the information below with respect to *all* Discretionary Institutional Accounts managed by your firm and its Affiliates as of year-end 1978.

Discretionary Institutional Accounts	Year-End 1978							
	NYSE Members							
	All respondents	Regional exchange firms	Regional firms	Local NYSE retail firms	National full line firms	Institutional firms	Other classified firms	Unclassified NYSE members
Number of discretionary institutional accounts managed for								
Brokerage commissions and management fee.	686	47	119	10	56	54	34	366
Brokerage commissions only	557	10	67	57	18	73	17	315
Management fee only:								
Fee covers brokerage services	249	0	10	12	19	202	0	0
Fee does not cover brokerage	2,105	1,480	60	112	109	127	33	184
	(Thousands of dollars)							
Total assets in all discretionary institutional accounts managed for								
Brokerage commissions and management fee.	$3,974,688	$231,467	$144,738	$10,000	$348,544	$1,072,856	$46,081	$2,121,003
Brokerage commissions only	175,260	4,258	17,822	32,246	6,865	2,497	9,334	102,230
Management fee only:								
Fee covers brokerage services	291,551	0	14,754	228,000	5,736	42,867	0	194
Fee does not cover brokerage	18,145,632	5,919,629	57,116	1,700,700	2,660,595	4,310,204	210,634	3,286,754
	(Thousands of dollars)							
Revenue received from discretionary Institutional Accounts								
Management fees received (excluding brokerage commissions).	$62,936	$18,716	$960	$3,239	$8,569	$16,446	$676	$14,330
Brokerage commissions received	9,530	233	625	524	1,511	762	525	5,350
Estimate of OTC portion of brokerage commissions.	447	14	82	39	136	9	28	139
Percent	5	6	13	7	9	1	5	3
Brokerage commissions paid in nonAffiliated broker-dealers for discretionary institutional accounts.	$23,275	$7,568	$150	$1,530	$507	$12,875	$233	$412
Percent of total	100	26.1	2.2	5.2	13.9	23.7	1.7	27.2
Number of firms	61	10	18	5	5	4	6	13

Note: Data for 61 firms.

[FR Doc. 79-38335 Filed 12-13-79; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1737]

Alabama; Declaration of Disaster Loan Area

Montgomery County and adjacent counties, within the State of Alabama, constitute a disaster area as a result of damage caused by a tornado which struck on November 25, 1979.

Eligible persons, firms and organizations may file application for loans for physical damage until the close of business on February 4, 1980 and for economic injury until the close of business on September 8, 1980 at:

Small Business Administration, District Office, 908 South 20th Street, Room 202, Birmingham, Alabama 35205.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008.)

Dated: December 6, 1979.

A. Vernon Weaver,

Administrator.

[FR Doc. 79-38422 Filed 12-13-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1694; Amdt. No. 2]

Alabama; Declaration of Disaster Loan Area

The above numbered Declaration (see 44 FR 61716), and amendment No. 1 (see 44 FR 65852) are amended by extending the filing date for physical damage until the close of business on January 14, 1980, and for economic injury until the close of business on August 13, 1980.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008.)

Dated: December 7, 1979.

A. Vernon Weaver,

Administrator.

[FR Doc. 79-38423 Filed 12-13-79; 8:45 am]

BILLING CODE 8025-01-M

[License No. 01/01-0035]

Beacon Capital Corp.; Filing of Application for Transfer of Control of a Licensed Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.701 of the Regulations governing small business investment companies (13 CFR 107.701 (1979)), to transfer control of Beacon Capital Corporation (Beacon), 587 Beacon Street, Boston, Massachusetts 02215, a Federal Licensee under the Small Business Investment Act of 1958, as amended (Act).

Beacon Capital Corporation was licensed on April 23, 1962, and has private capital of $223,200. The proposed transfer of control will be from the stockholders of Beacon (George S. Chaletsky, Arnold H. Weisman, Paul M. Goldstein, Norman A. Chaletsky, Leo Sontag and Stephen E. Chaletsky) who own 100 percent of the total stock outstanding to Howmor Funding Corp. (Howmor), 41 East 42nd Street, New York, New York 10007. Howmor is a New York Corporation owned by Nat Lifton (42.5%), Martin Lifton (42.5%) and Phyllis Weiner (15%), 860 Park Avenue, New York, New York 10021.

The proposed officers and directors will be:

Name and Title

Nat Lifton, Chairman, 175 Beach 136th Street, Belle Harbor, New York 11694

Martin Lifton, President-Director, 85 Tara Drive, Roslyn, New York 11576

Alan G. Blake, Treasurer-Director, 325 West End Avenue, New York City, New York 10023

Kathleen M. Hayes, Secretary, Hudson View, Peekskill, New York 10566

Howmor, as a condition to approval of transfer of control, has agreed to

increase the capital of Beacon in an amount up to $800,000.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed new owners, and the probability of successful operation of Beacon under their management, including adequate profitability and financial soundness, in accordance with the Act and the SBA Rules and Regulations.

Any person may, on or before December 31, 1979, submit to SBA written comments on the proposed transfer of control. Any such communications should be addressed to the Acting Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice shall be published in newspapers of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-38429 Filed 12-13-79; 8:45 am]

BILLING CODE 8025-01-M

[License No. 06/06-0225]

First Oklahoma Investment Capital Corp.; Issuance of License To Operate as a Small Business Investment Company

On October 29, 1979, a notice was published in the Federal Register (44 FR 62108) stating that an application has been filed by First Oklahoma Investment Capital Corporation, 120 North Robinson, Oklahoma City, Oklahoma 73102, with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 [1979]), for a license to operate as a small business investment company (SBIC).

Interested parties were given until the close of business November 13, 1979, to submit their written comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, and after having considered the application and all other information, SBA issued License No. 06/06-0225 on November 30, 1979, to First Oklahoma Investment Capital Corporation to operate as an SBIC.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: December 7, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-38428 Filed 12-13-79; 8:45 am]

BILLING CODE 8025-01-M

[Proposal No. 05/05-0143]

Greater Miami Investment Service, Inc.; Application for a License as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration pursuant to Section 107.102 of the SBA Regulations (13 CFR 107.102 (1979)), by Greater Miami Investment Service, Inc., 3131 South Dixie Drive, Suite 505, Dayton, Ohio 45439 for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. 661 *et seq.*).

The proposed officers, directors, and shareholders are:

Name and Address, Title and Relationship, and Percent of Ownership

William P. Patterson, 5328 Landau Drive, Kettering, Ohio 45429; Chairman of the Board, Treasurer, Director—3.

W. Walker Lewis, Jr., 765 Winding Way, Dayton, Ohio 45419; Vice Chairman of the Board, Director—2.

Robert Meyer, 579 Eagle Circle, Kettering, Ohio 45429; President, Director—2.

Richard A. Brook, 2000 Courthouse Plaza, 10 West Second Street, Dayton, Ohio 45402; Secretary—.

Stephan J. Wolfe, One First National Plaza, Dayton, Ohio 45401; Director—1.

Clarence Lapedes, 3301 Philadelphia Drive, Dayton, Ohio 45405; Director—1.

James W. McSwiney, 2300 Ridgeway, Dayton, Ohio 45419; Director—2.

Fred C. Smith, 6320 Mad River Road, Dayton, Ohio 45459; Director—2.

Richard J. Jacob, 333 Oakwood Avenue, Dayton, Ohio 45419; Director—2.

Max Gutmann, 9556 Bridlewood Trail, Spring Valley, Ohio 45370; Director—2.

Winters National Bank and Trust Company, Winters Bank Tower, Dayton, Ohio 45401—15.

The Applicant proposes to begin operations with a capitalization of $500,000 and will be a source of equity capital and long term loan funds for qualified small business concerns. The Applicant intends to render management consulting services to small business concerns.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Acting Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in Dayton, Ohio.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: December 7, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-38427 Filed 12-13-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1742]

Marshall Islands of the Pacific; Declaration of Disaster Loan Area

As a result of the President's declaration I find that the following areas of the Marshall Islands District (Trust Territory of the Pacific Islands), Majuro Atoll constitute a disaster area because of damage resulting from seawave action and flooding beginning on or about November 26, 1979. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on January 31, 1980, and for economic injury until the close of business on September 1, 1980, at: Small Business Adminstration, Branch Office, Pacific Daily News Building, Room-507, Agana, Guam 96910, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: December 10, 1979.

William H. Mauk,

Acting Administrator.

[FR Doc. 79-38426 Filed 12-13-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No., 1739]

Massachusetts; Declaration of Disaster Loan Area

The area of 344 Main Street, in the Town of Southbridge, Worcester County, Massachusetts constitutes a disaster area because of damage resulting from a fire which occurred on November 18, 1979. Eligible persons, firms, and organizations may file

applications for loans for physical damage until the close of business on Febrruary 4, 1980, and for economic injury until the close of business on September 8, 1980, at: Small Business Administration, District Office, 150 Causeway St., 10th Floor, Boston, Massachusetts 02114, or other locally announced location.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: December 6, 1979.

A. Vernon Weaver,

Administrator.

[FR Doc. 79-38425 Filed 12-13-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1738]

Missouri; Declaration of Disaster Loan Area

Lawrence County and adjacent counties within the State of Missouri constitute a disaster area as a result of damage caused by high winds and tornadoes which occurred on October 30, 1979. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on February 4, 1980, and for economic injury until the close of business on September 8, 1980 at: Small Business Administration, District Office, 12 Grand Bldg—5th Floor, 1150 Grand Avenue, Kansas City, Missouri 64106, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: December 6, 1979.

A. Vernon Weaver,

Administrator.

[FR Doc. 79-38424 Filed 12-13-79; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice 698]

Determination Under Subsection 2(b)(1)(B) of the Export-Import Bank Act of 1945, as Amended

November 30, 1979.

Pursuant to subsection 2(b)(1)(B) of the Export-Import Bank Act of 1945, as amended, and in accordance with the authority delegated to the Secretary of State by Executive Order 12166 of October 19, 1979, I determine that it is in the national interest and would clearly and importantly advance United States policy in the area of international terrorism for the Export-Import Bank of the United States to deny guarantees, insurance, extensions of credit and participations in the extension of credit in support of the purchase or lease of any product or service by any purchaser or lessee in Chile.

This determination shall be published in the Federal Register.

Cyrus Vance,

Secretary of State.

[FR Doc. 79-38307 Filed 12-13-79; 8:45 am]

BILLING CODE 4710-08-M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1979 Rev., Suppl. No. 9]

Surety Companies Acceptable on Federal Bonds

A certificate of authority as an acceptable surety on Federal bonds is hereby issued to the following company under sections 6 to 13 of Title 6 of the United States Code. An underwriting limitation of $548,000 has been established for the company.

Name of Company, Business Address, and State in Which Incorporated.

Cooperativa de Seguros Multiples de Puerto Rico, G.P.O. Box G-3846, San Juan, Puerto Rico 0096, Puerto Rico.

Certificates of authority expire on June 30 each year, unless renewed prior to that date or sooner revoked. The certificates are subject to subsequent annual renewal so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Copies of the circular, when issued, may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: December 7, 1979.

D. A. Pagliai,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 79-38318 Filed 12-13-79; 8:45 am]

BILLING CODE 4810-35-M

VETERANS ADMINISTRATION

Replacement Hospital, Seattle, Wash.; Availability of Final Environmental Impact Statement

Notice is hereby given that a document entitled "Final Environmental Impact Statement", for the 515-Bed Replacement Hospital Veterans Administration Medical Center, Seattle, Washington, dated December 1979, has been prepared as required by Section 102(2)(C) of the National Environmental Policy Act of 1969.

The preferred location of the Replacement Hospital is at the Veterans Administration facility in Seattle, Washington. The hospital will have 515 beds and the necessary ancillary support functions. The facility will replace the existing outmoded hospital structure.

The Final Statement responds to comments received on the Draft Statement which was circulated for public review in April 1979. The Final Statement together with the Draft Statement comprises the Environmental Impact Statement.

The document is being placed for public examination in the Veterans Administration office in Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Office of Environmental Affairs (004A), Room 1018, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420, (202-389-2526). Questions or requests for single copies of the Final Environmental Impact Statement may be addressed to the above office.

Dated: December 7, 1979.

By direction of the Administrator.

Maury S. Cralle, Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 79-38347 Filed 12-13-79; 8:45 am]

BILLING CODE 8320-01-M

Wage Committee; Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, notice is hereby given that meetings of the Veterans Administration Wage Committee will be held on:

Thursday, January 10, 1980.
Thursday, January 24, 1980.
Thursday, March 20, 1980.

The meetings will convene at 2:30 p.m. and will be held in Room 1063, Veterans Administration Central Office, 810 Vermont Avenue NW., Washington, D.C. 20420.

The Committee's primary responsibility is to consider and make recommendations to the Chief Medical Director, Department of Medicine and Surgery, on all matters involved in the development and authorization of wage rate schedules for Federal Wage System (blue-collar) employees.

At these scheduled meetings, the Committee will consider wage survey specifications, wage survey data, local committee reports and recommendations, statistical analyses, and proposed wage schedules derived therefrom.

Under the provisions of section 10(d) of Public Law 92–463, the Federal Advisory Committee Act, as amended by Public Law 94–409, meetings may be closed to the public when they are concerned with matters listed under section 552b, Title 5, United States Code. Two of the matters so listed are those related solely to the internal personnel rules and practices of an agency (5 U.S.C. 552b(c)(2)), and those involving trade secrets and commercial or financial information obtained from a person and privileged or confidential (5 U.S.C. 552b(c)(4)).

Accordingly, I hereby determine that all portions of the meetings cited above will be closed to the public because the matters considered are related to the internal rules and practices of the Veterans Administration (5 U.S.C. 552b(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b(c)(4)).

However, members of the public who wish to do so are invited to submit material in writing to the Chairman regarding matters believed to be deserving of the Committee's attention.

Additional information concerning these meetings may be obtained by contacting the Chairman, Veterans Administration Wage Committee, Room 1175, 810 Vermont Avenue NW., Washington, D.C. 20420.

Dated: December 7, 1979.

Max Cleland,

Administrator.

[FR Doc. 79-38346 Filed 12-13-79; 8:45 am]

BILLING CODE 8320-01-M

INTERSTATE COMMERCE COMMISSION

[No. 31098]

Corpus Christi Cases; Port Equalization Orders

Correction

In FR Doc. 79–36261, appearing on page 67558 in the issue of Monday, November 26, 1979, in the third column, the date in the "Dates" paragraph is miscalculated. That paragraph should have read:

"Dates: Briefs due 45 days from date of this publication. (January 10, 1980)."

Permanent Authority Decisions Applications; Decision—Notice

Correction

In FR Doc. 79–26665, appearing on page 50427, in the issue of Tuesday, August 28, 1979, make the following corrections.

On page 50443, in the first column, the second full paragraph, MC 139960 Sub 1F, in line 31 change reference to U.S. Highway 580 to read Interstate Highway 580. In line 35, change reference to U.S. Highway 80 to read Interstate Highway 80.

BILLING CODE 1505-01-M

[Notice No. 188]

Motor Carrier Temporary Authority Applications

Correction

IN FR Doc 79–33827, appearing at page 64580 in the issue for Wednesday, November 7, 1979, on page 64589, in the second column, in paragraph "MC 147933 (Sub–1TA)" line eleven reads "Alabama, (2) *Materials, Supplies and*" should be corrected to read "Alabama and Carson, CA, (b) from Atlanta, GA, to the facilities of Pro-Line Corporation located at Birmingham Alabama, (2) *Materials, Supplies and*".

BILLING CODE 1505-01-M

Motor Carrier Temporary Authority Applications

Correction

In FR Doc. 79–37330, published at page 70022 in the issue for Wednesday, December 5, 1979, on page 70050, in the second column, before the paragraph "MC 682 (Sub-17TA)" insert the heading "Notice No. 206".

BILLING CODE 1505-01-M

[Vol. No. 199]

Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 79–36709, appearing at page 68544 in the issue for Thursday, November 29, 1979, on page 68557, in the first column, in paragraph "MC 124170 (Sub-135F)" filed for "Frostways, Inc.", line twelve "MJ" should be corrected to read "NJ".

BILLING CODE 1505-01-M

[Permanent Authority Decisions Vol. No. 162]

Greater Pensacola Movers, Inc., et al.; Decision-Notice

Correction

In FR Doc. 79–29967, appearing on page 56435 in the issue for Monday, October 1, 1979, in the third column, in paragraph "MC 145582 (Sub–2F)" the seventh line reads "*common carrier*, by motor vehicle, in" should be corrected to read "*contract carrier*, by motor vehicle, in".

BILLING CODE 1505-01-M

[Corrected 2nd Rev. S.O. No.1301; Corrected Exception No. 4, Amdt. 2]

Burlington Northern, Inc., Exception to Service Order

Upon further consideration of Corrected Exception No. 4 and good cause appearing therefor:

It is ordered:

Corrected Exception No. 4 to Corrected Second Revised Service Order No. 1301 is amended to *expire January 31, 1980.*

Issued at Washington, D.C., November 28, 1979.

Interstate Commerce Commission.

Robert S. Turkington,

Acting Director, Bureau of Operations.

[FR Doc. 79-38310 Filed 12-13-79; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte 241; Amdt. No. 7 to Exemption No. 149]

Exemption Under Mandatory Car Service Rules

To: *All Railroads:*

Upon further consideration of Exemption No. 149 issued April 28, 1978.

It is ordered, That under authority vested in me by Car Service Rule 19, Exemption No. 149 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 is amended to *expire January 31, 1980.*

This amendment shall become effective November 30, 1979.

Issued at Washington, D.C., November 28, 1979.

Interstate Commerce Commission.

Robert S. Turkington,

Agent.

[FR Doc. 79-38311 Filed 12-13-79; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB–2; Sub-No. 22F]

Louisville & Nashville Railroad Co. Abandonment in Sumner and Trousdale Counties, TN; Notice of Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a decision decided September 12, 1979, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, the present and future public convenience and necessity permit the abandonment by the Louisville and

Nashville Railroad Company of its line between milepost CN-163 near Trousdale, TN, and milepost HB-179.6 at Hartsville, TN, a distance of 16.6 miles, in Sumner and Trousdale Counties, TN, subject to the conditions for the protection of employees discussed in No. AB-36 (Sub-No. 2), *Oregon Short Line R. CO.—Abandonment Goshen*, 360 I.C.C. 91 (1979). A certificate of abandonment will be issued to the Louisville and Nashville Railroad Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would: (a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or (b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonent, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the Federal Register on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-38313 Filed 12-13-79; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-36; Sub-No. 8F]

Oregon Short Line Railroad Co. Abandonment and Union Pacific Railroad Co. Discontinuance of Service Near Cascade and McCall, in Valley County, ID; Notice of Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a decision decided September 18, 1979, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, the present and future public convenience and necessity permit the abandonment by the Oregon Short Line Railroad Company and the discontinuance of service by the Union Pacific Railroad Company, of the line extending from railroad milepost 99.73 near Cascade, ID, to the end of the line at milepost 133.61 near McCall, ID, a distance of 33.88 miles in Valley County, ID, subject to the conditions (1) for the protection of employees discussed in No. AB-36 (Sub-No. 2), *Oregon Short Line R. Co.-Abandonment Goshen*, 360 I.C.C. 91 (1979); (2) that applicant shall keep intact all the right-of-way underlying the track for a period of 120 days from the decided date of the certificate in this proceeding, to permit any government agency or other interested party to acquire all or any portion of the property for public use; and (3) the participation procedures described above with respect to the City of Cascade, the Cascade Chamber of Commerce, and the City of McCall. A certificate of abandonment will be issued to the Oregon Short Line Railroad Company and the Union Pacific Railroad Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and.

(2) it is likely that such proffered assistance would: (a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or (b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the Federal Register on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-38312 Filed 12-13-79; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Vol. 97]

Permanent Authority Application; Decision-Notice

Correction

In FR Doc 79-20535, appearing at page 39067 in the issue for Tuesday, July 3, 1979, on page 39071, in the third column, in paragraph "MC 128543 (Sub-15F)" in line Fourteen "NY," should be inserted between "NJ, NC,".

BILLING CODE 1505-01-M

Petition for Modification of Fourth Section Order No. 20594, and Supplementals Sugar From California to Illinois Territory

December 11, 1979.

Trans-Continental Freight Bureau on behalf of the AT&SF, TPW and Bay and River Navigation Company, asks that the relief from long-and-short-haul provisions of 49 USC 10726 granted in FSO No. 20594 and 1st, 2nd, and 3rd Supplementals, *Sugar From California to Illinois Territory*, either be made

permanent or extended to such time as the relief is made permanent. The relief granted was for one year from the decision dates and expires December 29, 1979, and later. Protests are due at the Offices of the Commission, Suspension Board, not later than December 21, 1979.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-38308 Filed 12-13-79; 8:45 am]

BILLING CODE 7035-01-M

Transportation of Used Households Goods in Connection With a Pack-and-Crate Operation on Behalf of the Department of Defense; Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of used Household goods, for the account of the United States Government, incident to the performance of a pack-and-crate service on behalf of the Department of Defense under the Direct Procurement Method or the Through Government Bill of Lading Method under the Commission's regulations (49 CFR 1056.40) promulgated in "Pack-and-Crate" operations in Exparte No. MC-115, 131 M.C.C. 20 (1978).

An original and one copy of verified statement in opposition (limited to argument and evidence concerning applicant's fitness) may be filed with the interstate Commerce Commission on or before January 7, 1980. A copy must also be served upon applicant or its representative. Opposition to the Applicant's participation will not operate to stay commencement of the proposed operation.

If applicant is not otherwise informed by the Commission, operations may commence within 30 days of the date of its notice in the Federal Register, subject to its tariff publication effective date.

HG-41-79 (Special Certificate—Used Household Goods), filed December 5, 1979. Applicant: NOVI MOVING SYSTEMS, INC., 48595 West Rd., Wixom, MI 48096. Representative: Martin J. Leavitt, Sullivan and Leavitt, P.G., 22375 Haggerty RD, P.O. Box 400, Northville, MI 48167. Authority sought: Between points in Clinton, Eaton, Gratiot, Ingham, Ionia, Livingston, Montcalm Counties, MI, serving Selfridge ANG Base located at or near Mount Clemens MI.

HG-42-79 (Special Certificate—Used Household Goods), filed December 5, 1979. Applicant: LEONARD BROS. MOVING & STORAGE CO., North 1782 E Maple Rd, Troy, MI 48084. Representative: Martin J. Leavitt, Sullivan and Leavitt, P.G., 22375 Haggerty Rd, P.O. Box 400, Northville, MI 48167. Authority sought: Between points in Macomb, Oakland, Wayne, Allegan, Berry, Kent, Muskegon, Ottawa, Genessee, Huron, Lapeer, St. Clair, Saginaw, Sanilac, Shiawassee, and Tuscola Counties, MI, serving Selfridge ANG Base, Mount Clemens, MI.

HG-43-79 (Special Certificate—Used Household Goods), filed December 6, 1979. Applicant: RIVER CITY VAN & STORAGE, 8561—23rd Ave., Sacramento, CA 95826. Representative: Margaret J. Joward (address same as applicant). Authority sought: Between points in Sacramento, Placer, El Dorado, and Nevada Counties, CA (contract area extends into Nevada and El Dorado County as far west of the Sierra Nevada Range, adjacent to and immediately west of State Highway 89) serving McClellan Air Force Base, CA.

HG-44-79 (Special Certificate—Used Household Goods), filed December 7, 1979. Applicant: GEARHARTS MOVING & STORAGE, INC., P.O. Box 288, 6th Ave. & 9th St. Juniata, Altoona, PA 16603. Representative: Michale A. Wolford (address same as applicant). Authority sought: Between points in Allegheny, Armstrong, Beaver, Butler, Cambria Clarion, Clearfield, Crawford, Elk, Erie, Fayette, Forest, Greene, Indiana, Jefferson, Lawrence, McKean, Mercer, Somerset, Venango, Warren, Washington, and Westmoreland Counties, PA, serving U.S. Army Transport, Oakdale, PA.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-38309 Filed 12-13-79; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions, Decision-Notice

Correction

In FR Doc. 79-32619 appearing at page 61127 in the issue for Tuesday, October 23, 1979, make the following corrections:

1. On page 61139, in the first column, in paragraph "MC 134783 (Sub-54F)" in line ten "Ortanna", should be corrected to read "Orrtanna".

2. Also on page 61139, in paragraph "MC 134783 (Sub 54F)" in line twelve "MN", should be corrected to read "NM".

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Customs Service

Tariff Classification of Imported Cab Chassis; Extension of Time for Comments Concerning the Tariff Classification of Imported Cab Chassis

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of extension of time for comments.

SUMMARY: This document extends the time for the submission of comments in response to Customs request published in the Federal Register on October 17, 1979, for comments regarding the application of the decision of the U.S. Court of Customs and Patent Appeals in *Daisy-Heddon, Div. Victor Comptometer Corp.* v. *United States*, C.A.D. 1228 (1979), to the tariff classification of imported cab chassis.

DATE: Comments must be received on or before January 31, 1980.

ADDRESS: Written comments (preferably in triplicate) should be addressed to the Commissioner of Customs, Attention: Regulations and Research Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Room 2335, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Thomas L. Lobred, Classification and Value Divisions, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-2938).

SUPPLEMENTARY INFORMATION:

Background

On October 17, 1979, a general notice was published in the Federal Register (44 FR 59984) advising that Customs was reconsidering its practice of classifying imported cab chassis under the provision for bodies (including cabs) and chassis in item 692.20, Tariff Schedules of the United States (TSUS), in view of the decision of the U.S. Court of Customs and Patent Appeals in *Daisy-Heddon, Div. Victor Comptometer Corp.* v. *United States*, C.A.D. 1228 (1979). As part of this review, Customs requested comments concerning the application of *Daisy-Heddon to the tariff classification of cab chassis.*

Comments were to have been received on or before December 17, 1979, 60 days from the date of publication of the notice in the Federal Register. However, American industries have requested that Customs extend the time for submission of comments owing to the complexity of the issues involved and the intervention of the holiday season. Therefore, the time for submission of comments is extended to January 31, 1980.

Dated: December 13, 1979.

Donald W. Lewis,

Director, Office of Regulations and Rulings.

[FR Doc. 79-38657 Filed 12-13-79; 12:18 pm]

BILLING CODE 4810-22-M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 242
Friday, December 14, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Commodity Credit Corporation	1
Equal Employment Opportunity Commission	2
Federal Maritime Commission	3, 4
Federal Reserve System	5-7
Nuclear Regulatory Commission	8
Parole Commission	9

1

COMMODITY CREDIT CORPORATION.

TIME AND DATE: 10 a.m., December 21, 1979.

PLACE: Room 218-A, Administration Building, U.S. Department of Agriculture, Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Minutes of CCC board meeting on September 13, 1979.
2. Docket VCP 72a re: 1980 cotton loan and payment program (upland).
3. Docket VCP 137a re: 1980-crop barley, corn, oats, rye and sorghum loan, purchase and payment programs.
4. Docket VCP 2a re: 1980-crop wheat loan, purchase and payment programs.
5. Docket VCP 105 re: 1980-crop soybean loan and purchase program.
6. Docket UCP 31a, amendment 1 re: 1979-crop peanut loan and purchase program.
7. Resolution VCX 310(a) re: Commodities available for sale to foreign governments or their agents and international organizations during fiscal year 1980.
8. Docket CX 308(a), Amendment 2 re: Assurance arrangements required by CCC under its non-commercial risk assurance program.
9. Memorandum re: Commodities available for Public Law 480 during fiscal year 1980 (Resolution No. 17, CZ-266).
10. Docket CZ 157, Revision 4 re: Policy and procedure governing the submission of dockets to the Board of Directors, CCC, and the handling of dockets considered by the Board.
11. Docket CZ 189, Revision 2, Amendment 1 re: Policy covering payment of claims against Commodity Credit Corporation which are legally due but are subject to defense of a statute of limitations.

CONTACT PERSON FOR MORE INFORMATION: Bill Cherry, Secretary, Commodity Credit Corporation, Room 202-W, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20013, Telephone (202) 447-7583.

[S-2430-79 Filed 12-12-79; 10:16 am]

BILLING CODE 3410-05-M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, December 18, 1979.

PLACE: Commission Conference Room 5240, on the fifth floor of the Columbia Place Office Building, 2401 E Street, N.W., Washington, DC. 20506.

MATTERS TO BE CONSIDERED:

1. Freedom of Information Act Appeal No. 79-10-FOIA-323, and Privacy Act No. 19, concerning a request for a copy of the investigator's notes and memoranda.
2. EEOC's draft report on its implementation of Executive Order 12160 concerning Federal consumer programs.
3. Amendment of an existing contract and three additional sole source contracts.
4. Report on Commission Operations by the Executive Director.

CLOSED: 1. Litigation authorization; General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Marie D. Wilson, Executive Officer, Executive Secretariat, at (202) 634-6748.

This Notice Issued December 11, 1979.

[S-2431-79 Filed 12-12-79; 2:57 pm]

BILLING CODE 6570-06-M

3

FEDERAL MARITIME COMMISSION.

TIME AND DATE: December 14, 1979, 9 a.m.

PLACE: Hearing Room One, 1100 L Street NW., Washington, D.C. 20473.

STATUS: Open.

MATTER TO BE CONSIDERED: Docket No. 78-46: Financial Exhibits and Schedules of Common Carriers in the Domestic Offshore Trades—Review of comments.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523-5725.

[S-2438-79 Filed 12-12-79; 2:57 pm]

BILLING CODE 6730-01-M

4

FEDERAL MARITIME COMMISSION.

TIME AND DATE: December 19, 1979, 9 a.m.

PLACE: Hearing Room One, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions Open to the Public

1. Report on Notation Items disposed of during November 1979.
2. Report of the Secretary on times shortened for submitting comments on section 15 agreements pursuant to delegated authority during November 1979.
3. Report of the Secretary on Applications for Admission to Practice approved during November 1979, pursuant to delegated authority.
4. Assignment of Informal Dockets by the Secretary during November 1979.
5. Monthly Report of actions taken pursuant to authority delegated to the Managing Director.
6. Gulf Caribbean Marine Lines, Inc.—General rate increase of fifteen percent applicable in the United States Atlantic and Gulf ports/Puerto Rico trade.
7. Sea-Land Service, Inc.—General rate increase of twenty-five percent applicable in the Canada/Puerto Rico, East Coast/Virgin Islands, U.S. North Atlantic/Puerto Rico, U.S. South Atlantic/Puerto Rico and U.S. Gulf Coast/Puerto Rico trades.
8. Agreements Nos. 8054-18 and 9502-13: Modifications of the South and East Africa/U.S.A. Conference and the U.S./South and East Africa Conference agreements to extend the term of approval of their intermodal authority.
9. Agreements Nos. T-3453 and T-3453-A between the Puerto Rico Maritime Shipping Authority (PRMSA) and the Puerto Rico Ports Authority (PRPA)—Petitions to vacate or reconsider order of conditional approval.
10. Agreement No. 10159-8: Application for extension of rationalization agreement in the Nigerian trades.
11. Agreement No. 5200-35: Modification of Pacific Coast European Conference Agreement to extend right of independent action and joint service voting.
12. Agreement No. 93-20: Modification of North Europe/U.S. Pacific Freight Conference Agreement to extend right of independent action and joint service voting.
13. Agreements Nos. LM-4, LM-23, LM-24, and LM-28: Pacific Maritime Association assessment agreements.
14. Petition for reconsideration fo conditional approvals of Agreements Nos. 5660-27, 9522-38, and 2846-41.
15. Petition of Pacific Coast European Conference for reconsideration of

Commission action rejecting the filing of certain tariff matters.

16. Docket No. 79-1: Amendments to Part 531 of Title 46 CFR Governing the Publishing, Filing and Posting of Tariffs in Domestic Offshore Commerce—Proposed final rules.

17. Docket No. 79-51: Promulgation of Environmental Rules in Accordance with the National Environmental Policy Act and the Council on Environmental Quality's Regulations—Proposed final rules.

18. Proposed revision of General Order 4.

19. Docket No. 79-36: Self-Policing of Independent Liner Operators—Review of comments.

20. Informal Docket No. 704(I): Dow Corning Corporation v. United States Navigation, Inc.—Review of Settlement Officer decision.

21. Docket No. 79-83: Investigation of Unfiled Agreements in the North Atlantic Trades—Motion of Atlantic Cargo Services for dismissal.

22. Docket No. 78-46: Financial Exhibits and Schedules of Common Carriers in the Domestic Offshore Trades—Review of Comments.

Portions Closed to the Public

1. Docket No. 74-15: West Gulf Maritime Association v. Port of Houston Authority, et al.—Decision on request for oral argument and possible consideration of the record.

2. Docket No. 77-7: Agreement Nos. 9929, 9929-3 and 9929-4 and Agreement Nos. 10266 and 10266-1—Compliance of proponents with Commissioner order.

3. Docket No. 79-10: Rates of FESCO—Petition of FESCO for change in procedural order.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523-5725.

[S-2432-79 Filed 12-12-79; 11:21 am]

BILLING CODE 6730-01-M

5

FEDERAL RESERVE SYSTEM (Board of Governors).

TIME AND DATE: 10 a.m., Wednesday, December 19, 1979.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda

Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board requests that an item be moved to the discussion agenda.

1. Proposed amendment to Regulation P (Securities of Member State Banks) relating to instructions for the preparation of supervisory financial reports and the content of financial statements.

2. Proposal to disclose individual Edge corporation Reports of Condition.

3. Proposed policy on interagency coordination of: (a) formal corrective action by the Federal bank regulatory agencies; and (b) bank holding company inspections and subsidiary bank examinations.

4. Proposed procedures implementing a section of the Ethics in Government Act regarding former employees who violate the post-employment restrictions.

Discussion Agenda

1. Proposed statement to be presented to the Senate Committee on Banking, Housing, and Urban Affairs regarding enforcement of fair mortgage lending laws and regulations.

2. Proposed amendment to Regulation 2 (Truth in Lending) regarding methods of calculating and disclosing annual percentage rates. (Proposed earlier for public comment; docket No. R-0239).

3. Proposed revised amendments to Regulation H (Membership of State Banking Institutions in the Federal Reserve System) to require that State member banks that effect certain securities transactions for customers provide confirmation and maintain certain records with respect to such transactions. (Proposed earlier for public comment; docket No. R-0142).

4. Any agenda items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452-3204.

Dated: December 11, 1979.

Griffith L Garwood,

Deputy Secretary of the Board.

[S-2435-79 Filed 12-12-79; 11:21 am]

BILLING CODE 6210-01-M

6

FEDERAL RESERVE SYSTEM (Board of Governors).

TIME AND DATE: 9:30 a.m., Tuesday, December 18, 1979.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposed Federal Reserve Board budget for 1980.

2. Any agenda items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedoom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: December 11, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[S-2434-79 Filed 12-12-79; 11:21 am]

BILLING CODE 6210-01-M

7

FEDERAL RESERVE SYSTEM (Board of Governors)

TIME AND DATE: 9:30 a.m., Wednesday, December 12, 1979. (Following a recess, the Board commenced its previously announced open meeting at 10 a.m.)

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees. (This matter was originally announced for a meeting on December 3, 1979.)

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: December 12, 1979.

Griffith L. Gatwood,

Deputy Secretary of the Board.

[S-2436-79 Filed 12-12-79; 2:55 pm]

BILLING CODE 6210-01-M

8

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: December 18, 1979.

PLACE: Commissioners' Conference Room, 1717 H St., NW, Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Tuesday, December 18; 9:30 a.m.

Briefing on Policy, Planning and Program Guide (approximately 2½ hours, public meeting) (continued from December 6).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, (202) 634-1410.

Roger M. Tweed,

Office of the Secretary.

December 11, 1979.

[S-2437-79 Filed 12-12-79; 2:57 pm]

BILLING CODE 7590-01-M

9

PAROLE COMMISSION.

TIME AND DATE: Monday, December 3, 1979, at 9:30 a.m.

PLACE: Room 135, Pension Building, 440 G Street NW., Washington, D.C.

STATUS: Closed pursuant to a vote to be taken at beginning of meeting.

CHANGES IN THE MEETING: On December 3, 1979, the Commission determined that the above meeting be continued from 9:30 a.m. to 12 noon on Wednesday, December 5, 1979, in Room 818, 320 First Street, NW., for consideration of appeals pursuant to 28 CFR § 2.27 which could not be heard on December 3, 1979. The above change is being announced at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: A. Ronald Peterson, Analyst, (202) 724-3094.

[S-2433-79 Filed 12-12-79; 11:21 am]

BILLING CODE 4410-01-M

federal register

Friday
December 14, 1979

Part II

Department of Health, Education, and Welfare

Office of the Secretary

Improving Government Regulations; Semiannual Agenda

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

20 CFR Ch. III, 21 CFR Ch. I, 42 CFR Chs. I-IV, 45 CFR Subtitles A and B

Improving Government Regulations; Semiannual Agenda of Regulations

AGENCY: Department of Health, Education, and Welfare.

ACTION: Publication of the semiannual agenda of regulations (Improving Government Regulations).

SUMMARY: The President's Executive Order on Improving Government Regulations, Executive Order 12044, requires each Federal agency to publish at least twice a year a list of significant regulations under development. HEW published its first semiannual agenda in the May 30, 1978, Federal Register (43 FR 23119), a second agenda on January 29, 1979 (44 FR 4176), and a third on August 16, 1979 (44 FR 48040). This semiannual agenda contains: (1) All non-FDA regulations being developed within the Department; and (2) FDA regulations classified as "policy significant".

FOR FURTHER INFORMATION CONTACT: For further inquiries or comments related to specific regulations listed in the agenda, the public is encouraged to contact the appropriate responsible individual. Questions or comments on the overall agenda should be sent to:

Glenn Kamber, Director, Regulations Management Unit, Office of the Secretary, Department of Health, Education, and Welfare, 200 Independence Avenue SW., Washington, D.C. 20201, (202) 245-3160.

Dated: December 4, 1979.

Patricia Roberts Harris,

Secretary.

REGULATIONS AFFECTING SERVICES AND OPPORTUNITIES TO INDIVIDUALS

AGE

Infants and Pre-School Children

PHS-6 Protection of Human Subjects: Regulations on Research Involving Children
ASE-13 Bilingual Education Programs
ASE-38 Centers on Educational Media and Materials for the Handicapped Program
ASE-37 Commissioner's Discretionary Projects Program
ASE-22 Community Education Program
ASE-8 Follow Through
ASE-35 Gifted and Talented Children's Education Program
ASE-10 Preschool Partnership Program
ASE-42 Indian Education Program
ASE-2 Title IV, ESEA—Educational Improvement, Resources, and Support
HDS-4 Developmental Disabilities Program: General Rules
HDS-7 Title IV-B Child Welfare Services: General Rules
HDS-8 Child Abuse and Neglect Prevention and Treatment Program: General Rules
SSA-9 Inclusion of Child Receiving OASDI Benefits into an AFDC Assistance Unit (AFDC)
SSA-11 Continued Absence of Parent from the Home (AFDC)
SSA-12 Protective Vendor and Two Party Payments for Dependent Children (AFDC)
OS-1 Age Discrimination Regulations
OS-2 Day Care Requirements

School-Age Children

PHS-6 Protection of Human Subjects: Regulation on Research Involving Children
ASE-41 Arts in Education Program
ASE-34 Basic Skills and Education Proficiency Program
ASE-13 Bilingual Education Programs
ASE-38 Centers on Educational Media and Materials for the Handicapped Program
ASE-37 Commissioner's Discretionary Projects Program
ASE-22 Community Education Program
ASE-47 Consolidated Grant Applications for Insular Areas
ASE-21 Consumer's Education Program
ASE-17 Correction Education Program
ASE-14 Environmental Education Program
ASE-8 Follow Through
ASE-35 Gifted and Talented Children's Education Program
ASE-7 Health Education Program
ASE-42 Indian Education Program
ASE-15 Indochina Refugee Children Assistance Program
ASE-36 Law Related Education
ASE-20 Metric Education Program
ASE-30 National Diffusion Network
ASE-9 Population Education Program
ASE-10 Preschool Partnership Program
ASE-43 School Assistance Federal Affected Areas (SAFA)
ASE-5 Safe Schools Program
ASE-11 Title I, ESEA—Awarding of Special Grants to LEAs
ASE-16 Title I, ESEA—Financial Assistance to LEAs and SEAs to meet Special Educational Needs
ASE-3 Title I, ESEA—Migrant Education Program
ASE-2 Title IV, ESEA—Educational Improvement, Resources, and Support
ASE-40 Women's Educational Equity Act Program
HDS-4 Developmental Disabilities Program: General Rules
HDS-7 Title IV-B Child Welfare Services: General Rules
HDS-8 Child Abuse and Neglect Prevention and Treatment Program: General Rules
SSA-9 Inclusion of Child Receiving OASDI Benefits into an AFDC Assistance Unit (AFDC)
SSA-11 Continued Absence of Parent from the Home (AFDC)
SSA-12 Protective Vendor and Two Party Payments for Dependent Children (AFDC)
OS-1 Age Discrimination Regulations

Adolescents and Young Adults

ASE-41 Arts in Education Program
ASE-4 Biomedical Sciences Program
ASE-13 Bilingual Education Programs
ASE-38 Centers on Educational Media & Materials for Handicapped Program
ASE-37 Commissioner's Discretionary Projects Program
ASE-22 Community Education Program
ASE-33 Cooperative Education
ASE-47 Consolidated Grant Application for Insular Areas
ASE-21 Consumer's Education Program
ASE-17 Correction Education Demonstration Program
ASE-32 Domestic Mining and Mineral Fellowships
ASE-14 Environmental Education Program
ASE-26 Ethnic Heritage Studies Program
ASE-35 Gifted and Talented Children's Education Program
ASE-7 Health Education Assistant Loan Program
ASE-42 Indian Education Program
ASE-36 Law Related Education
ASE-20 Metric Education Program
ASE-28 Modern Foreign Language and Area Studies
ASE-30 National Diffusion Network
ASE-9 Population Education Program
ASE-32 Public Service Fellowships
ASE-43 School Assistance Federal Affected Areas (SAFA)
ASE-46 Territorial Teacher Training Program
ASE-3 Title I, ESEA—Migrant Education Program
ASE-2 Title IV, ESEA—Educational Improvement, Resources, and Support
ASE-24 Vocational Educational
ASE-23 Youth Employment Program
HDS-4 Developmental Disabilities Program: General Rules
SSA-9 Inclusion of Child Receiving OASDI Benefits into an AFDC Assistance Unit (AFDC)
SSA-11 Continued Absence of Parent from the Home (AFDC)
SSA-12 Protective Vendor and Two Party Payments for Dependent Children
OS-1 Age Discrimination Regulations

Adults

ASE-19 Adult Education Program
ASE-13 Bilingual Education Programs
ASE-45 Campus Based Funding Programs
ASE-38 Centers on Educational Media & Materials for Handicapped Program
ASE-37 Commissioner's Discretionary Projects Program
ASE-22 Community Education Program
ASE-47 Consolidated Grant Applications for Insular Areas Application
ASE-21 Consumer's Education Program
ASE-17 Correction Education Demonstration Program
ASE-32 Domestic Mining and Mineral Fellowships
ASE-35 Gifted and Talented Children's Education Program
ASE-7 Health Education Assistant Loan Program
ASE-28 Modern Foreign Language and Area Studies
ASE-30 National Diffusion Network
ASE-32 Public Service Fellowships
ASE-46 Territorial Teacher Training Program

ASE-24 Vocational Education
HDS-1 Grants for State and Community Program on Aging: General Rules
HDS-2 Grants to Indian Tribal Organizations for Social and Nutrition Services: General Rules
HDS-3 Vocational Rehabilitation and Independen[illegible] Living Programs: General Rules
HDS-4 Deve[illegible]ental Disabilities Program: General [illegible]
HDS-5 Soc[illegible]ce Programs: Consolid[illegible]ants to Insular Areas
HDS-6 Nati[illegible]merican Program: General Rules
HDS-9 Wor[illegible]tive Program: Relocation [illegible] to Chap[illegible] 45 CFR
HDS-10 S[illegible]ice Programs under Titles I [illegible] XVI(AABD) and XX of the S[illegible] Relocation to Chapter XIII of 4[illegible]
HDS-11 W[illegible]tive Program: New Procedur[illegible]termine WIN Sanction Period

TYPE OF SER[illegible]E

Health

PHS—1 Condu[illegible] of Persons and Traffic on Certain Federal Enclaves: Revision of General Rules
PHS—2 National Library of Medicine Programs: Revision of General Rules for the National Library of Medicine, National Library of Medicine Grants, National Institutes of Health and National Library of Medicine Traineeships, and National Institutes of Health and National Library of Medicine Training Grants
PHS—3 Inventions Resulting from Research Grants, Fellowship Awards, and Contracts for Research—Clarification of Reporting Requirements
PHS—4 National Research Service Awards Program: General Rules
PHS—5 Protection of Human Research Subjects—Institutional Review Boards
PHS—6 Protection of Human Subjects: Regulations on Resarch Involving Children
PHS—7 Protection of Human Subjects: Regulations on Research Involving Those Institutionalized as Mentally Disabled
PHS—8 Protection of Human Subjects: Regulations on Compensation of Human Subjects Injured in Biomedical and Behavioral Research
PHS—15 Foreign Quarantine Regulations: Requirements and Inspections
PHS—16 Importation of Dogs and Cats Into the United States: Changes in requirements
PHS—17 Medical Examination of Aliens
PHS—19 Subpart A—Requirements for a Health Maintenance Organization
PHS—24 Subpart F—Qualification of Health Maintenance Organizations
PHS—25 Subpart H—Employees' Health Benefits Plans
PHS—26 Subpart I—Continued Regulation of HMOs and Other Entities
PHS—31 Persons to Whom Services Will be Provided
PHS—33 Medical Care for Uniformed Service Personnel of the Coast Guard, Public Health Service and National Oceanic and Atmospheric Administration
PHS—34 Medical Care for Seafarers and Others at Public Health Service Facilities
PHS—35 Public Health Service Hospital and Clinic Management
PHS—36 Assignment of NHSC Personnel
PHS—37 Project Grants for Family Planning Services
PHS—38 Amendments to MCH CC Services Program
PHS—39 Grants to Plan, Develop and Operate Hospital-Affiliated Primary Care Centers
PHS—40 Project Grants for Community Health and Migrant Health
PHS—41 Demonstration Health and Nutrition Projects
PHS—42 Project Grants to States for Hypertension Services
PHS—43 Program Grants for Black Lung Clinics
PHS—45 Grants for Community Mental Health Centers; Requirements for Grants, Application for Grants, and State Plans
PHS—46 Grants for Drug Abuse Prevention, Treatment, and Rehabilitation; Requirements for State participation in Formula Grants
PHS—47 Special Grants for Implementatin of the Uniform Alcoholism and Intoxication Treatment Act; Requirements for Grants and Application for Grants
PHS—48 Confidentiality of Alcohol and Drug Abuse Patient Records; Minimum Requirements for Protecting
PHS—49 Designation of Health Manpower Shortage Areas
PHS—57 Area Health Education Centers
PHS—59 Grants for Nurse Practitioner Traineeships Programs
PHS—72 National Guidelines for Health Planning
PHS—73 Health Systems Agency Review of Certain Proposed Uses of Federal Health Funds
PHS—74 Health Systems Agency Reviews of Certain Proposed Uses of Federal Funds; Proposed Uses for Research and Training
PHS—75 Health Systems Agency and State Agency Reviews of the Appropriateness of Existing Institutional Health Services
PHS—78 Certificate of Need and Review of New Institutional Health Services
PHS—79 Inclusion of Computed Tomographic Scanning Services Under Certificate of Need
PHS—80 Inclusion of Computed Tomographic Scanning Services Under Capital Expenditure Review
PHS—81 Limitation on Federal Participation for Capital Expenditures
PHS—82 Discontinuance of Unneeded Hospital Services
OCR-2 Provisions of Services to Limited English Speaking Persons
OS-1 Age Discrimination Regulations

Health Financing

PHS—20 Subpart B—Federal Financial Assistance: General
PHS—21 Subpart C—Grants for Feasibility Surveys
PHS—22 Subpart D—Grants and Loan Guarantees for Planning and Initial Development Costs
PHS—23 Subpart E—Loans and Loan Guarantees for Initial Operating Costs
PHS—28 New Subpart I—Loans and Loan Guarantees for Acquisition and Construction of Ambulatory Health Care Facilities
HCFA-1 Professional Standards Review Organizations (PSROs) Sanctions on Providers and Practitioners
HCFA-2 Waiver of Liability
HCFA-3 Professional Standards Review Organizations (PSROs) Reconsideration and Appeals
HCFA-4 Hospital Utilization Review
HCFA-5 Validation of Accreditation Surveys of Hospitals
HCFA-6 Conditions of Participation for Hospitals
HCFA-7 Funding of PSRO Hospital Review
HCFA-8 Confidentiality and Disclosure of Information of Professional Standards Review Organizations (PSROs)
HCFA-9 Certification of Separate Cost Entities
HCFA-10 End-Stage Renal Disease—Electrical Requirements Revoked
HCFA-11 Safeguards for Patient Funds
HCFA-12 Extension of Professional Standards Review Organizations (PSROs) Review of Intermediate Care Facilities
HCFA-13 Conditions of Participation for Skilled Nursing Facilities and Intermediate Care Facilities
HCFA-14 Effective Date: Provider Agreement
HCFA-15 Sprinkler Systems for Long Term Care Facilities
HCFA-16 Termination of Federal Financial Participation in Long Term Care Facilities
HCFA-17 Radiological Services
HCFA-18 Reimbursement of Prepaid Health Plans
HCFA-19 Written Notice for Non-reimbursable Services
HCFA-20 Inpatient Services—Foreign Hospitals
HCFA-21 Provider Reimbursement Determinations
HCFA-22 Fiscal Intermediary Performance
HCFA-23 Durable Medical Equipment
HCFA-24 Prohibition Against Reassignment
HCFA-25 Part A Entitlement and Co-payments
HCFA-26 Reimbursement: Internship and Residency Programs
HCFA-27 Teaching Hospitals' Physicians Costs
HCFA-28 Special Care Units
HCFA-29 Reimbursement to Related Organizations
HCFA-30 End-Stage Renal Disease Networks
HCFA-31 Incentive Reimbursement for End-Stage Renal Disease Services
HCFA-32 Deeming of Income Between Spouses
HCFA-33 Educational Program Reimbursement
HCFA-34 Proposed List of Additional Items and Services Subject to the Lowest Charge Level
HCFA-35 Prospective Reimbursement of Rural Health Clinic Services
HCFA-36 Family Planning

HCFA-37 Reasonable Cost-Related Reimbursement for Skilled Nursing and Intermediate Care Facility Services
HCFA-38 State Medicaid Contracts
HCFA-39 Hearing Aid and Eyeglass Reimbursement
HCFA-40 Assignments of Benefits Collection of Medical Support
HCFA-41 Medicaid Quality Control System Expansion of Information Requirements
HCFA-42 Medicaid Management Information Systems/Additional Data Requirements
HCFA-43 Medicaid Quality Control Fiscal Disallowance—Michel Amendment
HCFA-44 Psychosurgery
HCFA-45 Verification of Services
HCFA-46 Recovery and Sanctions: Medicaid
HCFA-47 Fraud and Abuse in Medicaid
HCFA-48 Medicaid Recodification: General Requirements
HCFA-49 System for Hospital Uniform Reporting
HCFA-50 Skilled Nursing Facility/ Intermediate Care Facility Uniform Cost Reporting
HCFA-51 Hospital Discharge and Data Reports
HCFA-52 Skilled Nursing Facility/ Intermediate Care Facility Discharge and Bill Data
HCFA-53 Home Health Agency Cost and Utilization
HCFA-54 Home Health Agency Discharge and Bill Data
HCFA-55 Use of Federal Funds for Certain Prescribed Drugs
SSA-43 Medicaid Eligibility Determinations (SSI)
OS-1 Age Discrimination Regulations

Education

PHS-29 New Subpart-Grants and Cooperative Agreement for Training and Technical Assistance
PHS-30 Indian Health Care Improvement Act
PHS-50 Criteria for Payment of Tuition
PHS-51 Traineeships for Students in Schools of Public Health and Other Graduate Public Health Programs
PHS-52 Traineeship Grants for Health Administration, Hospital Administration or Health Policy Analysis and Planning at Public or Nonprofit Private Educational Institutions other than Schools of Public Health
PHS-53 National Health Service Corps Scholarships
PHS-54 Scholarship for First-Year Students of Exceptional Financial Need
PHS-60 Educational Assistance to Individuals from Disadvantaged Backgrounds
PHS-69 Grants for Nurse Practitioner Traineeships Program
PHS-70 Grants for traineeships for the Advanced Training of Professional Nurses
PHS-71 Grants for Traineeships for Training Nurse Anesthetists
PHS-74 Health Systems Agency Reviews of Certain Proposed Uses of Federal Funds: Proposed Uses for Research and Training
OCR-3 Access to Educational Programs for National Origin Minority Children with a Primary or Home Language Other Than English
OS-1 Age Discrimination Regulations

Income Assistance

HDS-9 Work Incentive Program: Relocation to Chapter XIII of 45 CFR
HDS-11 Work Incentive Program: New Procedures to Determine WIN Sanction Period
SSA-7 Redetermining Eligibility and Computing Supplementary Payment (AFDC)
SSA-8 Equity Methods for Evaluating Resources (AFDC)
SSA-9 Inclusion of Child Receiving OASDI Benefits into an AFDC Assistance Unit (AFDC)
SSA-10 Coverage and Conditions of Financial Assistance Program, Residence (AFDC)
SSA-11 Continued Absence of Parent from the Home (AFDC)
SSA-12 Protective Vendor and Two Party Payments for Dependent Children (AFDC)
SSA-27 Disability (OASDI; SSI)
SSA-28 Determining SGA; Earnings Guidelines for Years Beginning 1980 (OASDI; SSI)
SSA-21-A Experiments to Improve the Hearing Process by Having the Social Security Administration Represented at Hearings (OASDI; SSI)
SSA-22 Limitation for Holding Hearings, Issuing Hearing Decisions and Issuing Appeals Decisions (OASDI; SSI)
SSA-23 Procedures, Payment of Benefits, Determinations, Reconsiderations, Hearings and Appeals (OASDI; SSI)
SSA-29 Representative Payee (OASDI; SSI)
SSA-30 Eligibility (SSI)
SSA-31 Eligibility-Redeterminations (SSI)
SSA-32 Filing of Applications (SSI)
SSA-33 Amount of Benefits (SSI)
SSA-34 Payment of Benefits, Overpayments, Underpayments, Recovery of Overpayment (SSI)
SSA-35 Reports Required (SSI)
SSA-36 Family Relationships (SSI)
SSA-37 Income (SSI)
SSA-38 Resources (SSI)
SSA-39 Reductions, Suspensions, and Terminations (SSI)
SSA-41 Interim Assistance Provisions (SSI)
SSA-42 Pass Along Benefit Increase With Limitation for Hold-Harmless States (SSI)
OS-1 Age Discrimination Regulations

Social Services

HDS-1 Grants for State and Community Programs on Aging: General Rules
HDS-2 Grants to Indian Tribal Organizations for Social and Nutrition Services: General Rules
HDS-3 Vocational Rehabilitation and Independent Living Programs: General Rules
HDS-4 Developmental Disabilities Program: General Rules
HDS-5 Social Service Programs: Consolidated Grants to Insular Areas
HDS-6 Native American Program: General Rules
HDS-7 Title IV-B Child Welfare Services: General Rules
HDS-8 Child Abuse and Neglect Prevention and Treatment Program: General Rules
HDS-9 Work Incentive Program: Relocation to Chapter XIII of 45 CFR
HDS-10 Social Service Programs under Titles I, IV, X, XIV, XVI (AABD) and XX of the Social Act: Relocation to Chapter XIII of 45 CFR
HDS-11 Work Incentive Program: New Procedures to Determine WIN Sanction Period
SSA-40 Referrals of Persons Eligible for SSI to Other Agencies (SSI)
OCR-2 Provisions of Services to Limited English Speaking Persons
OS-1 Age Discrimination Regulations

Retirement Benefits

SSA-16 Quarters of Coverage and Insured Status (OASDI)
SSA-17 New Methods for Computing Benefit Amounts (OASDI)
SSA-18 Basic Computations of Benefits and Lump Sums (OASDI)
SSA-19 Reduction of Benefits to Maximum (OASDI)
SSA-20 The Retirement Test (OASDI)
SSA-21 Deduction, Reduction, and Nonpayment of Benefits (OASDI)
SSA-21-A Experiments to Improve the Hearing Process by Having the Social Security Administration Represented at Hearings (OASDI; SSI)
SSA-22 Limitation for Holding Hearings, Issuing Hearing Decisions, and Issuing Appeals Decisions (OASDI; SSI)
SSA-23 Procedures, Payment of Benefits, Determinations, Reconsiderations, Hearings and Appeals (OASDI; SSI)
SSA-24 Employment, Wages, Self-Employment, SEI (OASDI)
SSA-25 Coverage of Employees of State and Local Governments (OASDI)
SSA-26 Wage Credits for Veterans and Members of the Uniformed Service (OASDI)
SSA-29 Representative Payee (OASDI; SSI)
OS-1 Age Discrimination Regulations

Other

SSA-14 Reorganization and Updating of Disclosure Regulations
SSA-15 Availability of Information and Records to the Public

PROGRAMS FOCUSING ON SPECIAL OPPORTUNITIES

Handicapped

PHS-7 Protection of Human Subjects: Regulations on Research Involving Those Institutionalized as Mentally Disabled
Centers on Educational Media and Materials for the Handicapped Program Preschool Partnership Program Gifted and Talented Children's Education Program
HDS-3 Vocational Rehabilitation and Independent Living Programs: General Rules
HDS-4 Developmental Disabilities Program: General Rules
SSA-21 Deductions, Reduction, and Nonpayment of Benefits (OASDI)
SSA-27 Disability (OASDI; SSI)
SSA-28 Determining SGA: Earnings Guidelines for Years Beginning 1980 (OASDI; SSI)

SSA-40 Referrals of Persons Eligible for SSI to Other Agencies (SSI)

Economically Disadvantaged

PHS-41 Demonstration Health and Nutrition Projects
PHS-54 Scholarships for First-Year Students of Exceptional Financial Need
PHS-60 Educational Assistance to Individuals from Disadvantaged Backgrounds
ASE-4 Biomedical Sciences Program
ASE-45 Campus Based Funding Programs
ASE-8 Follow Through
ASE-35 Gifted and Talented Children's Education Program
ASE-10 Preschool Partnership Program
ASE-11 Title I, ESEA—Financial Assistance to LEAs and SEAs to Meet Special Educational Needs
ASE-3 Title I, ESEA—Migrant Education Program
HDS-9 Work Incentive Program: Relocation to Chapter XIII of 45 CFR
HDS-11 Work Incentive Program: New Procedures to Determine WIN Sanction Period
SSA-3 Access to Wage Record Information (AFDC)
SSA-7 Redetermining Eligibility and Computing Supplementary Payment (AFDC)
SSA-8 Equity Methods for Evaluating Resources (AFDC)
SSA-9 Inclusion of Child Receiving OASDI Benefits into an AFDC Assistance Unit (AFDC)
SSA-10 Coverage and Conditions of Financial Assistance Program, Residence (AFDC)
SSA-11 Continued Absence of Parent from the Home (AFDC)
SSA-12 Protective Vendor and Two Party Payments for Dependent Children (AFDC)
SSA-21-A Experiments to Improve the Hearing Process by Having the Social Security Administration Represented at Hearings (SSI)
SSA-22 Limitation for Holding Hearings, Issuing Hearing Decisions and Issuing Appeals Decisions (SSI)
SSA-23 Procedures, Payment of Benefits, Determinations, Reconsiderations, Hearings, and Appeals (SSI)
SSA-29 Representative Payee (SSI)
SSA-30 Eligibility (SSI)
SSA-31 Eligibility-Redeterminations (SSI)
SSA-32 Filing of Applications (SSI)
SSA-33 Amount of Benefits (SSI)
SSA-34 Payment of Benefits, Overpayments, Underpayments, Recovery of Overpayment (SSI)
SSA-35 Reports Required (SSI)
SSA-36 Family Relationships (SSI)
SSA-37 Income (SSI)
SSA-38 Resources (SSI)
SSA-39 Reductions, Suspensions, and Terminations (SSI)
SSA-40 Referral of Persons Eligible for SSI to Other Agencies (SSI)
SSA-41 Interim Assistance Provisions (SSI)
SSA-42 Pass Along Benefit Increase With Limitation for Hold-Harmless States (SSI)

Black Americans

ASE-25 Emergency School Aid—General
ASE-26 Ethnic Heritage Studies Program

Hispanic Americans

ASE-13 Bilingual Education Programs
ASE-25 Emergency School Aid—General
ASE-26 Ethnic Heritage Studies Program
ASE-12 Indian Education Program
OCR-3 Access to Educational Programs for National Origin Minority Children with a Primary Home or Language Other than English

Native Americans

PHS-30 Indian Health Care Improvement Act
PHS-31 Persons to Whom Services will be provided
HDS-2 Grants to Indian Tribal Organizations for Social and Nutrition Services: General Rules
HDS-3 Vocational Rehabilitation and Independent Living Programs: General Rules
HDS-6 Native American Program: General Rules

Women

PHS-37 Project Grants for Family Planning Services Women's Educational Equity Act Program

Older Americans

HDS-1 Grants for State and Community Programs on Aging: General Rules
HDS-2 Grants to Indian Tribal Organizations for Social and Nutrition Services: General Rules
SSA-16 Quarter of Coverage and Insured Status (OASDI)
SSA-17 New Methods for Computing Benefit Amounts (OASDI)
SSA-18 Basic Computations of Benefits and Lump Sums (OASDI)
SSA-19 Reduction of Benefits to Maximum (OASDI)
SSA-20 The Retirement Test (OASDI)
SSA-21 Deduction, Reduction, and Nonpayment of Benefits (OASDI)
SSA-24 Employment, Wages, Self-Employment, SEI (OASDI)
SSA-29 Representative Payee (OASDI; SSI)
OS-1 Age Discrimination Regulations

Other

ASE-32 Commissioner's Discretionary Projects Program
ASE-22 Community Education Program
ASE-19 Adult Education Program
ASE-13 Bilingual Education Programs
ASE-26 Ethnic Heritage Studies Programs
ASE-15 Indochina Refugee Children Assistance Program

REGULATIONS AFFECTING ORGANIZATIONS AND INSTITUTIONS

HEALTH

State and Local Health Departments

PHS-10 Health Incentive Grants for Comprehensive Public Health Services
PHS-11 Formula Grants to States for Preventive Health Service Programs
PHS-12 Grants for Preventive Health Services (42 CFR Part 51b): Subpart F—Grants for Research Demonstrations, and Public Information and Education for the Prevention and Control of Venereal Diseases
PHS-13 Grants for Preventive Health Services (42 CFR Part 51b): Subpart H—Grants for the Detection, Treatment, and Prevention of Lead-Based Paint Poisoning
PHS-14 Interstate Shipment of Biologic Agents: Packaging, Labeling, and Shipping Requirements
PHS-38 Amendments to MCH CC Services Programs
PHS-42 Project Grants to States for Hypertension Services
HCFA-1 Professional Standards Review Organizations (PSROs) Sanctions on Providers
HCFA-2 Waiver of Liability
HCFA-3 Professional Standards Review Organizations (PSROs) Reconsideration and Appeals
HCFA-4 Hospital Utilization Review
HCFA-5 Validation of Accreditation Surveys of Hospitals
HCFA-6 Conditions of Participation for Hospitals
HCFA-7 Funding of Professional Standards Review Organizations Hospital Review
HCFA-8 Confidentiality and Disclosure of Information of Professional Standards Review Organizations (PSROs)
HCFA-9 Certification of Separate Cost Entities
HCFA-11 Safeguards for Patient Funds
HCFA-12 Extension of Professional Standards Review to Intermediate Care Facilities
HCFA-13 Conditions of Participation for Skilled Nursing Facilities and Intermediate Care Facilities
HCFA-14 Effective Date: Provider Agreement
HCFA-15 Sprinkler Systems for Long Term Care Facilities
HCFA-17 Radiological Services
HCFA-18 Reimbursement Prepaid Health Plans
HCFA-21 Provider Reimbursement Determinations
HCFA-26 Reimbursement: Internship and Residency Program
HCFA-27 Teaching Hospitals' Physicians Costs
HCFA-28 Special Care Units
HCFA-29 Reimbursement to Related Organizations
HCFA-32 Deeming of Income Between Spouses
HCFA-33 Educational Programs Reimbursement
HCFA-34 Proposed List of Additional Items and Services Subject to the Lowest Charge Level
HCFA-35 Prospective Reimbursement of Rural Health Clinic Services
HCFA-36 Family Planning
HCFA-37 Reasonable Cost-Related Reimbursement for Skilled Nursing and Intermediate Care Facility Services
HCFA-38 State Medicaid Contracts
HCFA-39 Hearing Aid and Eyeglass Reimbursement
HCFA-40 Assignements of Benefits Collection of Medical Support

HCFA-49 System for Hospital Uniform Reporting
HCFA-50 Skilled Nursing Facility/ Intermediate Care Facility Uniform Cost Reporting
HCFA-51 Hospital Discharge and Data Reports
HCFA-52 Skilled Nursing Facility/ Intermediate Care Facility Discharge and Bill Data
HCFA-53 Home Health Agency Cost and Utilization
HCFA-54 Home Health Agency Discharge and Bill Data
HCFA-55 Use of Federal Funds for Certain Prescribed Drugs
FDA 22—New Drug Evaluation; Public Disclosure of Specifications
FDA 25—Prescription Drug Labeling; Policy on Patent Labeling
FDA 26—Biopharmaceutics Program; Therapeutic Equivalence Evaluations
FDA 67—California Application for Exemption from Preemption
FDA 68—Applications for Exemption from Preemption for State and Local Hearing Aid Requirements
FDA 69—Additional Application for Exemption from Preemption for State and Local Hearing Aid Requirements
FDA 70—Recommendations for State and Local Agencies Concerning Accidental Radioactive Contamination of Human Food and Animal Feed
OS-1 Age Discrimination Regulations

State and Local Health Planning Agencies

PHS-45 Grants for Community Mental Health Centers Requirements for Grants, Application for Grants, and State Plans
PHS-46 Grants for Drug Abuse Prevention, Treatment, and Rehabilitation; Requirements for State Participation in Formula Grants
PHS-72 National Guidelines for Health Planning
PHS-73 Health Systems Agency Review of Certain Proposed Uses of Federal Health Funds
PHS-74 Health Systems Agency Reviews of Certain Proposed Uses of Federal Funds; Proposed Uses for Research and Training
PHS-75 Health Systems Agency and State Agency Reviews of the Appropriateness of Existing Institutional Health Services
PHS-76 Designation of Health Systems Agencies
PHS-77 Designation of State Health Planning and Development Agencies
PHS-78 Certificate of Need and Review of New Institutional Health Services
PHS-79 Inclusion of Computed Tomographic Scanning Services Under Certificate of Need
PHS-80 Inclusion of Computed Tomographic Scanning Services Under Capital Expenditure Review
PHS-81 Limitation on Federal Participation for Capital Expenditures
PHS-82 Discontinuence of Unneeded Hospital Services
HCFA-18 Reimbursement Prepaid Health Plans
HCFA-28 Special Care Units
HCFA-30 End-Stage Renal Disease Networks
HCFA-31 Incentive Reimbursement for End-Stage Renal Disease Services
HCFA-33 Educational Programs Reimbursement
HCFA-35 Prospective Reimbursement of Rural Health Clinic Services
HCFA-36 Family Planning
HCFA-37 Reasonable Cost Related Reimbursement for Skilled Nursing and Intermediate Care Facility Services
FDA25—Prescription Drug Labeling; Policy on Patent Labeling
FDA 26—Biopharmaceutics Program; Therapeutic Equivalence
FDA 70—Recommendations for State and Local Agencies Concerning Accidential Radioactive Contamination of Human Food and Animal Feed
OS-1 Age Discrimination Regulations

Individual Physicians

HCFA-1 Professional Standards Review Organizations (PSROs) Sanctions on Providers
HCFA-2. Waiver of Liability
HCFA-3 Professional Standards Review Organizations (PSROs) Reconsideration and Appeals
HCFA-4 Hospital Utilization Review
HCFA-6 Conditions of Participation for Hospitals
HCFA-7 Funding of Professional Standard Review Organizations Hospital Review
HCFA-8 Confidentiality and Disclosure of Information of Professional Standards Review Organizations (PSROs)
HCFA-12 Extension of Professional Standards Review Organizations (PSRO) Review to Intermediate Care Facilities
HCFA-13 Conditions of Participation for Skilled Nursing Facilities and Intermediate Care Facilities
HCFA-17 Radiological Services
HCFA-18 Reimbursement Prepaid Health Plans
HCFA-19 Written Notice for Non-Reimbursable Services
HCFA-21 Provider Reimbursement Determinations
HCFA-23 Durable Medical Equipment
HCFA-24 Prohibition Against Reassignments
HCFA-25 Part A Entitlement and Co-payments
HCFA-27 Teaching Hospitals Physicians Costs
HCFA-28 Special Care Units
HCFA-30 End-Stage Renal Disease Networks
HCFA-31 Incentive Reimbursement for End-Stage Renal Disease Services
HCFA-33 Educational Programs Reimbursement
HCFA-34 Proposed List of Additional Items and Services Subject to the Lowest Charge Level
HCFA-35 Prospective Reimbursement of Rural Health Clinic Services
HCFA-39 Hearing Aid and Eyeglass Reimbursement
HCFA-44 Psychosurgery
HCFA-51 Hospital Discharge and Data Reports
HCFA-52 Skilled Nursing Facility/ Intermediate Care Facility Discharge and Bill Data
HCFA-54 Home Health Agency Discharge and Bill Data
HCFA-55 Use of Federal Funds for Certain Prescribed Drugs
FDA 13—Bioresearch Monitoring: Standards for Institutional Review Boards for Clinical Investigators
FDA 14—Bioresearch Monitoring; Informed Consent
FDA 17—Bioresearch Monitoring: Obligations of Sponsors and Monitors of Clinical Investigations
FDA 18—Bioresearch Monitoring; Obligations of Clinical Investigators
FDA 25—Prescription Drug Labeling; Policy on Patient Labeling
FDA 26—Biopharmaceutics Program; Therapeutic Equivalence Evaluations
FDA 57—Investigational Device Exemptions
FDA 64—Restricted Device Regulation
FDA 66—Maximum Residue Limits for Ethylene Oxide, Ethylene Chlorhydrin, and Ethylene Glycol
FDA 71—Recommendations for National Standards for Medical Radiation Technologists
FDA 72—Recommendations on Exposure from Diagnostic X-Ray Examinations
FDA 73—Recommendations for Referral Criteria for Diagnostic Radiological Examinations

Hospitals

PHS-1 Conduct of Persons and Traffic on Certain Federal Enclaves: Revision of General Rules
PHS-14 Interstate Shipment of Etiologic Agents: Packaging, Labeling, and Shipping Requirements
PHS-39 Grants to Plan, Develop and Operate Hospital—Affiliated Primary Care Centers
PHS-48 Confidentiality of Alcohol and Drug Abuse Patient Records; Minimum Requirements for Protecting
PHS-82 Discontinuence of Unneeded Hospital Services
HCFA-1 Professional Standards Review Organizations (PSROs) Sanctions on Providers
HCFA-2 Waiver of Liability
HCFA-3 Professional Standards Review Organizations (PSROs) Reconsideration and Appeals
HCFA-4 Hospital Utilization Review
HCFA-5 Validation of Accreditation Surveys of Hospitals
HCFA-6 Conditions of Participation for Hospitals
HCFA-7 Funding of Professional Standards Review Organizations Hospital Review
HCFA-8 Confidentiality and Disclosure of Information of Professional Standards Review Organizations (PSROs)
HCFA-9 Certification of Separate Cost Entities
HCFA-17 Radiological Services
HCFA-81 Reimbursement Prepaid Health Plans
HCFA-19 Written Notice for Non-Reimbursable Services
HCFA-20 Inpatient Services—Foreign Hosiptals
HCFA-21 Provider Reimbursement Determinations
HCFA-23 Durable Medical Equipment

HCFA-24 Prohibition Against Reassignments
HCFA-25 Part A Entitlement and Co-Payments
HCFA-26 Reimbursement: Internship and Residency Program
HCFA-27 Teaching Hospitals' Physicians Costs
HCFA-28 Special Care Units
HCFA-29 Reimbursement to Related Organizations
HCFA-30 End-Stage Renal Disease Networks
HCFA-31 Incentive Reimbursement for End-Stage Renal Disease Services
HCFA-33 Educational Programs Reimbursement
HCFA-34 Proposed List of Additional Items and Services Subject to the Lowest Charge Level
HCFA-35 Prospective Reimbursement of Rural Health Clinic Services
HCFA-36 Family Planning
HCFA-39 Hearing Aid and Eyeglass Reimbursement
HCFA-40 Assignments of Benefits Collection of Medical Support
HCFA-42 Medicaid Management Information Systems/Additional Data Requirements
HCFA-44 Psychosurgery
HCFA-49 System for Hospital Uniform Reporting
HCFA-50 Skilled Nursing Facility/Intermediate Care Facility Uniform Cost Reporting
HCFA-51 Hospital Discharge and Date Reports
HCFA-55 Use of Federal Funds for Certain Prescribed Drugs
FDA 13—Bioresearch Monitoring; Standards for Institutional Review Boards for Clinical Investigators
FDA 14—Bioresearch Monitoring; Informed Consent
FDA 17—Bioresearch Monitoring; Obligations of Sponsors and Monitors of Clinical Investigations
FDA 18—Bioresearch Monitoring; Obligations of Clinical Investigators
FDA 25—Prescription Drug Labeling; Policy on Patient Labeling
FDA 26—Biopharmaceutics Program; Therapeutic Equivalence Evaluations
FDA 66—Maximum Residue Limits for Ethylene Oxide, Ethylene Chlorhydrin, and Ethylene Glycol

Nursing Homes and Long Term Care Facilities

HCFA-1 Professional Standards Review Organizations (PSROs) Sanctions of Providers
HCFA-2 Waiver of Liability
HCFA-3 Professional Standards Review Organizations (PSROs) Reconsideration and Appeals
HCFA-8 Confidentiality and Disclosure of Information of Professional Standards Review Organizations (PSROs)
HCFA-9 Certification of Separate Cost Entities
HCFA-11 Safeguards for Patient Funds
HCFA-12 Extension of Professional Standards Review to Intermediate Care Facilities
HCFA-13 Conditions of Participation for Skilled Nursing Facilities and Intermediate Care Facilities
HCFA-14 Effective Date: Provider Agreements
HCFA-17 Radiological Services
HCFA-18 Reimbursement Prepaid Health Plans
HCFA-19 Written Notice for Non-Reimbursable Services
HCFA-21 Provider Reimbursement Determination
HCFA-23 Durable Medical Equipment
HCFA-24 Prohibition Against Reassignments
HCFA-25 Part A Entitlement and Co-Payments
HCFA-29 Reimbursement to Related Organizations
HCFA-30 End-Stage Renal Disease Networks
HCFA-31 Incentive Reimbursement for End-Stage Renal Disease Services
HCFA-34 Proposed List of Additional Items and Services Subject to the Lowest Charge Level
HCFA-35 Family Planning
HCFA-37 Reasonable Cost-Related Reimbursement for Skilled Nursing and Intermediate Care Facility Services
HCFA-39 Hearing Aid and Eyeglass Reimbursement
HCFA-40 Assignments of Benefits Collection of Medical Support
HCFA-44 Psychosurgery
HCFA-50 Skilled Nursing Facility/Intermediate Care Facility Uniform Cost Reporting
HCFA-52 Skilled Nursing Facility/Intermediate Care Facility Discharge and Bill Data
HCFA-53 Home Health Agency Cost and Utilization
HCFA-55 Use of Federal Funds for Certain Prescribed Drugs
FDA 13—Bioresearch Monitoring; Standards for Institutional Review Boards for Clinical Investigators
FDA 14—Bioresearch Monitoring; Informed Consent
FDA 17—Bioresearch Monitoring; Obligations of Sponsors and Monitors of Clinical Investigations
FDA 18—Bioresearch Monitoring; Obligations of Clinical Investigators
FDA 25—Prescription Drug Labeling; Policy on Patient Labeling
FDA 26—Biopharmaceutics Program; Therapeutic Equivalence Evaluations
FDA 66—Maximum Residue Limits for Ethylene Oxide, Ethylene Chlorhydrin, and Ethylene Glycol

Mental Health Facilities

FDA 13—Bioresearch Monitoring; Standards for Institutional Review Boards for Clinical Investigators
FDA 14—Bioresearch Monitoring; Informed Consent
FDA 17—Bioresearch Monitoring; Obligations of Sponsors and Monitors of Clinical Investigations
FDA 18—Bioresearch Monitoring; Obligations of Clinical Investigators
FDA 25—Prescription Drug Labeling; Policy on Patient Labeling
FDA 26—Biopharmaceutics Program; Therapeutic Equivalence Evaluations
SSA-29 Representative Payee
PHS-45 Grants for Community Mental Health Centers; Requirements for Grants, Application for Grants and State Plans
PHS-48 Confidentiality of Alcohol and Drug Abuse Patient Records; Minimum Requirements for Protecting
HCFA-1 Professional Standards Review Organizations (PSROs) Sanctions on Providers
HCFA-2 Waiver of Liability
HCFA-3 Professional Standards Review Organizations (PSROs) Reconsideration and Appeals
HCFA-5 Validation of Accreditation Surveys of Hospitals
HCFA-6 Conditions of Participation for Hospitals
HCFA-7 Funding of Professional Standard Review Organizations Hospital Review
HCFA-9 Certification of Separate Cost Entities
HCFA-11 Safeguards for Patient Funds
HCFA-14 Effective Date: Provider Agreement
HCFA-18 Reimbursement Prepaid Health Plans
HCFA-19 Written Notice for Non-Reimbursable Services
HCFA-21 Provider Reimbursement Determinations
HCFA-23 Durable Medical Equipment
HCFA-24 Prohibition Against Reassignments
HCFA-34 Proposed List of Additional Items and Services Subject to the Lowest Charge Level
HCFA-35 Prospective Reimbursement of Rural Health Clinic Services
HCFA-36 Family Planning
HCFA-37 Reasonable Cost-Related Reimbursement for Skilled Nursing and Intermediate Care Facility Services
HCFA-40 Assignments of Benefits Collection of Medical Support
HCFA-44 Psychosurgery
HCFA-55 Use of Federal Funds for Certain Prescribed Drugs
SSA-29 Representative Payee

Health Maintenance Organizations

PHS-19 Subpart A—Requirements for a Health Maintenance Organization
PHS-20 Subpart B—Federal Financial Assistance; General
PHS-21 Subpart C—Grants for Feasibility Surveys
PHS-22 Subpart D—Grants and Loan Guarantees for Planning and Initial Development Costs
PHS-23 Subpart E—Loans and Loan Guarantees for Initial Operating Costs
PHS-24 Subpart F—Qualification of Health Maintenance Organizations
PHS-25 Subpart H—Employees Health Benefits Plan
PHS-26 Subpart I—Continued Regulation of HMOs and Other Entities
PHS-28 New Subpart J—Loans and Loan Guarantees for Acquisition and Construction of Ambulatory Health Care Facilities
PHS-29 New Subpart—Grants and Cooperative Agreement for Training and Technical Assistance

PHS-48 Confidentiality of Alcohol and Drug Abuse Patient Records; minimum requirements for protecting
PHS-79 Inclusion of Computed Tomographic Scanning Services Under Certificate of Need
HCFA-1 Professional Standards Review Organizations (PSROs) Sanction on Providers
HCFA-8 Confidentiality and Disclosure of Information of Professional Standards Review Organizations (PSROs)
HCFA-18 Reimbursement Prepaid Health Plans
HCFA-19 Written Notice for Non-Reimbursable Services
HCFA-20 Inpatient Services—Foreign Hospitals
HCFA-21 Provider Reimbursement Determinations
HCFA-23 Durable Medical Equipment
HCFA-24 Prohibition Against Reassignments
HCFA-25 Part A Entitlements and Co-Payments
HCFA-26 Reimbursement: Internship and Residency Program
HCFA-28 Special Care Units
HCFA-29 Reimbursement to Related Organizations
HCFA-30 End-Stage Renal Disease Networks
HCFA-31 Incentive Reimbursement for End-Stage Renal Disease Services
HCFA-33 Education Programs Reimbursement
HCFA-34 Proposed List of Additional Items and Services Subject to the Lowest Charge Level
HCFA-36 Family Planning
HCFA-37 Reasonable Cost-Related Reimbursement for Skilled Nursing and Intermediate Care Facility Services
HCFA-38 State Medicaid Contracts
HCFA-39 Hearing Aid and Eyeglass Reimbursement
HCFA-40 Assignments of Benefits Collection of Medical Support
HCFA-44 Psychosurgery
HCFA-55 Use of Federal Funds for Certain Prescribed Drugs
FDA 25—Description Drug Labeling; Policy on Patient Labeling
FDA 26—Biopharmaceutics Program; Therapeutic Equivalence Evaluations

Insurance Companies and Other Fiscal Intermediaries

PHS-8 Protection of Human Subjects: Regulations on Compensation of Human Subjects Injured in Biomedical and Behavioral Research
HCFA-4 Hospital Utilization Review
HCFA-7 Funding of Professional Standards Review Organizations Hospital Review
HCFA-8 Confidentiality and Disclosure of Information of Professional Standards Review Organizations (PSROs)
HCFA-9 Certification of Separate Cost Entities
HCFA-12 Extension of Professional Standards Review to Intermediate Care Facilities
HCFA-13 Conditions of Participation for Skilled Nursing Facilities and Intermediate Care Facilities
HCFA-14 Effective Date: Provider Agreement
HCFA-15 Sprinkler Systems for Long Term Care Facilities
HCFA-17 Radiological Services
HCFA-18 Reimbursement Prepaid Health Plans
HCFA-19 Written Notice for Non-Reimbursable Services
HCFA-20 Inpatient Services—Foreign Hospitals
HCFA-21 Provider Reimbursement Determinations
HCFA-22 Fiscal Intermediary Performance
HCFA-23 Durable Medical Equipment
HCFA-24 Prohibition Against Reassignments
HCFA-25 Part A Entitlement and Co-Payments
HCFA-26 Reimbursement: Internship and Residency Program
HCFA-27 Teaching Hospital Physicians' Costs
HCFA-28 Special Care Units
HCFA-29 Reimbursement to Related Organizations
HCFA-30 End-Stage Renal Disease Networks
HCFA-31 Incentive Reimbursement for End-Stage Renal Disease Services
HCFA-32 Deeming of Income Between Spouses
HCFA-33 Educational Programs Reimbursement
HCFA-34 Proposed List of Additional Items and Services Subject to the Lowest Charge Level
HCFA-35 Prospective Reimbursement of Rural Health Clinic Services
HCFA-36 Family Planning
HCFA-37 Reasonable Cost-Related Reimbursement for Skilled Nursing and Intermediate Care Facility Services
HCFA-38 State Medicaid Contracts
HCFA-39 Hearings Aid and Eyeglass Reimbursement
HCFA-40 Assignments of Benefits Collection of Medical Support
HCFA-44 Psychosurgery
HCFA-49 System for Hospital Uniform Reporting
HCFA-50 Skilled Nursing Facility/Intermediate Care Facility Uniform Cost Reporting
HCFA-51 Hospital Discharge and Data Reports
HCFA-52 Skilled Nursing Facility/Intermediate Care Facility Discharge and Bill Data
HCFA-53 Home Health Agency Cost and Utilization
HCFA-54 Home Health Agency Dischange and Bill Data
HCFA-55 Use of Federal Funds for Certain Prescribed Drugs
FDA-26 Biopharmaceutics Program; Therapeutic Equivalence Evaluations

Health and Medical Training Institutions

PHS-2 National Library of Medicine Programs: Revision of General Rules for the National Library of Medicine, National Library of Medicine Grants, National Institutes of Health and National Library of Medicine Traineeships, and National Institutes of Health and National Library of Medicine Training Grants
PHS-4 National Research Service Awards Program: General Rules
PHS-5 Protection of Human Research Subjects—Institutional Review Boards
PHS-6 Protection of Human Subjects: Regulations on Research Involving Children
PHS-7 Protection of Human Subjects: Regulations on Research Involving Those Institutionalized as Mentally Disabled
PHS-8 Protection of Human Subjects: Regulations on Compensation of Human Subjects Injured in Biomedical and Behaviorial Research
PHS-30 Indian Health Care Improvement Act Programs
PHS-51 Traineeships for Students in Schools of Public Health and Other Graduate Public Health Programs
PHS-52 Traineeship Grants for Health Administration, Hospital Administration or Health Policy Analysis and Planning at Public or Nonprofit Private Educational Institutions Other than Schools of Public Health
PHS-54 Scholarships for First-Year Students of Exceptional Financial Need
PHS-55 Health Profession Capitation Grants
PHS-56 Project Grants for Establishment of Departments of Family Medicine
PHS-57 Area Health Education Centers
PHS-58 Grants for Residency Training in General Internal Medicine or General Pediatrics
PHS-59 Grants for Training in Family Medicine
PHS-61 Grants to Schools of Medicine, Dentistry, Public Health, Osteopathy, Optometry, Podiatry, Pharmacy, and Veterinary Medicine for Start-up Assistance
PHS-62 Health Profession Financial Distress Grants
PHS-63 Interdisciplinary Team Training and Curriculum Development for Health Manpower Training
PHS-64 Grants for Training in Emergency Medical Services
PHS-65 Grants for Graduate Programs in Health Administration
PHS-66 Special Project Grants for Graduate Programs in Public Health
PHS-67 Grants for Allied Health Projects
PHS-68 Grants for Traineeships for Advanced Training of Allied Health Personnel
PHS-69 Grants for Nurse Practitioner Traineeship Programs
PHS-70 Grants for Traineeships for the Advanced Training of Professional Nurses
PHS-71 Grants for Traineeships for Training Nurse Anesthetists
PHS-74 Health Systems Agency Reviews of Certain Proposed Uses of Federal Funds; Proposed Uses for Research and Training
HCFA-1 Professional Standards Review Organizations (PSROs) Sanction on Providers
HCFA-6 Conditions of Participation for Hospitals
HCFA-12 Extension of Professional Standards Review of Intermediate Care Facilities

HCFA-13 Conditions of Participation for Skilled Nursing Facilities and Intermediate Care Facilities
HCFA-26 Reimbursement: Internship and Residency Program
HCFA-27 Teaching Hospitals' Physicians Costs
HCFA-31 Incentive Reimbursement for End-Stage Renal Disease Services
HCFA-33 Educational Programs Reimbursement
HCFA-36 Family Planning
HCFA-44 Psychosurgery

Allied Services

PHS-9 Standards for Clinical Laboratory Personnel—Requirements for Certification
PHS-14 Interstate Shipment of Etiologic Agents: Packaging, Labeling, and Shipping Requirements
HCFA-1 Professional Standards Review Organizations (PSROs): Sanctions on Providers
HCFA-5 Validation of Accreditation Surveys of Hospitals.
HCFA-6 Conditions of Participation for Hospitals
HCFA-12 Extension of Professional Standards Review of Intermediate Care Facilities
HCFA-13 Conditions of Participation for Skilled Nursing Facilities and Intermediate Care Facilities
HCFA-17 Radiological Services
HCFA-18 Reimbursement Prepaid Health Plans
HCFA-19 Written Notice for Non-Reimbursable Services
HCFA-23 Durable Medical Equipment
HCFA-24 Prohibition Against Reassignments
HCFA-34 Proposed List of Additional Items and Services Subject to the Lowest Charge Level
HCFA-49 System for Hospital Uniform Reporting

Community Based Health Centers

PHS-36 Assignment of NHSC Personnel
PHS-39 Grants to Plan, Develop and Operate Hospital-Affiliated Primary Care Centers
PHS-40 Project Grants for Community Health and Migrant Health
PHS-44 Amend Health Service Funding Regulation to Delete Applicability to Bureau of Community Health Service Programs
PHS-49 Designation of Health Manpower Shortage Areas
PHS-73 Health Systems Agency Review of Certain Proposed Uses of Federal Health Funds
HCFA-17 Radiological Services
HCFA-18 Reimbursement Prepaid Health Plans
HCFA-19 Written Notice for Non-Reimbursable Services
HCFA-23 Durable Medical Equipment
HCFA-24 Prohibition Against Reassignments
HCFA-30 End-Stage Renal Disease Networks
HCFA-31 Incentive Reimbursement for End-Stage Renal Disease Services
HCFA-34 Proposed List of Additional Items and Services Subject to the Lower Charge Level
HCFA-36 Family Planning
HCFA-40 Assignments of Benefits Collection of Medical Support
HCFA-55 Use of Federal Funds for Certain Prescribed Drugs
FDA 25—Prescription Drug Labeling: Policy on Patient Labeling
FDA 26—Biopharmaceutics Program: Therapeutic Equivalence Evaluations

Pharmaceutical Manufacturers and Distributors

HCFA-19 Written Notice for Non-Reimbursable Services
HCFA-55 Use of Federal Funds for Certain Prescribed Drugs
FDA 13—Bioresearch Monitoring: Standards for Institutional Review Boards for Clinical Investigators
FDA 14—Bioresearch Monitoring: Informed Consent
FDA 15—Antibiotic Certification; Exemption of Dermatologic and Vaginal Drug Products
FDA 16—Antibiotic Certification; Exemption of Systemic Drug Products
FDA 17—Bioresearch Monitoring; Obligations of Sponsors and Monitors of Clinical Investigations
FDA 18—Bioresearch Monitoring: Obligations of Clinical Investigators
FDA 19—Drug Efficacy Study Implementation; Abbreviated New Drug Applications for Post-1962 Drugs
FDA 20—Drug Quality Assurance; Current Good Manufacturing Practice for Large Volume Parenterals
FDA 21—Drug Quality Assurance; Requirements for Designating the Manufacturer's Name on a Drug or Drug Product Label
FDA 22—New Drug Evaluation; Public Disclosure of Specifications
FDA 23—New Drug Evaluation; Revision of IND/NDA Regulations
FDA 24—Prescription Drug Advertising; Revision of Regulations
FDA 25—Prescription Drug Labeling: Policy on Patient Labeling
FDA 26—Biopharmaceutics Program: Therapeutic Equivalance Evaluations
FDA 66—Maximum Residue Limits for Ethylene Oxide, Ethylene Chlorhydrin, and Ethylene Glycol

Medical Devices and Equipment Manufacturers and Distributors

HCFA-10 End-Stage Renal Disease—Electrical Requirements Revoked
HCFA-13 Conditions of Participation for Skilled Nursing Facilities and Intermediate Care Facilities
HCFA-17 Radiological Services
HCFA-19 Written Notice for Non-Reimbursable Services
HCFA-23 Durable Medical Equipment
HCFA-34 Proposed List of Additional Items and Services Subject to the Lowest Charge Level
HCFA-36 Family Planning
HCFA-39 Hearing Aid and Eyeglass Reimbursement
FDA 13—Bioresearch Monitoring: Standards for Institutional Review Boards for Clinical Investigators
FDA 14—Bioresearch Monitoring: Informed Consent
FDA 17—Bioresearch Monitoring; Obligations of Sponsors and Monitors of Clinical Investigations
FDA 18—Bioresearch Monitoring: Obligations of Clinical Investigators
FDA 57—Investigational Device Exemptions
FDA 58—Classification of Preenactment Devices
FDA 59—Regulations to Require Premarket Approval
FDA 60—Premarket Approval Procedural Regulation
FDA 61—Product Development Protocols
FDA 62—Performance Standards Procedural Regulation
FDA 63—Voluntary Standards Policy Statement
FDA 64—Restricted Device Regulation
FDA 65—Mandatory Experience Reporting
FDA 66—Maximum Residue Limits for Ethylene Oxide, Ethylene Chlorhydrin, and Ethylene Glycol
FDA 67—California Application for Exemption from Preemption
FDA 68—Applications for Exemption from Preemption for State and Local Hearing Aid Requirements
FDA 69—Additional Applications for Exemption from Preemption for State and Local Hearing Aid Requirements

Cosmetic Manufacturers and Distributors

FDA 13—Bioresearch Monitoring: Standards for Institutional Review Boards for Clinical Investigators
FDA 14—Bioresearch Monitoring: Informed Consent
FDA 52—Lead Acetate
FDA 53—CTFA Cosmetic Ingredient Dictionary
FDA 54—Bubble Bath Products Warnings

Biomedical Research Facilities

HCFA-43 Psychosurgery
FDA 13—Bioresearch Monitoring: Standards for Institutional Review Boards for Clinical Investigators
FDA 14—Bioresearch Monitoring: Informed Consent
FDA 17—Bioresearch Monitoring; Obligations of Sponsors and Monitors of Clinical Investigations
FDA 18—Bioresearch Monitoring: Obligations of Clinical Investigators
FDA 57—Investigational Device Exemptions

Animal Drug Manufacturers and Distributors

FDA 16—Antibiotic Certification; Exemption of Systemic Drug Products
FDA 21—Drug Quality Assurance; Requirements for Designating the Manufacturer's Name on a Drug or Drug Product Label
FDA 55—Procedural Regulations for Cyclic Review of Animal Drugs
FDA 56—Sensitivity of Method
FDA 74—Neomycin Containing Animal Drugs
FDA 75—Sulfonamide Containing Animal Drugs
FDA 77—Teat Dips
FDA 78—Animal Drugs for Minor Species

FDA 79—Sterility and Pyrogenicity of Animal Drugs
FDA 80—Approval of Supplemental New Animal Drug Applications

Animal Feed Manufacturers and Distributors

FDA 76—Medicated Feed Task Force Implementation
FDA 81—Prohibited Substances; Deodorizer Distillates

Biological Product Manufacturers and Distributors

FDA 1—Antigen E Assay; Potency Standards
FDA 2—Limulus Amebocyte Lysate (LAL); Specific Manufacturing Standards
FDA 3—Allergenic Source Material Standards
FDA 4—Radioallergosorbent Test (RAST); Potency Test
FDA 5—Error and Accident Reports; Amend Blood GMPs
FDA 6—Reorganize Whole Blood Regulations
FDA 7—Commonality of Blood Labeling; Uniform Labeling Requirements
FDA 8—Notification of FDA Regarding Adverse Reactions; Recordkeeping and Reporting Requirements
FDA 9—Panel on Review of Allergenic Extracts; Product Effectiveness
FDA 10—Panel on Review of Viral Vaccines and Rickettsial Vaccines; Product Effectiveness
FDA 11—Panel on Review of Blood and Blood Products; Product Effectiveness
FDA 12—Panel on Review of Bacterial Toxoids and Bacterial Vaccines with U.S. Standards of Potency; Product Effectiveness
FDA 13—Bioresearch Monitoring; Standards for Institutional Review Boards for Clinical Investigators
FDA 14—Bioresearch Monitoring; Informed Consent
FDA 17—Bioresearch Monitoring; Obligations of Sponsors and Monitors of Clinical Investigations
FDA 18—Bioresearch Monitoring; Obligations of Clinical Investigators
FDA 21—Drug Quality Assurance; Requirements for Designating the Manufacturer's Name on a Drug or Drug Product Label
FDA 23—New Drug Evaluation; Revision of IND/NDA Regulations
FDA 24—Prescription Drug Advertising; Revision of Regulations
FDA 25—Prescription Drug Labeling; Policy on Patient Labeling

Food Manufacturers and Distributors

FDA 13—Bioresearch Monitoring Standards for Institutional Review Boards for Clinical Investigators
FDA 14—Bioresearch Monitoring; Informed Consent
FDA 17—Bioresearch Monitoring; Obligations of Sponsors and Monitors of Clinical Investigations
FDA 18—Bioresearch Monitoring; Obligations of Clinical Investigators
FDA 27—Summary of Food Labeling Hearings
FDA 28—Cholesterol-Free Egg Substitute
FDA 29—Plant Protein; Common or Usual Names for Foods, Vegetable Protein Products Which Resemble and Substitute for Meats, Seafood, Poultry, Eggs, or Cheese
FDA 30—Sugar Labeling of Foods
FDA 31—General Principles for the Addition of Nutrients to Food
FDA 32—Liquid Protein Warning Statement
FDA 33—Aflatoxin in Peanuts
FDA 34—Color Certification; Procedures for Non-Conforming Batches
FDA 35—Use of Food Preservatives BHT
FDA 36—Procedural Regulations for the Cyclic Review and Priority Listing of Food and Color Additives
FDA 37—Net Weight
FDA 38—Caffeine
FDA 39—GRAS Whey; Whey Products and Hydrogen Peroxide Used in Whey Treatments
FDA 40—Retortable Pouch
FDA 41—Xylitol
FDA 42—Food and Color Additives; Risk Assessment
FDA 43—Trichloroethylene
FDA 44—Use of Chlorine Gas in an Aqueous Solution
FDA 45—Nitrite as Color Additive in Bacon
FDA 46—Prior Sanction Status of Nitrates in Poultry Products
FDA 47—Safety of Food Ingredients Sucrose and Corn Sugar
FDA 48—Optional Ingredient Labeling Regarding Certain Food Standards
FDA 49—National Shellfish Safety Program
FDA 50—Dietary Supplement of Vitamins and Minerals
FDA 51—Labeling of Sodium and Potassium Content of Foods

Pharmacists

FDA 25—Prescription Drug Labeling; Policy on Patient Labeling
FDA 26—Biopharmaceutics Program; Therapeutic Equivalence Evaluations

All Organizations

OS-1 Age Discrimination

Mining Industry

PHS-18 National Institute for Occupational Safety and Health Investigative Procedures; Mining Amendments
PHS-43 Program Grants for Black Lung Clinics

Alcohol and Drug Facilities

PHS-46 Grants for Drug Abuse Prevention Treatment, and Rehabilitation; Requirements for State Participation in Formula Grants
PHS-47 Special Grants for Implementation of the Uniform Alcoholism and Intoxication Treatment Act; Requirements for Grants and Application for Grants
PHS-48 Confidentiality of Alcohol and Drug Patient Records; Minimum Requirements for Protecting

Indian Tribes and Tribal Organizations
Health Facilities

PHS-32 Grants for Development, Construction, and Operations of Facilities and Services

State Medicaid Agencies

HCFA-36 Family Planning
HCFA-37 Reasonable Cost-Related Reimbursement for Skilled Nursing and Intermediate Care Facility Services
HCFA-38 State Medicaid Contracts
HCFA-39 Hearing Aid and Eyeglass Reimbursement
HCFA-40 Assignments of Benefits Collection of Medicaid Support
HCFA-41 Medicaid Quality Control System Expansion of Information Requirements
HCFA-42 Medicaid Management Information Systems/Additional Data Requirements
HCFA-43 Medicaid Quality Control Fiscal Disallowance—Michel Amendment
HCFA-44 Psychosurgery
HCFA-45 Verification of Services
HCFA-47 Recovery and Sanctions: Medicaid
HCFA-55 Use of Federal Funds for Certain Prescribed Drugs

Other

HCFA-24 Prohibition Against Reassignments
HCFA-45 Verification of Services
HCFA-46 Withholding Payments on Suspicion of Fraud
HCFA-47 Recovery and Sanctions: Medicaid
OCR-2 Provisions of Services to Limited English Speaking Persons

EDUCATION

State Education Agencies

ASE-19 Adult Education Program
ASE-41 Arts in Education Program
ASE-34 Basic Skills and Educational Proficiency Programs
ASE-13 Bilingual Education Programs
ASE-38 Centers on Educational Media and Materials for the Handicapped Program
ASE-37 Commissioner's Discretionary Projects Program
ASE-32 Community Education Program
ASE-21 Consumers Education Program
ASE-33 Cooperative Education
ASE-17 Correction Education Demonstration Program
ASE-12 Education Division General Administrative Regulations
ASE-29 Education Appeals Board
ASE-14 Environmental Education Program
ASE-26 Ethnic Heritage Studies Program
ASE-44 Financial Assistance for Construction, Reconstruction, and Renovation of Higher Education Facilities
ASE-35 Gifted and Talented Children's Education Program
ASE-7 Health Education Program
ASE-42 Indian Education Program
ASE-15 Indochina Refugee Children Assistance Program
ASE-47 Consolidated Grant Applications for Insular Areas Application
ASE-36 Law-Related Education
ASE-20 Metric Education Program
ASE-30 National Diffusion Network
ASE-9 Population Education Program
ASE-10 Preschool Partnership Program
ASE-16 Title I, ESEA—Financial Assistance to LEAs and SEAs to Meet Special Educational Needs
ASE-11 Title I, ESEA—Awarding of Special Grants to LEAs
ASE-3 Title I, ESEA—Migrant Education Program
ASE-2 Title IV, ESEA—Eduational Improvement, Resources, and Support

ASE-17;1 Title V, ESEA—Strengthening State Educational Agency Management
ASE-40 Women's Educational Equity Act Program
OCR-3 Access to Education Programs for National Origin Minority Children With a Primary or Home Langauge Other than English

Local Education Agencies

ASE-19 Adult Education Program
ASE-41 Arts in Education Program
ASE-34 Basic Skills and Educational Proficiency Program
ASE-13 Bilingual Education Programs
ASE-4 Biomedial Sciences Program
ASE-38 Centers on Educational Media and Materials for the Handicapped Program
ASE-37 Commissioner's Discretionary Projects Program
ASE-22 Community Education Program
ASE-21 Consumer's Eduation Program
ASE-33 Cooperative Education Program
ASE-17 Correction Education Demonstration Program
ASE-12 Education Divison General Administrative Regulations
ASE-29 Education Appeals Board
ASE-14 Environmental Education Program
ASE-25 Emergency School Aid—General
ASE-26 Ethnic Heritage Studies Program
ASE-8 Follow Through Program
ASE-35 Gifted and Talented Children's Education Program
ASE-7 Health Education Program
ASE-42 Indian Education Program
ASE-15 Indochina Refugee Children Assistance Program
ASE-47 Consolidated Grant Applications for Insular Areas Application
ASE-36 Law-Related Education
ASE-20 Metric Education Program
ASE-30 National Diffusion Network
ASE-9 Population Education Program
ASE-10 Preschool Partnership Program
ASE-43 School Assistance in Federally Affected Areas
ASE-5 Safe Schools Program
ASE-16 Title I, ESEA—Financial Assistance to LEAs and SEAs to Meet Special Educational Needs
ASE-11 Title I, ESEA—Awarding of Special Grants to LEAs
ASE-3 Title I, ESEA—Migrants Education Program
ASE-2 Title IV, ESEA—Educational Improvement, Resources, and Support
ASE-40 Women's Educational Equity Act Program
OCR-3 Access to Educational Programs for National Origin Minority Children With a Primary or Home Language Other than English

Public and Private Non-Profit Agencies

ASE-19 Adult Education Program
ASE-41 Arts in Eduation Program
ASE-13 Bilingual Education Programs
ASE-37 Commissioner's Discretionary Projects Program
ASE-21 Consumers' Education Program
ASE-17 Correction Education Demonstration Program
ASE-12 Education Division General Administrative Regulations
ASE-39 Education Division General Administrative Regulation—Debt Collections
ASE-14 Environmental Education Program
ASE-26 Ethnic Heritage Studies Program
ASE-35 Gifted and Talented Children's Education Program
ASE-7 Health Education Program
ASE-15 Indochina Refugee Children Assistance Program
ASE-20 Metric Education Program
ASE-30 National Diffusion Network
ASE-9 Population Education Program
ASE-10 Preschool Partnership Program
ASE-16 Title I, ESEA—Financial Assistance to LEAs and SEAs to Meet Special Educational Needs
ASE-2 Title IV, ESEA—Educational Improvement, Resources, and Support
ASE-40 Women's Educational Equity Act Program
ASE-23 Youth Employment Program

Colleges and Universities

PHS-30 Indian Health Care Improvement Act Programs
PHS-63 Interdisciplinary Team Training and Curriculum Development for Health Manpower Training
PHS-67 Grants for Allied Health Projects
PHS-74 Health Systems Agency Review of Certain Proposed Uses of Federal Funds; Proposed Uses for Research and Training
FDA 13—Bioresearch Monitoring; Standards for Institutional Review Boards for Clinical Investigators
FDA 14—Bioresearch Monitoring; Informed Consent
FDA 17—Bioresearch Monitoring; Obligations of Sponsors and Monitors of Clinical Investigations
FDA 18—Bioresearch Monitoring; Obligations of Clinical Investigators
FDA 57—Investigational Device Exemptions
FDA 71—Recommendations for National Standards for Medical Radiation Technologists
ASE-32 Domestic Mining and Mineral Fellowships
ASE-12 Education Division General Administrative Regulations
ASE-14 Environmental Education Program
ASE-44 Financial Assistance for Construction, Reconstruction, and Renovation of Higher Education Facilities
ASE-8 Follow through
ASE-31 Eligibility of Foreign Medical School
ASE-35 Gifted and Talented Children's Education Program
ASE-7 Health Education Assistance Loan Program
ASE-42 Indian Education Program
ASE-20 Metric Education Program
ASE-28 Modern Foreign Language and Area Studies
ASE-30 National Diffusion Network
ASE-9 Population Education Program
ASE-10 Preschool Partnership Program
ASE-46 Territorial Teacher Training Program
ASE-4 Biomedical Medical Sciences Program
ASE-45 Campus-Based Funding Program
ASE-38 Centers on Educational Media and Materials for the Handicapped Program
ASE-37 Commissioner's Discretionary Projects Program
ASE-21 Consumers' Education Program
ASE-17 Correction Education Demonstration Program

Vocational Schools

ASE-37 Commissoner's Discretionary Projects Program
ASE-21 Consumers' Education Program
ASE-17 Correction Education Demonstration Program
ASE-12 Education Division General Administrative Regulations
ASE-20 Metric Education Program
ASE-30 National Diffusion Network
ASE-24 Vocational Education
ASE-23 Youth Employment Program

Graduate and Professional Schools

PHS-51 Traineeships for Students in Schools of Public Health and Other Graduate Public Health Programs
PHS-52 Traineeship Grants for Health Administration, Hospital Administration or Health Policy Analysis and Planning at Public or Nonprofit Private Educational Institutions Other than Schools of Public Health
PHS-54 Scholarships for First-Year Students of Exceptional Financial Need
PHS-55 Health Professions Capitation Grants
PHS-56 Project Grants for Establishment of Departments of Family Medicine
PHS-57 Area Health Education Centers
PHS-58 Grants for Residency Training in General Internal Medicine or General Pediatrics
PHS-59 Grants for Training in Family Medicine
PHS-61 Grants to Schools of Medicine, Dentistry, Public Health, Osteopathy, Optometry, Podiatry, Pharmacy, and Veterinary Medicine for Start-up Assistance
PHS-62 Health Professions Financial Distress Grants
PHS-63 Interdisciplinary Team Training and Curriculum Development for Health Manpower Training
PHS-64 Grants for Training in Emergency Medical Services
PHS-65 Grants for Graduate Programs in Health Administration
PHS-66 Special Project Grants for Graduate Programs In Public Health
PHS-67 Grants for Allied Health Projects
PHS-68 Grants for Traineeships for Advanced Training of Allied Health Personnel
PHS-69 Grants for Nurse Practitioner Traineeships Programs
PHS-70 Grants for Traineeships for the Advanced Training of Professional Nurses
PHS-71 Grants for Traineeships for Training Nurse Anesthetists
PHS-74 Health Systems Agency Reviews of Certain Proposed Uses of Federal Funds; Proposed Uses for Research and Training
ASE-4 Biomedical Sciences Program
ASE-45 Campus-Based Funding Programs
ASE-38 Centers on Educational Media and Materials for the Handicapped Program
ASE-37 Commissioner's Discretionary Projects Program

ASE-12 Education Division General Administrative Regulations
ASE-44 Financial Assistance for Construction, Reconstruction, and Renovation of Higher Education Facilities
ASE-35 Gifted and Talented Children's Education Program
ASE-32 Graduate Professional Opportunities
ASE-36 Law-Related Education

All Organizations

OS-1 Age Discrimination Regulations

Other

ASE-17 Correction Education Demonstration Program
ASE—12 Education Division General Administrative Regulations
ASE-39 Education Division General Administrative Regulations—Debt Collections
ASE-29 Education Appeals Board
OCR-2 Provisions of Services to Limited English Speaking Persons

INCOME MAINTENANCE

State and Local Governments

SSA-1 Incentive Adjustment for Quality Control in Federal Financial Participation in the AFDC Program
SSA-2 Reduction in Federal Financial Participation
SSA-3 Access to Wage Record Information
SSA-4 Quality Control Reviews—General Administration
SSA-5 State Plan for Methods of Personnel Administration
SSA-6 Federal Matching Funds for State and Local Training
SSA-10 Coverage and Conditions of Financial Assistance Programs; Residence
SSA-13 Administrative and Fiscal Requirements for Federal Financial Participation in Financial Assistance to Individuals
SSA-25 Coverage of Employees of State and Local Governments
SSA-27 Disability
SSA-41 Interim Assistance Provisions
SSA-42 Pass Along Benefit Increase With Limitation for Hold-Harmless States

All Organizations

OS-1 Age Discrimination Regulations

Other

OCR-2 Provisions of Services to Limited English Speaking Persons

SOCIAL SERVICES

State and Local Government Agencies

HDS-1 Grants for States and Community Programs on Aging: General Rules
HDS-3 Vocational Rehabilitation and Independent Living Program: General Rules
HDS-4 Developmental Disabilities Program: General Rules
HDS-7 Title IV-B Child Welfare Services: General Rules
HDS-8 Child Abuse and Neglect Prevention and Treatment Program: General Rules
SSA-5 State Plan for Methods of Personnel Administration
SSA-6 Federal Matching Funds for State and Local Training
SSA-40 Referrals of Persons Eligible for SSI to Other Agencies

Child Care Facilities

HDS-7 Title IV-B Child Welfare Services: General Rules
HDS-8 Child Abuse and Neglect Prevention and Treatment Program: General Rules

Residential Care Facilities

HDS-4 Developmental Disabilities Program: General Rules
HDS-7 Title IV-B Child Welfare Services: General Rules
HDS-8 Child Abuse and Neglect Prevention and Treatment Program: General Rules

Vocational and Rehabilitation Facilities

HDS-3 Vocational Rehabilitation and Independent Living Programs: General Rules
SSA-40 Referrals of Persons Eligible for SSI to Other Agencies

Local Services (i.e., nutrition, counseling)

HDS-1 Grants for States and Community Programs on Aging: General Rules

All Organizations

OS-1 Age Discrimination Regulations
OS-2 Day Care Requirements

Other

HDS-2 Grants to Indian Tribal Organizations Social and Nutrition Service: General Rules
HDS-5 Social Service Programs: Consolidated Grants to Insular Areas
HDS-6 Native American Program: General Rules
HDS-10 Social Service Programs under Titles I, IV, X, XIV, XVI(AABD) and XX of the Social Security Act: Relocation to Chapter XIII of 45 CFR
OCR-2 Provisions of Services to Limited English Speaking Persons

Department of Health, Education, and Welfare Semiannual Regulations Agenda and Review List

Public Health Service

Title	Summary	Contact	Decision quarter
PHS-1—Conduct of Persons and Traffic on Certain Federal Enclaves: Revision of General Rules.	A. *Description:* These regulations govern the conduct of individuals and traffic on the National Institutes of Health reservation in Bethesda, Md. and will be extended to cover the U.S. PHS Hospital at Staten Island, N.Y. The regulations deal with traffic; parking; buildings and grounds; prohibited activities such as gambling, nuisances and discrimination; and specify penalties. B. *Why Significant:* This revision brings up to date these regulations which were last revised in 1970, by making minor additions, improving readability and extending coverage to the PHS Hospital, Staten Island, over which the U.S. has exclusive or concurrent jurisdiction. C. *Regulatory Analysis:* Not required. D. *Need:* This revision is necessary in order to comply with the Department's program of recodification and "Operation Common Sense." E. *Legal Basis:* Sec. 1-5, 62 Stat. 281, as amended, 75 Stat. 574 (40 U.S.C. 318-318d); Sec. 205, 63 Stat. 389, as amended, 64 Stat. 591, 76 Stat. 414 (40 U.S.C. 486); Delegations of Authority 33 FR 604, 41 FR 19162, 41 FR 34346, 44 FR 15774. F. *Chronology:* Notice of Decision to Regulate published July 20, 1979 (44 FR 42727).	William G. Ketterer, Senior Attorney, NIH, Office of the General Counsel, National Institutes of Health, Bethesda, Md. 20205, (301) 496-6043.	Notice of Proposed Rulemaking Oct.-Dec. 1979.
PHS-2—National Library of Medicine Programs: Revision of General Rules for the National Library of Medicine, National Library of Medicine Grants, National Institutes of Health and National Library of Medicine Traineeships, and National Institutes of Health and National Library of Medicine Training Grants.	A. *Description:* There are 4 NLM regulations undergoing revision. The regulations at 42 CFR Part 4 relate to the access of facilities and library collections. Those at 42 CFR Part 59a deal with the NLM extramural programs. These rules provide guidance for applying for grants for establishing, expanding and improving basic library resources and for establishing Regional Medical Libraries. The regulations at 42 CFR Part 63 deal with both NIH and NLM traineeships. The regulations at 42 CFR Part 64 govern the training grants of NIH and NLM. B. *Why Significant:* These proposed amendments will bring up to date the NLM regulations by (1) improving readability by the use of the HEW Operation Common Sense principles, and (2) allowing for inclusion of updated nondiscrimination language. In addition, the regulation at 42 CFR Part 59a will be revised to remove the requirement of providing photocopies of biomedical materials without charge to users. C. *Regulatory Analysis:* Not required. D. *Need:* These revisions are necessary to comply with the Department's programs of recodification and "Operation Common Sense." E. *Legal Basis:* 42 USC 216, 42 USC 276 and 42 USC 280b-2. F. *Chronology:* This proposal is currently under review. When the review is completed and proposal approved, the Department will publish a Notice of Decision to Regulate.	Kenneth Carney, Acting Executive Officer, National Library of Medicine, Bethesda, Md. 20209, (301) 496-6491.	Notice of Decision to Regulate Oct.-Dec. 1979. Notice of Proposed Rulemaking Jan.-March 1980.

Department of Health, Education, and Welfare Semiannual Regulations Agenda and Review List—Continued

Title	Summary	Contact	Decision quarter
PHS-3—Inventions Resulting from Research Grants, Fellowship Awards, and Contracts for Research—Clarification of Reporting Requirements.	A. *Description:* This proposal will revise the Department's regulations at 45 CFR Part 8.5 so that they clearly spell out the Department's reporting requirements, rather than simply stating the requirements will be at the discretion of the Assistant Secretary for Health. B. *Why Significant:* In its present form, the regulations are entirely adequate to provide the Assistant Secretary for Health with the authority to require or forgive the filing of invention reports. The problem with the regulation is that it is unnecessarily vague on the basis of experience and is not, therefore, in the public's interest. The regulations could be improved by merely stating what is or is not required. C. *Regulatory Analysis:* Not required. D. *Need:* In 1975, the Assistant Secretary for Health decided to delete the reporting requirements from all fellowships and training awards not primarily awarded to conduct research. Changes in various internal policy documents were made to reflect this decision. Despite these changes, it is clear from the level of inquiries that confusion remains in the minds of grantees over what has to be reported. This proposed revision will clearly state what is or is not required and eliminate further confusion. E. *Legal Basis:* 22 FR 9695, Dec. 4, 1957, as amended at 31 FR 12842, Oct. 1, 1966. F. *Chronology:* This proposal is currently under review. When the review is completed and proposed approve, the Department will publish a Notice of Decision to Regulate.	Lowell D. Peart, NIH Regulations Officer, Division of Management Policy, National Institutes of Health, Bethesda, Md. 20205, (301) 496-4606.	Notice of Decision to Regulate Oct.-Dec. 1979. Notice of Proposed Rulemaking Jan.-March 1980.
PHS-4—National Research Service Awards Program: General Rules.	A. *Description:* These revised regulations govern the program of NRSA's which are made to promote research training in specified areas of science. B. *Why Significant:* This revision expands the scope of the regulations to cover additional PHS programs and allows NRSA recipients liberalized service payback and financial payback requirements C. *Regulatory Analysis:* Not required. D. *Need:* To implement the provisions of "The Biomedical Research and Research Training Amendments of 1978" and the "Health Services Research, Health Statistics, and Health Care Technology Act of 1978". E. *Legal Basis:* Sec. 215, 58 Stat. 690, as amended (42 U.S.C. 216); Sec. 472, 88 Stat. 342 (43 U.S.C. 2891-1). F. *Chronology:* Notice of Decision to Regulate published May 3, 1979 (44 FR 25886).	William Raub, Ph. D., Associate Director of Extramural Research and Training, National Institutes of Health, Bethesda, Md. 20205, (301) 496-1095.	Final Technical Amendments Oct.-Dec. 1979.
PHS-5—Protection of Human Research Subjects—Institutional Review Boards.	A. *Description:* These revised regulations will govern the IRB mechanism. The purpose of IRBs is to assure that biomedical and behavioral research, conducted or supported by HEW, meets the requirements concerning informed consent by persons involved as subjects in research. The revision is based on recommendation of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research. B. *Why Significant:* These regulations are significant in that review of proposed research by IRBs is the primary mechanism for assuring that the rights of human subjects are protected. C. *Regulatory Analysis:* Not required. D. *Need:* The National Research Act created the Nat'l. Comm. One of the topics of study identified in the mandate to the Commission was "Institutional Review Boards". The Commission was required to make recommendations to the Secretary, regarding IRB mechanisms and appropriate enforcement mechanisms for carrying out decisions. The Commission's report was published in the FEDERAL REGISTER and public comments were received. After reviewing the recommendations and comments, the Secretary decided to issue regulations on this subject. E. *Legal Basis:* 5 U.S.C. 301. F. *Chronology:* Recommendations of the Commission regarding IRBs published Nov. 30, 1978 (43 FR 56174). Comment period ended Jan. 29, 1979. NPRM published August 14, 1979 (44 FR 47688). Comment period ends Nov. 12, 1979.	F. William Dommel, Jr., J.D., Assist. Dir. for Regs., Office for Protection from Research Risks, National Institutes of Health, Bethesda, Md. 20205, (301) 496-7163.	Final Regs. April-June 1980.
PHS-6—Protection of Human Subjects: Regulations on Research Involving Children.	A. *Description:* These regulations will provide additional protections for children who are research subjects of DHEW conducted or supported research. B. *Why Significant:* These regulations define the circumstances under which such research can be conducted or supported, describe procedures for the review and approval of the research, and identify the requirements for informed consent to participate in research by and for such subjects. C. *Regulatory Analysis:* Not required. D. *Need:* The National Research Act, requires the Secretary to publish all recommendations of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research in the FEDERAL REGISTER, to solicit public comment, to consider the recommendations and relevant comments and to take appropriate administrative action with respect to the recommendations. After reviewing the recommendations and comments, the Secretary decided to issue regulations on this subject. E. *Legal Basis:* 5 U.S.C. 301. F. *Chronology:* Recommendations of the Commission regarding children published Jan. 13, 1978 (43 FR 2084). Comment period ended March 14, 1978. NPRM published July 21, 1978 (43 FR 31786). Comment period originally ended Sept. 19, 1978, but was extended by the NPRM on IRBs to Nov. 12, 1979.	F. William Dommel, Jr., J.D., Assist. Dir. for Regs., Office for Protection from Research Risks, National Institutes of Health, Bethesda, Md. 20205, (301) 496-7163.	Final Regs. April-June 1980.
PHS-7—Protection of Human Subjects: Regulations on Research Involving Those Institutionalized as Mentally Disabled.	A. *Description:* These regulations will provide additional protections for those institutionalized as mentally disabled persons who participate as subjects in DHEW conducted or supported research. B. *Why Significant:* These regulations would implement the recommendations of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research by defining the circumstances under which research projects involving the institutionalized mentally disabled can be conducted or supported. The implementing regulations would also spell out requirements for consent or, in the absence of competence, assent of the institutionalized mentally disabled. The regulations would also require increasing evidence of benefit to the subjects as the risks of the research escalated. C. *Regulatory Analysis:* Not required.	F. William Dommel, Jr., J.D., Assist. Dir. for Regs., Office for Protection from Research Risks, National Institutes of Health, Bethesda, Md. 20205, (301) 496-7163.	Final Regs. April-June 1980.

Department of Health, Education, and Welfare Semiannual Regulations Agenda and Review List—Continued

Title	Summary	Contact	Decision quarter
	D. *Need:* The National Research Act, requires the Secretary to publish all recommendations of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research in the FEDERAL REGISTER, to solicit public comment, to consider the recommendations and relevant comments and to take appropriate action with respect to the recommendations and comments. The Secretary decided to issue regulations on this subject. E. *Legal Basis:* 5 U.S.C. 301. F. *Chronology:* Recommendations of the Commission regarding Those Institutionalized as Mentally Disabled published March 17, 1978 (43 FR 11328). Comment period ended May 16, 1978. Notice of decision to develop regulations published April 24, 1978 (43 FR 17375). Notice of Proposed Rulemaking published Nov. 17, 1978 (43 FR 53950). Comment period originally ended Jan. 16, 1979, but was extended by the NPRM on IRBs to Nov. 12, 1979.		
PHS-8—Protection of Human Subjects: Regulations on Compensation of Human Subjects Injured in Biomedical and Behavioral Research.	A. *Description:* These regulations would require institutions applying for DHEW grants or contracts in support of research involving human subjects to provide assurances that they have in force mechanisms to provide compensation for individuals who suffer injury as a result of their participation as subjects. B. *Why Significant:* At present, whether or not an injured research subject can receive any compensation depends upon whether the researcher was negligent or upon such nonresearch related factors as whether the subject was a Federal employee or covered by some other form of worker's compensation or health insurance. This regulation will correct that situation. C. *Regulatory Analysis:* Not required. D. *Need:* On May 7, 1975, the Department formed the Task Force on Compensation of Injured Research Subjects. The Task Force concluded in its report, issued in Jan. 1977, that establishment of a compensation mechanism was clearly indicated. The Nat'l. Commission which subsequently reviewed the report agreed with this conclusion. By promulgating an NPRM, the Secretary is taking administrative action on the recommendation of both the Task Force and the National Commission. E. *Legal Basis:* 5 U.S.C. 301. F. *Chronology:* Interim final regulations on Informed Consent; Definition Amended to Include Advice on Compensation published on Nov. 3, 1978 (43 FR 51559). A draft proposed NPRM is currently under review by the Ethics Advisory Board. When the review is completed, the draft NPRM will be sent to the Secretary for her consideration.	F. William Dommel, Jr., J.D. Assist. Dir. for Regs., Office for Protection from Research Risks, National Institutes of Health, Bethesda, Md. 20205, (301) 496-7163.	
PHS-9—Standards for Clinical Laboratory Personnel—Requirements for Certification.	A. *Description:* Unifies and integrates Departmental personnel standards affecting clinical laboratories so that they may be more uniformly applied to all clinical laboratories under the aegis of the Department. The proposed revision also will update personnel qualification requirements. B. *Why significant:* Existing Department personnel standards for clinical laboratories apply to about 950 laboratories licensed under the Clinical Laboratories Improvement Act of 1967 and to about 3400 Medicare certified independent laboratories. The proposed regulations would also apply to about 6700 Medicare certified hospital laboratories. C. *Regulatory Analysis:* Not required. D. *Need:* Implementation of the proposed regulations would provide for uniform application of one set of personnel standards to all clinical laboratories licensed or Medicare certified by the Department. E. *Legal Basis:* For laboratories licensed under the Clinical Laboratories Improvment Act of 1967, see Section 353 of the Public Health Service Act, 42 U.S.C. 263a. For laboratories certified under the Medicare program, see Section 1861(s)(3), (10), and (11) of the Social Security Act, 42 U.S.C. 1395x(s) (3), (10), and (11). F. *Chronology:* NPRM published on October 12, 1979 (44 FR 58923). Comment period ended November 26, 1979.	Dr. Louis C. LaMotte, Director, Licensure and Proficiency Testing Division, Bureau of Laboratories, Center for Disease Control, 1600 Clifton Road, NE, Atlanta, Georgia 30333. Phone: (404) 329-3824, FTS: 236-3824.	Final Rule—April-June 1980.
PHS-10—Health Incentive Grants for Comprehensive Public Health Services.	A. *Description:* Establishes requirements for health incentive grants to States to assist them in providing comprehensive public health services. Will provide a method for the equitable distribution of funds among State and local public health entities within the State and define program accountability measures. B. *Why significant:* State and local health agencies have the primary responsibility for a broad area of public health: health protection and health maintenance directed at populations, and personal health services directed at disadvantaged persons and those at special risk. This program makes grants to provide a Federal sharing in the costs of those vital services, in a manner designed to encourage State and local health entities to increase their own investments. C. *Regulatory Analysis:* Not required. D. *Need:* To implement Section 314(d) of the Public Health Service Act, as amended by the Health Services and Centers Amendments of 1978. E. *Legal Basis:* 42 U.S.C. 246d. F. *Chronology:* Notice of Decision to Develop Regulations published on May 1, 1979 (44 FR 25476). NPRM is currently under review. When the review is completed, it will be submitted to the Secretary of Health, Education, and Welfare for approval. Comment period will end 60 days after publication of the NPRM.	Mr. Dennis D. Tolsma, Office of the Center Director, Center for Disease Control, 1600 Clifton Road, NE, Atlanta, Georgia 30333. Phone: (404) 329-3243, FTS: 236-3243.	Final Rule—April-June 1980.
PHS-11—Formula Grants to States for Preventive Health Service Programs.	A. *Description:* Establishes requirements for formula grants to assist States in planning and developing preventive health service programs, including measurable goals for the reduction of the mortality rate for one or more of the five leading causes of death. B. *Why significant:* Heart disease, cancer, accidents, stroke, and pneumonia/influenza are the five leading causes of death. A significant reduction of these death rates is achievable through primary and secondary prevention of risk factors and causative conditions. States will develop and implement preventive health services target on the leading causes. C. *Regulatory Analysis:* Not required. D. *Need:* To implement Section 315 of the Public Health Service Act.	Mr. Dennis D. Tolsma, Office of the Center Director, Center for Disease Control, 1600 Clifton Road, NE, Atlanta, Georgia 30333. Phone: (404) 329-3243, FTS: 236-3243.	NPRM April-June 1980.

Department of Health, Education, and Welfare Semiannual Regulations Agenda and Review List—Continued

Title	Summary	Contact	Decision quarter
	E. *Legal Basis:* 42 U.S.C. 247. F. *Chronology:* Notice of Decision to Develop Regulations published on May 1, 1979 (44 FR 25476). Comment period will end 60 days after publication of the NPRM.		
PHS-12—Grants for Preventive Health Services (42 CFR Part 51b): Subpart F—Grants for Research, Demonstrations, and Public Information and Education for the Prevention and Control of Venereal Diseases.	A. *Description:* Established requirements for research, demonstrations and public information and education grants for the prevention and control of venereal disease and implements an amendment to Section 318 of the Public Health Service Act that at least 5 percent of grant funds appropriated under Section 318 for the prevention and control of venereal diseases be expended for this program. B. *Why significant:* Provides regulatory base to expand capability to refine venereal disease prevention and control technology. C. *Regulatory Analysis.* Not required. D. *Need:* To implement changes made to Section 318(b) of the Public Health Service Act by the Health Services and Centers Amendments of 1978. E. *Legal Basis:* ection 318 of the Public Health Service Act (42 U.S.C. 247c), as amended by the Health Services and Centers Amendments of 1978. F. *Chronology:* Notice of Decision to Develop Regulations published April 13, 1979 (44 FR 22133). Comment period will end 60 days after publication of NPRM.	Dr. Paul J. Wiesner, Director, Venereal Disease Control Division, Bureau of State Services, Center for Disease Control, Atlanta, Georgia 30333, Phone: (404) 329-3343, FTS: 236-3343.	NPRM—April-June 1980.
PHS-13—Grants for Preventive Health Services (42 CFR Part 51b): Subpart H—Grants for Detection, Treatment, and Prevention of Lead-Based Paint Poisioning.	A. *Description:* Governs the award of grants for lead-based paint poisoning prevention programs. B. *Why significant:* Reflects the transfer of statutory authority for the program and revisions in the law pertaining to advisory committees and the use of local resources. C. *Regulatory Analysis.* Not required. D. *Need:* The revised regulation is necessary to reflect both the transfer of the authority for this program from the Lead-Based Paint Poisioning Prevention Act to Section 316 of the Public Health Service Act and the amendments to the authority. E. *Legal Basis:* Section 316 of the Public Health Service Act (42 U.S.C. 247a), as amended by the Health Services and Centers Amendments of 1978. F. *Chronology: Notice of Decision to Develop Regulations published September 27, 1979 (44 FR 55602). Comment period will end 60 days after publication of NPRM.*	Dr. Vernon N. Houk, Director, Environmental Health Services Division, Bureau of State Services, Center for Disease Control, 1600 Clifton Road, NE, Atlanta, Georgia 30333, Phone: (404) 262-6645, FTS: 236-6645.	NPRM—April-June 1980.
PHS-14—Interstate Shipment of Etiologic Agents: Packaging, Labeling, and Shipping Requirements.	A. *Description:* Provides packaging and shipping requirements for interstate shipment of etiologic agents, and a system for receiving and responding to notifications of evidence or reports of damage or leakage to shipments of regulated materials during transit. B. *Why significant:* Prescribes procedures for minimum packaging of materials containing etiologic agents which are transported in interstate traffic for diagnostic, therapeutic, research, and production purposes in accordance with individual and national health needs and interests. C. *Regulatory analysis:* Not required. D. *Need:* To update the list of infectious agents any new viruses which have been recognized or which are appropriate to add, and to simplify and/or clarify the description of the materials to which the packaging, labeling, and shipping requirements are applicable. E. *Legal Basis:* Section 361 of the Public Health Service Act (42 U.S.C. 264). F. *Chronology:* Notice of Decision to Develop Regulations published June 29, 1979 (44 FR 37963). NPRM is currently under review. When the review is completed, it will be submitted to the Secretary of Health, Education, and Welfare for approval. Comment period will end 60 days after publication of the NPRM.	Dr. John H. Richardson, Director, Office of Biosafety, Center for Disease Control, 1600 Clifton Road, NE, Atlanta, Georgia 30333, Phone: (404) 329-3885, FTS: 236-3885.	Final Rule—April-June 1980.
PHS-15—Foreign Quarantine Regulations: Requirements and Inspections.	A. *Description:* Provides procedures on preventing the introduction, transmission, or spread of communicable diseases from foreign countries into the United States. B. *Why significant:* The procedures affected all international traffic arriving in the U.S. by ship, aircraft, or land conveyances. C. *Regulatory Analysis:* Not required. D. *Need:* To update the regulations in accordance with current concepts of disease surveillance, investigation, and control. E. *Legal Basis:* Section 361 of the Public Health Service Act (42 U.S.C. 264) F. *Chronology:* Notice of Decision to Develop Regulations published June 29, 1979 (44 FR 37963). Comment period will end 60 days after publication of the NPRM.	Mr. Joseph F. Giordano, Director, Quarantine Division, Bureau of Epidemiology, Center for Disease Control, 1600 Clifton Road, NE, Atlanta, Georgia 30333, Phone: (404) 329-3674, FTS: 236-3674.	NPRM—April-June 1980.
PHS-16—Importation of Dogs and Cats Into the United States: Changes in requirements.	A. *Description:* Modifies requirements for importation of dogs and cats into the U.S. by (1) eliminating inspection requirements for wild dogs and wild cats, and vaccination requirements for wild dogs; (2) prescribing currently available vaccines; and (3) allowing domestic dogs requiring vaccination to be vaccinated at their destination rather than at the port of entry. B. *Why significant:* The regulation is intended to prevent the introduction of communicable disease, especially rabies, with the importation of dogs and cats into the U.S. C. *Regulatory Analysis:* Not required. D. *Need:* To implement revised requirements for importing dogs and cats into the U.S. to conform to currently accepted health practices and to provide flexibility to cope with the frequent changes in available animal rabies vaccines. E. *Legal Basis:* Section 361 of the Public Health Service Act (42 U.S.C. 264). F. *Chronology:* Notice of Decision to Develop Regulations published January 31, 1979 (44 FR 6155). NPRM published July 23, 1979 (44 FR 43005). Comment period ended September 4, 1979.	Mr. Joseph F. Giordano, Director, Quarantine Division, Bureau of Epidemiology, Center for Disease Control, 1600 Clifton Road, NE, Atlanta, Georgia 30333, Phone: (404) 329-3674, FTS: 236-3674.	Final Rule—January-March 1980.

Department of Health, Education, and Welfare Semiannual Regulations Agenda and Review List—Continued

Title	Summary	Contact	Decision quarter
PHS-17—Medical Examination of Aliens.....	A. *Description:* Provides for the physical and mental examination of aliens within the United States or in other countries as required by the Immigration laws. B. *Why significant:* The regulations provide the basis for the physical and mental examination of aliens to determine whether the aliens are afflicted with any of the excludable conditions as stated in the Immigration and Nationality Act. C. *Regulatory Analysis:* Not required. D. *Need:* To implement changes in accordance with current epidemiological concepts and medical diagnostic standards. E. *Legal Basis:* Section 325 of the Public Health Service Act (42 U.S.C. 264) and Section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182). F. *Chronology:* Notice of Decision to Develop Regulations published June 29, 1979 (44 FR 37962). Comment period will end 60 days after publication of NPRM.	Mr. Joseph F. Giordano, Director, Quarantine Division, Bureau of Epidemiology, Center for Disease Control, 1600 Clifton Road, NE, Atlanta, Georgia 30333. Phone: (404) 329-3674, FTS: 236-3674.	NPRM—April-June 1980.
PHS-18—National Institute for Occupational Safety and Health Investigative Procedures; Mining Amendments.	A. *Description:* This rule amends existing provisions of 42 CFR Parts 85 and 85a to include current procedures for NIOSH health hazard evaluations and field research investigations in the mining industry. B. *Why significant:* Will enable NIOSH to develop data for improved health standards to reduce health risks to miners. C. *Regulatory Analysis:* Not required. D. *Need:* To impelement NIOSH's expanded research authorities under the Federal Mine Safety and Health Act of 1977. E. *Legal Basis:* 30 U.S.C. 801 et. seq. F. *Chronology:* NPRM published on December 5, 1978 (43 FR 56918). Comment period ended January 4, 1979.	Dr. James Merchant, Director, Division of Respiratory Diseases Studies, National Institute for Occupational Safety and Health, CDC, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505. Phone: (304) 599-7474, FTS: 923-7474.	Final Rule—October-December 1979.
PHS-19—Subpart A—Requirements for a Health Maintenance Organization.	A. *Description:* This regulation defines the health benefits, providers of health services, method of payment, organization and operation, and special requirements concerning Titles XVIII and XIX members. B. *Why Significant:* These regulations establish requirements for basic and supplemental health services which an HMO must provide its members for a fixed, prepaid fee. These regulations impact on 98 federally qualified HMOs which have a membership of 5.1 million persons, as of September 1979. C. *Regulatory Analysis:* Not required. D. *Need:* To implement the HMO Amendments of 1978 and to revise certain provisions of the regulations to reflect the operating experience of the program. E. *Legal Basis:* Sec. 215, 88 Stat. 690 (42 U.S.C. 216); Secs. 1301-1318, as amended, 92 Stat. 2131-2141 (42 U.S.C. 300e-300e-17). F. *Chronology:* —Notice of Decision to Revise Regulations. 44 FR 22133. —NPRM—42 CFR 110.108(c)(1) Full and Fair Disclosure; § 110.108(c)(2) Broadly representative enrollment; 110.108(s) Reporting and disclosure under the Employee Retirement Income Security Act of 1974 ("ERISA"). Comment period: 6/22/79-8/21/79. 44 FR 36862-5. —NPRM—42 CFR Part 110, Health Maintenance Organizations; Relationships Between Federally Qualified Health Maintenance Organizations and Other Parties. Comment period: 7/18/79-9/17/79. 44 FR 41838-41. —Interim Regulations—42 CFR Part 110, subpart A. Comment period: 7/18/79-9/17/79. 44 FR 42060-71.	Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443-4106.	Final Rule Jan. 1980.
PHS-20—Subpart B—Federal Financial Assistance: General.	—A. *Description:* This regulation establishes the requirements for awarding grants, loans, and loan guarantees to public and private entities for feasibility surveys, planning and initial development activities and initial operating costs of HMOs. B. *Why Significant:* Substantial interest has been shown by public and private entities in developing HMOs. Approximately 305 organizations have received Federal grant and loan assistance and currently 81 organizations are actively pursuing HMO development with grant funds. In addition, these regulations impact on health systems agencies and State health planning and development agencies in their evaluation of HMO applications. C. *Regulatory Analysis:* Not required. D. *Need:* To implement the HMO Amendments of 1978. E. *Legal Basis:* Sec. 215, 58 Stat. 690 (42 U.S.C. 216); Secs. 1301-1318, as amended, 92 Stat. 2131-2141 (42 U.S.C. 300e-300e-17). F. *Chronology:* —Notice of Decision to Revise Regulations. 44 FR 22133. —NPRM—42 CFR Part 110, subpart B. Comment period: 3/17/78-5/16/78. 43 FR 11472-6. —Final regulations—42 CFR Part 110—subpart B. Comments requested on one proposed provision: 7/18/79-9/17/79. 44 FR 42074-79.	Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443-4106.	Final Rule Dec. 1979.
PHS-21—Subpart C—Grants for Feasibility Surveys.	A. *Description:* This regulation establishes the requirements for conducting surveys to determine the feasibility of developing and operating HMOs or expanding the operating of HMOs. B. *Why Significant:* This regulation describes the assistance for feasibility surveys authorized by the HMO Act; outlines the application requirements and project elements for such assistance. C. *Regulatory Analysis:* Not required. D. *Need:* To implement the HMO Amendments of 1978 and conform with other HMO regulations. E. *Legal Basis:* Sec. 215, 58 Stat. 690 (42 U.S.C. 216); Secs. 1301-1318, as amended, 92 Stat 2131-2141 (42 U.S.C. 300e-300e-17). F. *Chronology:* —Notice of Decision to Revise Regulations. 44 FR 22133. —Final Regulations—42 CFR Part 110, subpart C. 43 FR 50182. (to be revised).	Howard R., Veit, Director, Office of Health Maintenance Organizations, Park Building, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443-4106.	Final Revised Rule (To be determined).
PHS-22—Subpart D—Grants and Loan Guarantees for Planning and Initial Development Costs.	A. *Description:* This regulation establishes the requirements for planning and initial development projects or for significant expansion of the membership of, or areas served by qualified HMOs. B. *Why Significant:* This regulation describes the assistance available for planning and initial development projects and for significant expansion of the membership of, or areas served by qualified HMOs. C. *Regulatory Analysis:* Not required.	Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443-4106.	Final Rule (To be determined).

Department of Health, Education, and Welfare Semiannual Regulations Agenda and Review List—Continued

Title	Summary	Contact	Decision quarter
	D. *Need:* To implement the HMO Amendments of 1978 and conform with other HMO regulations. E. *Legal Basis:* Sec. 215, 58 Stat. 690 (42 U.S.C. 216); Secs. 1301-1318, as amended, 92 Stat. 2131-2141 (42 U.S.C. 300e-300e-17). F. *Chronology:* —Notice of Decision to Revise Regulations. 44 FR 22133. —Final Regulations—42 CFR Part 110, subpart D. 43 FR 50182 (In OS for clearance and publication in Federal Register. Comment period: 60 days following publication.		
PHS-23—Subpart E—Loans and Loan Guarantees for Initial Operating Costs.	A. *Description:* This regulation establishes the requirements for making loans and loan guarantees to assist HMOs in meeting certain initial operating costs. B. *Why Significant:* This regulation describes the assistance available for making loans and loan guarantees to assist HMOs in meeting certain initial operating cost during a certain period of time. C. *Regulatory Analysis:* Not required. D. *Need:* To implement the HMO Amendments of 1978. E. *Legal Basis:* Sec. 215, 58 Stat. 690 (42 U.S.C. 216); Secs. 1301-1318, as amended, 92 Stat. 2131-2141 (42 U.S.C. 300e-300e-17). F. *Chronology:* —Notice of Decision to Revise Regulations. 44 FR 22133. —Interim Regulations—42 CFR Part 110, subpart E. 44 FR 10602-3 (In OS for clearance and publication in Federal Register.) Comment period: 60 days following publication.	Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443-4106.	Final Rule Dec. 1979.
PHS-24—Subpart F—Qualification of Health Maintenance Organizations.	A. *Description:* This regulation establishes the requirements for determining whether an entity is a qualified HMO. B. *Why Significant:* This regulation describes the procedures and information that an HMO must provide in making application to become federally qualified. C. *Regulatory Analysis:* Not required. D. *Need:* To update program changes in the qualification process and information provided the public. E. *Legal Basis:* Sec. 215, 58 Stat. 690 (42 U.S.C. 216); Secs. 1301-1318, as amended, 92 Stat. 2131-2141 (42 U.S.C. 300e-300e-17). F. *Chronology:* —Notice of Decision to Revise Regulations. 44 FR 22133. —Interim Regulations—42 CFR Part 110, subpart F. 42 FR 29400-16. (Under revision.)	Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443-4106.	NPRM (To be determined).
PHS-25—Subpart H—Employees' Health Benefits Plans.	A. *Description:* This regulation establishes the requirements for certain employers and States and political subdivisions of States to include in any health benefits plans offered to their employees the option of membership in qualified HMOs. B. *Why Significant:* This regulation describes the requirements which certain employers and States and political subdivisions of States must follow in offering the HMO option to their employees. This regulation impacts on all employers with 25 or more employees and States and political subdivisions of States. C. *Regulatory Analysis. Not required.* D. *Need:* To implement the HMO Amendments of 1978 and to revise certain provisions of the regulations to reflect the operating experience of the program. E. *Legal Basis:* Sec. 215, 58 Stat. 690 (42 U.S.C. 216); Secs. 1301-1318, as amended, 92 Stat. 2131-2141 (42 U.S.C. 300e-300e-17). F. *Chronology:* —Notice of Decision to Revise Regulations. 44 FR 22133. —NPRM—42 CFR Part 110, subpart H. Comment period: 7/18/79-9/17/79. 44 FR 42083-91. —Final regulation—42 CFR 110.609 Payroll Deductions. Comment period: 7/18/79-9/17/79. 44 FR 42082.	Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443-4106.	Final Rules Feb. 1980.
PHS-26—Subpart I—Continued Regulation of HMOs and Other Entities.	A. *Description:* This regulation establishes the requirements for continued compliance of federally qualified HMOs. B. *Why Significant:* This regulation describes the enforcement and compliance procedures with respect to HMOs and other entities which fail to comply with such requirements. C. *Regulatory Analysis:* Not required. D. *Need:* To amend the enforcement and compliance procedures to reflect the operating experience of the program. E. *Legal Basis:* Sec. 215, 58 Stat. 690 (U.S.C. 216); Secs. 1301-1318, as amended, 92 Stat. 2131-2141 (42 U.S.C. 300e-300e-17). F. *Chronology:* —Notice of Decision to Revise Regulations. 44 FR 22133. —Final Regulations—42 CFR Part 110, subpart I. Comment period: none. 43 FR 32254-6. (Under revision.)	Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building, 12420 Parklawn Drive, Rockville, Maryland 20357, 301/443-4106.	NPRM (To be determined.)
PHS-27—Subpart J—Reconsiderations and Hearings (NPRM).	A. *Description:* This regulation would have established requirements for investigating and determining whether HMOs have violated the HMO Act or the regulations. In addition, it would have established procedures for requesting reconsiderations and hearings with respect to denial of qualification applications. B. *Why Significant:* This regulation described the requirements for investigating and determining whether HMOs have violated the HMO Act or regulations and procedures to follow in requesting reconsiderations and hearings in the denial of qualification applicants. C. *Regulatory Analysis:* Not required. D. *Need:* To establish grievance and appeals procedures. E. *Legal Basis:* Sec. 215, 58 Stat. 690 (42 U.S.C. 216); Secs. 1301-1318, as amended, 92 Stat. 2131-2141 (42 U.S.C. 300e-300e-17). F. *Chronology:* —Notice of Decision to Revise Regulations. 44 FR 22133. —NPRM—Comment period: 9/17/76-11/1/76. 41 FR 40292-5. —Notice to withdraw this NPRM was submitted for official clearance on 4/28/79. Since the conditions that prompted the NPRM to be issued have changed, there is no need for this rule to be published. It has been deter-	Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443-4106.	Notice to withdraw NPRM. (To be determined.)

Department of Health, Education, and Welfare Semiannual Regulations Agenda and Review List—Continued

Title	Summary	Contact	Decision quarter
	mined that the requirements and procedures proposed in this notice have been adequately covered in other regulations which have been recently published.		
PHS-28—New Subpart J—Loans and Loan Guarantees for Acquisition and Construction of Ambulatory Health Care Facilities.	A. *Description:* This regulation establishes the requirements for qualified HMOs to obtain loans and loan guarantees to acquire or construct ambulatory health care facilities and acquire equipment for those facilities. B. *Why Significant:* This regulation allows the Secretary to make and guarantee loans to qualified HMOs. C. *Regulatory Analysis:* Not required. D. *Need:* To implement the HMO Amendments of 1978 concerning the authority to provide loan assistance to eligible HMOs. E. *Legal Basis:* Sec. 215, 58 Stat. 690 (42 U.S.C. 216); Secs. 1301-1318, as amended, 92 Stat. 2131-2141 (42 U.S.C. 300e-300e-17). F. *Chronology:* —Draft interim regulations completed, in final review before entering official clearance. Request granted on 6/30/79 to publish as interim regulations because of the urgency to make loan assistance available as quickly as possible to certain HMOs.	Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443-4106.	Interim Regulations Jan. 1980.
PHS-29—New Subpart—Grants and Cooperative Agreement for Training and Technical Assistance.	A. *Description:* This regulation establishes the requirements for the award of grants and cooperative agreements for management and technical assistance. B. *Why Significant:* This regulation allows the Secretary to make grant funds available to support the training of qualified management personnel. D. *Need:* To implement the HMO Amendments of 1978 to support management training activities. E. *Legal Basis:* Sec. 215, 58 Stat. 690 (42 U.S.C. 216); Secs. 1301-1318, as amended, 92 Stat. 2131-2141 (42 U.S.C. 300e-3003-17). F. *Chronology:* —Draft NPRM under development.	Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443-4106.	NPRM (To be determined).
PHS-30—Indian Health Care Improvement Act Programs.	A. *Description:* Amends 42 CFR 36, Subpart J—Indian Health Care Improvement Act Program (Pub. L. 94-437)—to reflect conformance with the Department's new regulations on grant administration which should result in greater standardization and simplification for IHS grant administration and a greater reliance on the grantee's own management systems. B. *Why Significant:* The regulations will conform existing IHS grant administration regulations to the Department's new regulations which establishes uniform requirements for the administration of HEW grants and principles for determining costs applicable to activities assisted by HEW grants. C. *Regulatory Analysis:* Not required. D. *Need:* IHS has been directed by the Department to revise 42 CFR 36, Subpart J, as required by the Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments, Circular No. A-102, Revised (published September 12, 1977, 42 FR 45828), to conform to the Department's new regulations on grant administration (45 CFR Part 74). E. *Legal Basis:* 5 U.S.C. 301; 42 FR 45828; 25 U.S.C. 1601. F. *Chronology:* Changes to subpart J are governed by Section 702(b) of Pub. L. 94-437. That section requires that any changes be published in the FEDERAL REGISTER with at least a 60 day comment period and that IHS will consult with appropriate national or regional Indian organizations to the extent practicable. G. *Citation:* 42 CFR 36, Subpart J.	Richard J. McCloskey, Indian Health Service, Room 6A-20, 5600 Fishers Lane, Rockville, Maryland 20857, (301)-443-1116).	NPRM 1st Quarter 1980.
PHS-31—Persons to whom services will be provided.	A. *Description:* The regulation will amend 42 CFR 36.12 to specify eligibility for services for dependent members of an eligible Indians' household and will correct the illegal sex-discrimination clause so that the eligibility status of non-Indian spouses will be the same regardless of sex. B. *Why significant:* The regulation will amend basic eligibility criteria and, therefore, affect delivery of IHS services to the Indian population. C. *Regulatory Analysis:* Not required. D. *Need:* To amend current regulation because OGC and the Justice Department have advised that the current regulation which provides eligibility only for non-Indian wives of eligible Indians is legally indefensible being an illegal discrimination based on sex and OGC has also advised that IHS policy of serving dependent members of an eligible Indians' household both Indian and non-Indian should be provided for in regulation rather than only in the IHS manual. E. *Legal Basis:* 25 U.S.C. 13 (Snyder Act) and 42 U.S.C. 2001 (Transfer Act). F. *Chronology:* Intent to issue a NPRM dealing with these issues was published in the preamble to the final regulations for Contract Health Services, 42 CFR 36, Subpart C, 43 FR 34649, August 4, 1978. Notice of decision to amend regulations was published on April 13, 1979 (44 FR 22132). G. *Citation:* 42 CFR 36.12.	Richard J. McCloskey, Room 6A-20; 5600 Fishers Lane, Rockville, Maryland 20857; (301-443-1116).	NPRM 1st Quarter 1980.
PHS-32—Grants for Development, Construction, and Operations of Facilities and Services.	A. *Description:* Amends 42 CFR 36, Subpart H—Grants for Development, Construction, and Operations of Facilities and Services (Pub. L. 93-638)—to reflect conformance with the Department's new regulations on grant administration which should result in greater standardization and simplification for IHS grant administration and a greater reliance on the grantee's own management systems. B. *Why Significant:* The regulation will conform existing IHS grant administration regulations to the Department's new regulations which establishes uniform requirements for the administration of HEW grants and principles for determining costs applicable to activities assisted by HEW grants. C. *Regulatory Analysis:* Not Required. D. *Need:* IHS has been directed by the Department to revise 42 CFR 36 Subpart H, as required by the Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments, Circular No. A-102, Revised (published September 12, 1977, 42 FR 45828), to conform with the Department's new regulations on grant administration (35 CFR Part 74). E. *Legal Basis:* 5 U.S.C. 301; 42 FR 45828; 25 U.S.C. 450. F. *Chronology:* Changes to Subpart H are governed by the procedures outlined in Section 107(c) of Pub. L. 93-638 which require any changes to be submitted to the committees on Interior and Insular Affairs of the respective Houses of Congress and be published in the FEDERAL REGISTER with at	Richard J. McCloskey, Indian Health Service, Room 6A-20, 5600 Fishers Lane, Rockville, Maryland 20857, (301-443-1116).	NPRM 1st Quarter 1980.

Department of Health, Education, and Welfare Semiannual Regulations Agenda and Review List—Continued

Title	Summary	Contact	Decision quarter
	least a 60 day comment period. IHS is also to consult with appropriate national or regional Indian organizations to the extent practicable. In addition to the legislative requirements, the current regulation itself requires that IHS consult with the tribes and that the final rule not go into effect until 30 days after publication in the FEDERAL REGISTER. G. *Citation:* 42 CFR 36, Subpart H.		
PHS-33—Medical Care for Uniformed Services personnel of the Coast Guard, Public Health Service, and National Oceanic and Atmospheric Administration 42 CFR 31.	A. *Description:* Provides Conditions under which beneficiaries will receive medical, dental, and surgical care at Public Health Service and Non-Public Health Service facilities. B. *Why significant:* Explains benefits available to beneficiaries and the rules they must follow to secure benefits. Rules may serve to enhance or deny care to certain beneficiaries. C. *Regulatory Analysis:* Not required. D. *Need:* Regulations are needed to implement Public Health Service Act, administrative decisions. E. *Legal Basis:* Sec. 326 of the Public Health Service Act (42 U.S.C. 253) F. *Chronology:* None.	Mr. Walter W. Ward, Procedural Implementation Section, Policy Coordination Branch, Bureau of Medical Services, 6525 Belcrest Road, West Hyattsville, Md. 20782, (301) 436-6261.	RP—4th Quarter 1979.
PHS-34—Medical Care for Seafarers and others at Public Health Service facilities.	A. *Description:* Provides conditions under which beneficiaries will receive medical, dental, and surgical care at Public Health Service and Non-Public Health Service facilities. B. *Why significant:* Explains benefits available to beneficiaries and the rules they must follow to secure benefits. Rules may serve to enhance or deny care to certain beneficiaries. C. *Regulatory Analysis:* Not required. D. *Need:* Regulations are needed to implement Public Health Service Act, administrative decisions. E. *Legal Basis:* Sec. 322 of the Public Health Service Act (42 U.S.C.) 249). F. *Chronology:* Previous (existing) regulations published 6/17/75.	Mr. Walter W. Ward, Procedural Implementation Section, Policy Coordination Branch, Bureau of Medical Services, 6562 Belcrest Road, West Hyattsville, Md. 20782, (301) 436-6261.	RP—4th Quarter 1979.
PHS-35—Public Health Service Hospital and Clinic Management, 42 CFR 35.	A. *Description:* Provides how the Public Health Service will manage facilities and relate to patients and visitors; and generally describe how health care should be provided. B. *Why significant:* Established the responsibilities, standards, and authorities under which managers operate Public Health Service facilities, and rules of conduct for patients and visitors. C. *Regulatory Analysis:* Not required. D. *Need:* Regulations are needed to implement Public Health Service Act, administrative decisions. E. *Legal Basis:* Sec. 321 of the Public Health Service Act (42 U.S.C. 248).	Mr. Walter W. Ward, Procedural Implementation Section, Policy Coordination Branch, Bureau of Medical Services, 6525 Belcrest Road, West Hyattsville, Md. 20782, (301) 436-6261.	RP—4th Quarter 1979.
PHS-36—Assignment of NHSC Personnel	A. *Description:* Regs will establish requirements for assignment of NHSC personnel to health manpower shortage areas. B. *Why Significant:* Regulations will significantly impact the assignment of NHSC personnel and the accessibility and availability of health services to persons in health manpower shortage areas. C. *Regulatory Analysis:* Not Required. D. *Need:* To implement Section 333 of the Public Health Service Act, as amended by Pub. L. 94-484. E. *Legal Basis:* 42 U.S.C. 254f. F. *Chronology:* NPRM published 7/31/78. The comment period closed on 8/30/78.	James J. Corrigan, Director, Division of Policy Development, BCHS, Rm. 6-40, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, (301) 443-1034.	Final Rule, fourth quarter, 1979.
PHS-37—Project grants for Family Planning Services.	A. *Description:* Regulations will make changes required by Pub. L. 94-63 and Pub. L. 95-613, adding infertility services, natural family planning and services for adolescents, and local review and approval of educational materials provided to Title X grantees methods. B. *Why Significant:* Regulations will continue local participation in planning programs, assure a variety of family planning services, and assure that economic status not be a deterrent to receiving services. C. *Regulatory Analysis:* Not required. D. *Need:* To implement the provisions of Title X, Public Health Service Act, as amended by Pub. L. 94-63 and Pub. L. 95-613. E. *Legal Basis:* U.S.C. 300-300a-6. F. *Chronology:* NOI published 4/11/77. NPRM published 9/19/78. The comment period closed on November 3, 1978.	James J. Corrigan, Director, Division of Policy Development, BCHS, Rm. 6-40, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, (301) 443-1034.	Final Rule, last quarter, 1979.
PHS-38—Amendments to MCH CC Services Programs.	A. *Description:* This regulation will implement statutory amendments dealing with reasonable costs and will make clarifying administrative changes. B. *Why Significant:* These are technical amendments. C. *Regulatory Analysis:* Not Required. D. *Need:* To improve implementation of Title V, Social Security Act, based on minor statutory changes and experience in administering the program. E. *Legal Basis:* Sections 503 and 504, Social Security Act, as amended. F. *Chronology:* None.	James J. Corrigan, Director, Division of Policy Development, BCHS, Rm. 6-40, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, (301) 443-1034.	NPRM, first quarter, 1980.
PHAS-39—Grants to Plan, Develop and Operate Hospital-Affiliated Primary Care Centers.	A. *Description:* Regulations will implement a demonstration program for providing comprehensive primary health care services to medically underserved communities by community hospitals through reorganized outpatient resources. B. *Why Significant:* Within the limits of a demonstration program, the impact will be on medically underserved populations. C. *Regulatory Analysis:* Not required. D. *Need:* To implement Section 328, Public Health Service Act. E. *Legal Basis:* 42 U.S.C. 254a-1. F. *Chronology:* Notice of Decision to Develop Regulations was published 4/13/79.	James J. Corrigan, Director, Division of Policy Development, BCHS, Rm. 6-40, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, (301) 443-1034.	NPRM, fourth quarter, 1980.

Department of Health, Education, and Welfare Semiannual Regulations Agenda and Review List—Continued

Title	Summary	Contact	Decision quarter
	F. *Chronology:*		
PHS-40—Project Grants for Community Health and Migrant Health.	A. *Description:* Regulations will implement statutory provisions requiring that pharmaceutical services be mandatory, some supplemental services be defined as priority services, and allowing grantees to retain half of earned income. Migrant high impact area is reduced from 6,000 migrants to 4,000. B. *Why Significant:* These regulations have impact on the primary care delivery capacity in medically underserved areas. C. *Regulatory Analysis:* Not required. D. *Need:* To implement Sections 329 and 330 of the Public Health Service Act, as amended by Pub. L. 95-626. E. *Legal Basis:* 42 U.S.C. 247 and 254c. F. *Chronology:* NOI published 4/13/79.	James J. Corrigan; Director, Division of Policy Development, BCHS, Rm. 6-40, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, (301) 443-1034.	NPRM, third quarter 1980.
PHS-41—Demonstration Health and Nutrition Projects.	A. *Description:* These regulations will implement a statute for multicounty health and demonstration projects in economic development regions. B. *Why Significant:* These projects will provide health and nutrition services and contribute to regional economic development. C. *Regulatory Analysis:* Not needed. D. *Need:* To implement Section 516 of the Regional Development Act of 1975. E. *Legal Basis:* Section 516, Regional Development Act of 1975. F. *Chronology:* None.	James J. Corrigan; Director, Division of Policy Development, BCHS, Rm. 6-40, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, (301) 443-1034.	NPRM, fourth quarter 1980.
PHS-42—Project Grants to States for Hypertension Services.	A. *Description:* Regulations will implement statutory amendments changing formula grants to project grants, requiring greater accountability and more effective service programs. B. *Why Significant:* State hypertension programs previously funded under formula grants will now be funded under project grants, requiring greater accountability for Federal funds. C. *Regulatory Analysis:* Not required. D. *Need:* To implement Section 317 of the Public Health Service Act, as amended by Pub. L. 95-626. E. *Legal Basis:* 42 U.S.C. 247b. F. *Chronology:* Notice of Intent published 4/13/79. Announcement requesting grant applications published 6/27/79.	James J. Corrigan; Director, Division of Policy Development, BCHS, Rm. 6-40, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, (301) 443-1034.	NPRM, first quarter 1980.
PHS-43—Program Grants for Black Lung Clinics.	A. *Description:* These regulations will implement a statute providing project grants for diagnostic and treatment services to active and inactive coal miners who have respiratory impairments. B. *Why Significant:* Regulations will facilitate more efficient delivery of services to a population in need, reflecting lessons learned from previous implementation authority, and adopt the recommendations of the 1975 American Lung Association task force. C. *Regulatory Analysis:* Not required. D. *Need:* To implement the provisions of Section 427(a) of the Federal Mine Safety and Health Act of 1977. E. *Legal Basis:* 30 U.S.C. 937(a). F. *Chronology:* Notice of decision to Develop Regulations published 6/13/79.	James J. Corrigan, Director, Division of Policy Development, BCHS, Rm. 6-40, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, (301) 443-1034.	NPRM, second quarter 1980.
PHS-44—Amend Health Services Funding Regulations to Delete Applicability to Bureau of Community Health Services Programs.	A. *Description:* Regs will amend Health Services Funding Regulations (HSFR) to delete applicability to Bureau of Community Health Services (BCHS) programs. B. *Why Significant:* These are technical amendments since pertinent elements of the HSFR are already included in specific grant program regs. C. *Regulatory Analysis:* Not required. D. *Need:* To eliminate duplication in regs and implement Operation Common Sense. E. *Legal Basis:* 41 U.S.C. 247d, 254c, and 300. F. *Chronology:* None.	James J. Corrigan, Director, Division of Policy Development, BCHS, Rm. 6-40, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, (301) 443-1034.	Final Rule, fourth quarter 1980.
PHS-45—Grants for Community Mental Health Centers; requirements for grants, application for grants, and State plans.	A. *Description:* This rule established requirements for grants and applications for grants under the Community Mental Health Centers Act (other than Part D relating to Rape Prevention and Control). Also included are requirements for the development, submission, and approval of State Plans. B. *Why Significant:* The regulations provide a regulatory basis for the administration of the Community Mental Health Centers program including steps an applicant must take and requirements an applicant must meet when filing an application and operating a program. In addition, the regulations provide for the preparation and filing of State plans for comprehensive mental health services and the review and approval of these plans by the Secretary, a step which must be successfully completed by each State before awards may be made to any applicant in that State. C. *Regulatory Analysis:* Not required. D. *Need:* These regulations are required to implement the Community Mental Health Centers Act (except Part D), as amended. Section 236 of the Community Mental Health Centers Act establishes standards for regulations issued by the Secretary for implementing the Community Mental Health Centers program. E. *Legal Basis:* Community Mental Health Centers Act, except Part D, (42 U.S.C. 2689-2689p, 2689r-2689aa) as amended by Title III of Pub. L. 94-63 (89 Stat. 308-327, 329-333), section 308 of Pub. L. 95-83 (91 Stat. 395-396), Title I of Pub. L. 95-622 (92 Stat. 3412-3420), and section 8 of Pub. L. 96-32 (93 Stat. 85). F. *Chronology:* The "Interim Rule" was published June 30, 1976 (41 FR 26906) with a 60-day comment period. The "Proposed Implementation" was published November 2, 1976 (41 FR 48282) with a 45-day comment period.	Lindsley Williams, Acting Director, Office of Program Development and Analysis, National Institute of Mental Health, Parklawn Bldg., Room 17C-17, Rockville, Maryland 20857, (301) 443-3175.	Final Rule, October-December 1979.

Department of Health, Education, and Welfare Semiannual Regulations Agenda and Review List—Continued

Title	Summary	Contact	Decision quarter
PHS-46—Grants for Drug Abuse Prevention, Treatment, and Rehabilitation; requirements for State participation in formula grants.	A. *Description:* These regulations establish requirements for receiving and administering formula grants to assist States in designing, establishing, conducting, coordinating, and evaluating projects for the development of more effective training, treatment, rehabilitation, and research projects to deal with drug abuse and drug dependence. B. *Why Significant:* To receive an allotment, a State must submit to and have approved by the Secretary a State plan or modification of a State plan which meets the requirements specified in the statute and these regulations. (Formula grants are currently being awarded under National Institute on Drug Abuse guidelines developed in 1973 and updated annually.) C. *Regulatory Analysis:* Not required. D. *Need:* These regulations are required to implement section 409 of the Drug Abuse Office and Treatment Act of 1972, as amended. The regulations required by section 409(c)(1)(B)(ii) were published as a Final Rule on June 24, 1976 (41 FR 26012). E. *Legal Basis:* Section 409 of Pub. L. 92-255, the Drug Abuse Office and Treatment Act of 1972, as amended by Pub. L. 94-237 (90 Stat. 245-247), Pub. L. 94-371 (90 Stat. 1040), Pub. L. 95-83 (91 Stat. 397), and Pub. L. 95-461 (92 Stat. 1268-1269) (21 U.S.C. 1176). F. *Chronology:* Notice of Proposed Rulemaking was published August 28, 1973 (38 FR 22968) with a 30-day comment period. A second Notice of Proposed Rulemaking was published January 14, 1977 (42 FR 2966) with a 45-day comment period.	Nancy Soulen, Legal Assistant, Office of Director, National Institute on Drug Abuse, Room 10-14, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-6482.	Final Rule, January-March 1980.
PHS-47—Special Grants for Implementation of the Uniform Alcoholism and Intoxication Treatment Act; requirements for grants and application for grants.	A. *Description:* These regulations would implement a program of grant assistance to States which adopt the basic provisions of the Uniform Alcoholism and Intoxication Treatment Act. This Act, recommended for enactment in all States by the National Conference of Commissioners on Uniform State Laws, requires that alcoholism be viewed as an illness to be treated by community health and social service agencies and that public intoxication be approached as a public health problem rather than a crime. B. *Why Significant:* The Uniform Act provides States a structure for developing and implementing a comprehensive coordinated system of care for alcoholics and intoxicated persons. The grant program implemented by these regulations is intended to assist States in meeting the costs of such a system. C. *Regulatory Analysis:* Not required. D. *Need:* These regulations are required by section 310(b) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, as amended. E. *Legal Basis:* Section 304 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, as amended by section 107 of Pub. L. 93-282 (88 Stat. 128) and amended and redesignated as section 310 by section 4 of Pub. L. 94-371 (90 Stat. 1035) (42 U.S.C. 4576). F. *Chronology:* Notice of Proposed Rulemaking was published October 18, 1978 (42 FR 47983). A 60-day comment period was provided.	Susan Farrell, Legislative Assistant, National Institute on Alcohol Abuse and Alcoholism, 5600 Fishers Lane, Rockville, Maryland, (301) 443-6370.	Final Rule, October-December, 1979.
PHS-48—Confidentiality of Alcohol and Drug Abuse Patient Records; minimum requirements for protecting.	A. *Description:* These regulations apply to the records of the identity, diagnosis, prognosis, or treatment of alcohol and drug abuse patients. They require that records be kept confidential and be disclosed only (1) with the written consent of the patient, (2) pursuant to an authorizing court order based upon a finding of good cause, or (3) without either a written consent or an authorizing court order in the following limited circumstances: for a medical emergency, for the conduct of scientific research, an audit, or program evaluation. B. *Why significant:* This rule applies to alcohol and drug abuse patient records maintained in connection with any alcohol abuse or drug abuse program conducted, regulated, or directly or indirectly assisted by any department or agency of the United States. It implements statutory requirements which encourage alcohol and drug abusers to seek treatment by removing the fear that attempts to enroll in treatment programs would lead to disclosure to employers and other members of the public or lead to police harassment and/or arrest. C. *Regulatory Analysis.* Not required. D. *Need:* These regulations are required by section 333(g) of the Comprehensive Alcohol Abuse and alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, as amended, and by section 408(g) of the Drug Abuse Office and Treatment Act of 1972, as amended. Rewrite of these regulations will fulfill the Department's commitment to make regulations clearer and more concise and will take into consideration the Departments experience with the regulation over the past four years. E. *Legal Basis:* Section 408 of Pub. L. 92-255, the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1175) as amended by section 303 of Pub. L. 93-282 (88 Stat. 137); and section 333 of Pub. L. 91-616, the Comprehensive Alcohol Abuse and alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, (42 U.S.C. 4582), as amended by section 122(a) of Pub. L. 93-282 (88 Stat. 131). F. *Chronology:* Final Rule, published July 1, 1975 (40 FR 27802), has been reviewed under Operation Common Sense and a decision made to recodify.	Judith T. Galloway, Legal Assistant, Alcohol, Drug Abuse, and Mental Health Administration, Room 13C-06, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443-3200.	Notice of Decision to Develop Regulations, October-December 1979.
PHS-49—Designation of Health Manpower Shortage Areas.	A. *Description:* To establish criteria for the designation of geographic areas, population groups, medical facilities, and other public facilities, in the States, as health manpower shortage areas. B. *Why significant:* Identifies health manpower shortage areas. C. *Regulatory Analysis.* Not required. D. *Need:* Required by statute to implement the Public Health Service Act. E. *Legal Authority:* 43 FR 1586. F. *Chronology:* Interim-final was published January 10, 1978 (43 FR 1586). Comment period closed Feb. 24, 1978.	Richard Lee, Bureau of Health Manpower, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6764.	Final Rule April-June 1980.
PHS-50—Criteria for Payment of Tuition and Other Educational Costs.	A. *Description:* To establish criteria to be used in determining allowable increases in tuition and other educational costs for which the Secretary is responsible under the national Health Service Corps Scholarship Program, and scholarships for first-year students of exceptional financial need. B. *Why significant:* Promotes the adequate supply and equitable distribution of health manpower throughout the United States.	Donald C. Parks, Bureau of Health Manpower, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6560.	Final Rule April-June 1980.

Department of Health, Education, and Welfare Semiannual Regulations Agenda and Review List—Continued

Title	Summary	Contact	Decision quarter
	C. *Regulatory Analysis.* Not required. D. *Need:* Required by statute to implement the Public Health Service Act. E. *Legal Authority:* 43 FR 55261. F. *Chronology:* NPRM published November 27, 1978 (43 FR 55261). The comment period closed Jan. 26, 1979.		
PHS-51—Traineeships for Students in Schools of Public Health and Other Graduate Public Health Programs.	A. *Description:* To govern grants to schools of public health or nonprofit private educational entities to support traineeships for students in the graduate education programs of these entities in public health. B. *Why Significant:* Promotes the adequate supply and equitable distribution of health manpower throughout the United States. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Public Health Service Act. E. *Legal Authority:* 43 FR 40862. F. *Chronology:* Interim-final was published September 13, 1978 (43 FR 40862). The comment period closed November 13, 1978.	Thomas D. Hatch, Bureau of Health Manpower, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6838.	Final Rule January-March 1980.
PHS-52—Traineeship Grants for Health Administration, Hospital Administration or Health Policy Analysis and Planning at Public or Nonprofit Private Educational Institutions other than Schools of Public Health.	A. *Description:* To govern grants to Public or nonprofit private educational entities (excluding schools of public health) to support traineeships in graduate educational programs of such entities in health administration, hospital administration, or health policy analysis and planning. B. *Why Significant:* Promotes the adequate supply and equitable distribution of health manpower throughout the United States. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Public Health Service Act. E. *Legal Authority:* 43 FR 39384. F. *Chronology:* Interim-final was published September 5, 1978 (43 FR 39384). The comment period closed November 6, 1978.	Thomas D. Hatch, Bureau of Health Manpower, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6838.	Final Rule July-September 1980.
PHS-53—National Health Services Corps Scholarships.	A. *Description:* The regs are applicable to the award of scholarships under the National Health Service Corps Scholarships program to students receiving academic training in medicine, osteopathy, dentistry, and other health professions in order to assure an adequate supply of trained health professionals to improve the delivery of health services in health manpower shortage areas. B. *Why Significant:* Promotes the adequate supply and equitable distribution of health manpower throughout the United States. C. *Regulatory Analysis:* Not required. D. *Need:* The Department has decided that regs. are needed to implement the Public Health Service Act. E. *Legal Authority:* 43 FR 43713. F. *Chronology:* Interim-final was published September 27, 1978 (43 FR 43713). The comment period closed November 27, 1978.	Alice Swift, Bureau of Health Manpower, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6788.	Final Rule January-March 1980.
PHS-54—Scholarships for First-Year Students of Exceptional Financial Need.	A. *Description:* To govern grants to health professions schools to provide scholarships for full-time first-year students of exceptional need. B. *Why Significant:* Promotes the adequate supply and equitable distribution of health manpower throughout the United States. C. *Regulatory Analysis:* Not required. D. *Need:* The Department has decided that regs. are needed to implement the Public Health Service Act. E. *Legal Authority:* 43 FR 37199. F. *Chronology:* Interim-final was published August 22, 1978 (43 FR 37199). The comment period closed October 22, 1978.	Alice Swift, Bureau of Health Manpower, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6788.	Final Rule January-March 1980.
PHS-55—Health Professions Capitation Grants.	A. *Description:* To govern grants to schools of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, and podiatry for the support of the education programs of those schools. B. *Why Significant:* Promotes the adequate supply and equitable distribution of health manpower throughout the United States. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Public Health Service Act. E. *Legal Authority:* 44 FR 24889. F *Chronology:* NPRM was published April 27, 1979 (44 FR 24889). The comment period closed June 26, 1979.	John Westcott, Bureau of Health Manpower, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6564.	Final Rule July-September 1980.
PHS-56—Project Grants for Establishment of Departments of Family Medicine.	A. *Description:* To govern grants to schools of medicine and osteopathy to meet the projects to establish and maintain academic administrative units to provide clinical instruction in family medicine. B. *Why Significant:* Promotes the adequate supply and equitable distribution of health manpower throughout the United States. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Public Health Service Act. E. *Legal Authority:* 42 U.S.C. 295g	Kenneth Moritsugu, Bureau of Health Manpower, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6418.	NPRM January-March 1980.
PHS-57—Area Health Education Centers.....	A. *Description:* To govern programs to improve the distribution, supply, quality, utilization, and efficiency of health personnel in the health services delivery system and to encourage the regionalization of educational responsibilities of health professions schools. B. *Why Significant:* Promotes the adequate supply and equitable distribution of health manpower throughout the United States. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Public Health Service Act. E. *Legal Authority:* 43 FR 55242. F. *Chronology:* Interim-final published November 27, 1978 (43 FR 55242). The comment period closed Jan. 26, 1979.	Kenneth Moritsugu, Bureau of Health Manpower, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6418.	Final Rule April-June 1980.
PHS-58—Grants for Residency, Training in General Internal Medicine or General Pediatrics.	A. *Description:* To govern grants for residency programs in general internal medicine or general pediatrics. B. *Why Significant:* Promotes the adequate supply and equitable distribution of health manpower throughout the United States. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Public Health Service Act. E. *Legal Authority:* 42 FR 59500. F. *Chronology:* Interim-final was published November 18, 1977 (42 FR 59500). The comment period closed January 17, 1978.	Kenneth Moritsugu, Bureau of Health Manpower, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6418.	Final Rule April-June 1980.

Department of Health, Education, and Welfare Semiannual Regulations Agenda and Review List—Continued

Title	Summary	Contact	Decision quarter
PHS-59—Grants for Training in Family Medicine.	A. *Description:* The regs are for grants to assure the institutionalization of family medicine within the schools of medicine and osteopathy, to encourage students, through the context of educational programs and through the contact with role model family physician to pursue careers in family medicine. B. *Why Significant:* Promotes the adequate supply and equitable distribution of health manpower throughout the United States. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Public Health Service Act. E. *Legal Authority:* 43 FR 47694. F. *Chronology:* Interim-final was published October 16, 1978 (43 FR 47694). The comment period closed December 15, 1978.	Kenneth Moritsugu, Bureau of Health Manpower, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6418.	Final Rule January-March 1980.
PHS-60—Educational Assistance to Individuals from Disadvantaged Backgrounds.	A. *Description:* To govern grants to provide educational assistance to individuals from disadvantaged backgrounds to undertake training and education to enter the health professions or allied health professions. B. *Why Significant:* Promotes the adequate supply and equitable distribution of health manpower throughout the United States. C. *Regulatory Analysis:* Not required. D. *Need.* Required by statute to implement the Public Health Service Act. E. *Legal Authority:* 43 FR 39380. F. *Chronology:* Interim-final was published September 5, 1978 (43 FR 39380). The comment period closed November 6, 1978.	Kinzo Yamamoto, Office of Health Resources Opportunity, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-7230.	Final Rule January-March 1980.
PHS-61—Grants to Schools of Medicine, Dentistry, Public Health, Osteopathy, Optometry, Podiatry, Pharmacy, and Veterinary Medicine for Start-up Assistance.	A. *Description:* To govern grants to provide start-up assistance for initiating new schools of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, and podiatry. B. *Why significant:* Promotes the adequate supply and equitable distribution of health manpower throughout the United States. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Public Health Service Act. E. *Legal Authority:* 42 USC 295g-8.	John Westcott, Bureau of Health Manpower, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6574.	NPRM April-June 1980.
PHS-62—Health Professions, Financial Distress Grants.	A. *Description:* To implement the awarding of grants to assist schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy and public health in meeting their costs of operation, if they are in serious financial distress, or in meeting accreditation requirements, if they have a special need for assistance in meeting those requirements, and to carry out appropriate operational, managerial, and financial reforms. B. *Why Significant:* Promotes the adequate supply and equitable distribution of health manpower throughout the United States. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Public Health Service Act. E. *Legal Authority:* 44 FR 17159. F. *Chronology:* Interim-final published March 21, 1979 (44 FR 17156). The comment period closed May 21, 1979.	James Secrest, Bureau of Health Manpower, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6558.	Final Rule January-March 1980.
PHS-63—Interdisciplinary Team Training and Curriculum Development for Health Manpower Training.	A. *Description:* To establish requirements for grants for interdisciplinary team training among schools in various health disciplines and for curriculum development in various areas related to health manpower. B. *Why Significant:* Promotes the adequate supply and equitable distribution of health manpower throughout the United States. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Public Health Service Act. E. *Legal Authority:* 42 USC 295g-7.	James Hoeven, Bureau of Health Manpower, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6838.	NPRM July-September 1980.
PHS-64—Grants for Training in Emergency Medical Services.	A. *Description:* To set forth requirements for grants for training programs in emergency medical services. B. *Why significant:* Promotes the adequate supply and equitable distribution of health manpower throughout the United States. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Public Health Service Act. E. *Legal Authority:* 42 FR 46523. F. *Chronology:* Interim-final was published September 16, 1977 (42 FR 46523). The comment period closed November 15, 1977.	Kenneth Moritsugu, Bureau of Health Manpower, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6418.	Final-pending authorizing legislation.
PHS-65—Grants for Graduate Programs in Health Administration.	A. *Description:* To implement the Secretary's authority to make grants to public or nonprofit private educational entities (excluding schools of public health) to support the health administration, hospital administration, and health planning graduate educational programs of such entities. B. *Why Significant:* Promotes the adequate supply and equitable distribution of health manpower throughout the United States. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Public Health Service Act. E. *Legal Authority:* 43 FR 26443. F. *Chronology:* Interim-final was published June 20, 1978 (43 FR 26443). The comment period closed August 21, 1978.	Thomas D. Hatch, Bureau of Health Manpower, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6838.	Final rule July-September 1980.
PHS-66—Special Project Grants for Graduate Programs in Public Health.	A. *Description:* To implement the Secretary's authority to make grants to schools of public health and other public or nonprofit educational entities for projects to develop new graduate programs or to expand existing programs in biostatistics, epidemiology, health administration, health planning, health policy analysis and planning, environmental or occupational health and dietetics and nutrition. B. *Why Significant:* Promotes the adequate supply and equitable distribution of health manpower throughout the United States. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Public Health Service Act. E. *Legal Authority:* 43 FR 27837. F. *Chronology:* Interim-final published June 27, 1978 (43 FR 27837). Comment period closed August 28; 1978.	Thomas D. Hatch, Bureau of Health Manpower, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6838.	Final Rule April-June 1980.
PHS-67—Grants for Allied Health Projects.	A. *Description:* To implement the Secretary's authority to make grants to a) establish regional or State systems to assure that allied health and nursing personnel needs in the area are met by coordinating and managing allied health and nursing education and training among educational institutions; b) establish or improve recruitment, training and retraining programs for allied health personnel; and c) establish career ladders and advancement programs for practicing allied health personnel.	Thomas D. Hatch, Bureau of Health Manpower, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6838.	Final Rules April-June 1980.

Department of Health, Education, and Welfare Semiannual Regulations Agenda and Review List—Continued

Title	Summary	Contact	Decision quarter
	B. *Why Significant:* Promotes the adequate supply and equitable distribution of health manpower throughout the United States. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Public Health Service Act. E. *Legal Authority:* 43 FR 59530. F. *Chronology:* NPRM was published Dec. 21, 1978 (43 FR 59530). The comment period closed Feb. 20, 1979.		
PHS-68—Grants for Traineeships for Advanced Training of Allied Health Personnel.	A. *Description:* To set forth requirements for grants to public or private nonprofit institutions to meet the costs of traineeships for the advanced training of allied health personnel to a) teach in allied health training programs, or b) serve in administrative or supervisory capacities. B. *Why Significant:* Promotes the adequate supply and equitable distribution of health manpower throughout the United States. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Public Health Service Act. E. *Legal Authority:* 43 FR 29783. F. *Chronology:* Interim-final was published July 11, 1978 (43 FR 29783). The comment period closed Sept. 11, 1978.	Thomas D. Hatch, Bureau of Health Manpower, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6838.	Final Rule July-September 1980.
PHS-69—Grants for Nurse Practitioner Traineeship Programs.	A. *Description:* To set forth requirements for grants to schools of nursing, medicine, and public health, public or nonprofit private hospitals, and other nonprofit entities to meet the costs of traineeships for the training of nurses who reside in health manpower shortage areas having shortages of primary medical care manpower. B. *Why Significant:* Promotes the adequate supply and equitable distribution of health manpower throughout the United States. C. *Regulatory Analysis:* Not required. D. *Need:* The Department has decided that regs are needed to implement the Public Health Service Act. E. *Legal Authority:* 2 USC 296M.	Dr. Mary Hill, Bureau of Health Manpower, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6681.	NPRM January-March 1980.
PHS-70—Grants for Traineeships for the Advanced Training of Professional Nurses.	A. *Description:* To govern grants to public and nonprofit institutions to cover the costs of traineeships for the advanced training of professional nurses. B. *Why Significant:* Promotes the adequate supply and equitable distribution of health manpower throughout the United States. C. *Regulatory Analysis:* Not required. D. *Need:* The Department has decided that regs are needed to implement the Public Health Service Act. E. *Legal Authority:* 42 USC 297.	Dr. Mary Hill, Bureau of Health Manpower, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6681.	NPRM July-September 1980.
PHS-71—Grants for Traineeships for Training Nurse Anesthetists.	A. *Description:* To govern grants to public or private nonprofit institutions to cover the costs of traineeships for the training of licensed, registered nurses to be nurse anesthetists. B. *Why Significant:* Promotes the adequate supply and equitable distribution of health manpower throughout the United States. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Nurse Training Amendments of 1979. E. *Legal Authority:* 42 USC 297-1.	Dr. Mary Hill, Bureau of Health Manpower, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6681.	NPRM July-September 1980.
PHS-72—National Guidelines for Health Planning.	A. *Description:* The guidelines consist of National Health Planning goals with respect to health status, health promotion, and disease prevention, and access to services. B. *Why Significant:* Sets goals for health planning. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Health Planning and Resources Development Act. E. *Legal Authority:* 42 USC 300k-1. F. *Chronology:* Notice of availability of Draft Regulations October 19, 1979 (44 FR 60342).	James Stockdill, Office of Planning, Evaluation, and Legislation, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-7270.	NPRM January-March 1980.
PHS-73—Health Systems Agency Review of Certain Proposed Uses of Federal Health Funds.	A. *Description:* Amends regulations establishing requirements governing the review and approval or disapproval by Health Systems Agencies of certain proposed uses of Federal funds. B. *Why significant:* Implements one aspect of the Federal health planning program to promote access to health care services and control health care costs through State and local review of health services and expenditures. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Health Planning and Resources Development Amendments of 1979. E. *Legal Authority:* The Health Planning and Resources Development Amendments of 1979. F. *Chronology:* NPRM was published May 9, 1978 (43 FR 19988) Final published August 10, 1979 (44 FR 47064).	Colin C. Rorrie, Jr., Ph. D., Director, Bureau of Health Planning, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6850.	NPRM April-June 1980.
PHS-74—Health Systems Agency Reviews of Certain Proposed Uses of Federal Funds; Proposed Uses for Research and Training.	A. *Description:* Establishes requirements governing the review and approval or disapproval by health systems agencies of certain proposed uses of Federal health funds through research and training grants and contracts. B. *Why significant:* Implements one aspect of the Federal health planning program to promote access to health care services and control health care costs through State and local review of health services and expenditures C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Health Planning and Resources Development Act of 1976. E. *Legal Authority:* 42 USC 300 1-2.	Colin C. Rorrie, Jr., Ph. D., Director, Bureau of Health Planning, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6850.	NPRM January-March 1980.
PHS-75—Health Systems Agency and State Agency Reviews of the Appropriateness of Existing Institutional Health Services.	A. *Description:* Establishes minimum procedures and criteria for health systems agencies to review the appropriateness of all existing institutional health service in their areas. B. *Why Significant:* Implements one aspect of the Federal health planning program to promote access to health care services and control health care costs through State and local review of health services and expenditures. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Health Planning and Resources Development Act of 1976 and Amendments of 1979. E. *Legal Authority:* 43 FR 21274 and the Health Planning and Resources Development Amendments of 1979.	Colin C. Rorrie, Jr., Ph. D., Director, Bureau of Health Planning, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6850.	Final Rule October-December 1979. NPRM (Amendments) April-June 1980.

Department of Health, Education, and Welfare Semiannual Regulations Agenda and Review List—Continued

Title	Summary	Contact	Decision quarter
	F. *Chronology:* NPRM published May 16, 1978 (43 FR 21274) The comment period closed June 30, 1978.		
PHS-76—Designation of Health Systems Agencies.	A. *Description:* Amends regulations establishing criteria for the designation of health systems agencies. B. *Why Significant:* Implements one aspect of the Federal health planning program to promote access to health care services and control health care costs through State and local review of health services and expenditures. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Health Planning and Resources Development Amendments of 1979. E. *Legal Authority:* The Health Planning and Resources Development Amendments of 1979. F. *Chronology:* NPRM was published October 17, 1975 (43 FR 48802). The comment period closed November 17, 1975. The final was published March 26, 1976 (41 FR 12812).	Colin C. Rorrie, Jr., Ph. D., Director, Bureau of Health Planning, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6850.	NPRM July-September 1980.
PHS-77—Designation of States Health Planning and Development Agencies.	A. *Description:* Amends regulations establishing criteria for the designation of State Health Planning and Development Agencies. B. *Why Significant:* Implements one aspect of the Federal health planning program to promote access to health care services and control health care costs through State and local review of health services and expenditures. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Health Planning and Resources Development Amendments of 1979. E. *Legal Authority:* The Health Planning and Resources Development Amendments of 1979. F. *Chronology:* NPRM was published March 19, 1976 (41 FR 11688). Comment period closed May 3, 1976. Interim-final published June 3, 1976 (41 FR 22524). Final was published March 10, 1978 (43 FR 10100).	Colin C. Rorrie, Jr., Ph. D., Director, Bureau of Health Planning, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6850.	NPRM April-June 1980.
PHS-78—Certificate of Need and Review of New Institutional Health Services.	A. *Description:* Amends regulations establishing criteria for certificate and need of new institutional health services. B. *Why Significant:* Implements one aspect of the Federal health planning program to promote access to health care services and control health care costs through State and local review of health services and expenditures. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Health Planning and Resources Development Amendments of 1979. E. *Legal Authority:* The Health Planning and Resources Development Amendments of 1979. F. *Chronology:* NPRM was published March 19, 1976 (41 FR 11688). Comment period closed May 3, 1976. Final published January 1, 1977 (42 FR 4002).	Colin C. Rorrie, Jr., Ph. D., Director, Bureau of Health Planning, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6850.	NPRM January-March 1980.
PHS-79—Inclusion of Computed Tomographic Scanning Services under Certificate of Need.	A. *Description:* Amends regulations which establish requirements for State certificate of need programs by requiring review under certain circumstances of diagnostic services provided by fixed or mobile computed tomographic scanning equipment. B. *Why significant:* Implements one aspect of the Federal health planning program to promote access to health care services and control health care costs through State and local review of health services and expenditures. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Health Planning and Resources Development Act of 1976. E. *Legal Authority:* 44 FR 24429. F. *Chronology:* Interim-final was published April 25, 1979 (44 FR 24429). Comment period closed June 25, 1979.	Colin C. Rorrie, Jr., Ph. D., Director, Bureau of Health Planning HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6850.	Final Rule January-March 1980.
PHS-80—Inclusion of Computed Tomographic Scanning Services under Capital Expenditure Review.	A. *Description:* Amends regulations for the capital expenditure review program by establishing rules regarding reviews of proposed capital expenditures for computed tomographic scanner services. B. *Why Significant:* Implements one aspect of the Federal health planning program to promote access to health care services and control health care costs through State and local review of health services and expenditures. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Health Planning and Resources Development Act of 1976. E. *Legal Authority:* 44 FR 24428. F. *Chronology:* Interim-final regulations were published April 25, 1979. The comment period closed June 25, 1979.	Colin C. Rorrie, Jr., Ph. D., Director, Bureau of Health Planning HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6850.	Final Rule to be incorporated into limitation on Federal participation for Capital Expenditures.
PHS-81—Limitation on Federal Participation for Capital Expenditures.	A. *Description:* Amends regulations for the capital expenditure review program to take into account certain requirements respecting 1122 reviews imposed by Title XV of the Public Health Service Act. B. *Why Significant:* Implements one aspect of the Federal health planning program to promote access to health care services and control health care costs through State and local review of health services and expenditures. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Health Planning and Resources Development Act of 1976. E. *Legal Authority:* 41 FR 11688. F. *Chronology:* NPRM published March 19, 1976 (41 FR 11688). The comment period closed May 3, 1976.	Colin C. Rorrie, Jr., Ph. D., Director, Bureau of Health Planning HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6850.	Final Rule January-March 1980.
PHS-82—Discontinuance of Unneeded Hospital Services.	A. *Description:* To govern grants and technical assistance to hospitals for the discontinuance of unneeded hospital services and for the conversion of unneeded hospital services to other health services needed by the community. B. *Why Significant:* Reduces unneeded hospital services and converts them to services needed by the community. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Health Planning and Resources Development Amendments of 1979. E. *Legal Authority:* Health Planning and Resources Development Amendments of 1979.	Leonard F. Krystynak, Ph. D., Bureau of Health Facilities Financing, Compliance, and Conversion, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-7704.	NPRM September-December 1979.

Health Care Financing Administration—Significant Regulations

Title	Summary	Contact	Decision quarter
HCFA-1—Medicare-Medicaid Program: Professional Standards Review Organizations (PSROs), Sanctions on Providers and practitioners—Procedures for Invoking Sanctions.	A. *Description:* This regulation specifies criteria for invoking sanctions against a health care practitioner or provider who claims payment for services which are medically unnecessary or inappropriate, do not meet professionally recognized standards, or are not adequately documented as to medical necessity or quality. B. *Why Significant:* This regulation will establish procedures under which the Department will invoke sanctions. The purpose of this sanction process is to discipline providers and practitioners, and protect the public. In addition, there is strong public interest in completing regulation for PSROs. C. *Regulatory Analysis:* Not required. D. *Need:* To implement the 1972 amendments to the Social Security Act. E. *Legal Basis:* Sec. 1160(b) Social Security Act (42 U.S.C. 1320c-9); Sec. 249F of Pub. L. 92-603. F. *Chronology:* NPRM was published on October 13, 1978 (43 FR 47474). The comment period closed on December 12, 1978.	Tony Tirone, Deputy Director, DLTC, HSQB, Dogwood East Bldg., Second Floor, 1849 Gwynn Oak Ave., Baltimore, Md 21207, 301-594-3642.	Final Rule October-December 1979.
HCFA-2—Medicare-Medicaid Programs: Waiver of Liability—Procedures Waiving Liability.	A. *Description:* This regulation would propose criteria for determining when a patient or provider would not be held liable for knowing that the services were medically unnecessary or otherwise inappropriate, before the services have been disapproved by PSROs for Medicare and Medicaid payments. B. *Why Significant:* The regulation would reduce waste by eliminating Federal payments for unnecessary care. In addition, there is strong public interest in completing regulations for PSROs. C. *Regulatory Analysis:* Not required. D. *Need:* To implement the 1972 and 1977 amendments to the Social Security Act. E. *Legal Basis:* Secs. 1158(a) and 1158(d) of the Social Security Act; Pub. L. 92-603; Sec. 22 of Pub. L. 95-142. F. *Chronology:* The proposal is currently under review. When the review is completed it will be submitted to the Department for approval.	Alan Reider, Acting Director, IRB, DPR, HSQB, 1st Flr., Dogwood East Bldg., 1849 Gwynn Oak Ave., Baltimore, Md 21207, 301-594-3980.	Proposed Rule January-March 1980.
HCFA-3—Medicare/Medicaid Program: Professional Standards Review Organizations (PSROs) Reconsideration and Appeals—Procedures for Reconsiderations.	A. *Description:* This regulation contains procedures for the reconsideration of the medical necessity determinations of PSROs and the review of such reconsiderations by Statewide Professional Standards Review Councils. B. *Why Significant:* This regulation would clarify the process for appealing PSRO determinations. In addition, there is strong public interest in completing regulations for PSROs. C. *Regulatory Analysis:* Not required. D. *Need:* To implement 1972 amendments to the Social Security Act. E. *Legal Basis:* Sec. 1159(a) of the Social Security Act (42 U.S.C. 1320c-8); Sec. 249F of Pub. L. 92-603. F. *Chronology:* NPRM was published on March 5, 1979 (44 FR 12067). The comment period closed on May 4, 1979.	Alan Reider, Acting Director, IRB, DPR, HSQB, 1st Flr., Dogwood East Bldg., 1849 Gwynn Oak Ave., Baltimore, MD 21207 301-594-3980.	Final Rule January-March 1980.
HCFA-4—Medicare/Medicaid Program: Hospital Utilization Review—Revised Requirements and Procedures for Utilization Review.	A. *Description:* The regulations would revise requirements and procedures for utilization review in health care institutions participating in Medicare and Medicaid programs. These regulations would provide for review of the medical necessity of admissions and continued stays, the appropriateness and quality of patient care, and the effectiveness of utilization of facility and health professional services. B. *Why Significant:* This regulation would assure quality care by establishing requirements for conducting concurrent and retrospective review of the health care provided to Medicare beneficiaries and Medicaid recipients. C. *Regulatory Analysis:* Not required. D. *Need:* To implement the 1976 amendments to the Social Security Act regarding utilization review requirements in hospitals not covered by PSROs. E. *Legal Basis.* Sec. 1903(g)(1)(C) of the Social Security Act; Sec. 110 of Pub. L. 94-182. F. *Chronology:* The proposal is currently under review. When the review is completed it will be forwarded to the Department for approval.	Alan Reider, Acting Director, IRB, DPR, HSQB, 1st Flr., Dogwood East Bldg., 1849 Gwynn Oak Ave., Baltimore, MD 21207 301-594-3980.	Proposed Rule October-December 1979.
HCFA-5—Medicare-Medicaid Program: Validation of Accreditation Surveys of Hospitals—Requirements for Review of Health Care.	A. *Description:* The regulation authorizes surveys to validate whether Medicare hospitals that have been accredited by the Joint Commission on Accreditation of Hospitals (JCAH) or the American Osteopathic Association (AOA) are meeting the specific Medicare statutory and regulatory conditions for participation. B. *Why Significant:* This regulation will provide for consultation with JCAH and AOA before the Secretary could promulgate standards that are higher or more precise than those used by JCAH or AOA. C. *Regulatory Analysis:* Not required. D. *Need:* The Department will set new policy that requires modified regulation. The intent is to expand and clarify the regulatory provisions concerning the effect of JCAH and AOA hospital accreditation. E. *Legal Basis:* Secs. 1102, 1861(b), 1864, 1865, and 1871 of the Social Security Act (42 U.S.C. 1302, 1396(e), 1895aa, 1395bb, 1395hh, and 1395rr). F. *Chronology:* NPRM was published on April 27, 1979 (44 FR 25186). The comment period closed on June 26, 1979.	Romes Calhoun, Standards and Certification Analyst, HSQB, Dogwood East Bldg., 1849 Gwynn Oak Ave., Baltimore, MD 21207, 301-594-9714.	Final Rule January-March 1980.
HCFA-6—Medicare/Medicaid Program: Conditions of Participation for Hospitals—Revised Conditions for Participation.	A. *Description:* This regulation would revise conditions of participation for hospitals in Medicare and Medicaid. It would simplify the language and update the requirements to reflect changes in legislation and advances in technology. B. *Why Significant:* This regulation would simplify the regulatory requirements hospitals must meet to be certified for participation in Medicare and Medicaid. The amendments are intended to hold down costs while maintaining an acceptable level of patient care. C. *Regulatory Analysis:* Not required. D. *Need:* To add greater requirements for accountability while allowing flexibility for hospitals in performing administrative and managerial functions; and to implement the 1975 amendments to the Social Security Act. E. *Legal Basis:* Secs. 1102, 1861(e), 1861(f), 1861(g), 1864, and 1891 of the Social Security Act (42 U.S.C. 1302, 1395 et seq.); Sec. 102 of Pub. L. 94-182. F. *Chronology:* General Notice published on November 2, 1977 (42 FR 57351).	Marc Thomas, Standards and Certification Analyst, HSQB, 2nd Floor, Dogwood East Bldg., 1849 Gwynn Oak Ave., Baltimore, MD, 21207 301-594-9714.	Proposed Rule October-December 1979.

Health Care Financing Administration—Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
HCFA-7—Medicare/Medicaid Program: Funding of Professional Standards Review Organizations (PSRO) Hospital Review—Method for Reimbursing Cost of Hospital Review.	A. *Description:* This regulation sets forth a new method for reimbursing the cost of hospital reviews by PSROs. It applies to review of hospital care provided to patients eligible under the Medicare, Medicaid, and Maternal and Child Health and Crippled Children's Programs. B. *Why Significant:* This regulation will set budget limitations on the amount that can be spent for PSRO hospital review by providing for an annual areawide budget ceiling for each PSRO. C. *Regulatory Analysis:* Not required. D. *Need:* To implement the 1975 amendments of the Social Security Act. E. *Legal Basis:* Secs. 1168, 1815(b), and 1861(w) of the Social Security Act; Sec. 112 of Pub. L. 94-182. F. *Chronology:* NPRM was published on May 7, 1979 (44 FR 26769). The comment period closed on July 6, 1979.	Doug Maring, Branch Chief, PMB, Div. of PSRO Program Oper., HSOB, Dogwood East Bldg., 1849 Gwynn Oak Ave., Baltimore, MD 21207, 301-597-2820.	Final Rule January-March 1980.
HCFA-8—Medicare/Medicaid Program: Confidentiality and Disclosure of Information of Professional Standards Review Organizations (PSROs)—Criteria Governing Confidentiality and Disclosure of Information.	A. *Description:* These regulations set forth criteria governing the acquisition, protection, and disclosure of information obtained or generated by PSROs. B. *Why Significant:* These regulations place limits on the disclosure of PSRO information and establish penalties for unauthorized disclosure. These regulations are intended to assure that PSROs have access to necessary information, that confidential information is adequately safeguarded and that the information may be used as effectively as possible. C. *Regulatory Analysis:* Not required. D. *Need:* To implement the 1977 amendments to the Social Security Act. E. *Legal Basis:* Secs. 1166(a) of the Social Security Act; Sec. 5(h) of Pub. L. 95-142. F. *Chronology:* Interim regulation was published on January 16, 1978 (43 FR 2282). NPRM was published on January 15, 1979 (44 FR 3058). The comment period closed on March 16, 1979.	Kathy Moss, Program Analysts, HSOB, Rm. 5329 MES Bldg., 330 C Street, S.W., Washington, DC 20201, 202-245-0665.	Final Rule April-June 1980.
HCFA-9—Medicare/Medicaid Program: Certification of Separate Cost Entities—The Requirements for Certification.	A. *Description:* This regulation would propose conditions under which a component which provides typically unskilled care within a hospital may be certified as a provider distinct from the hospital. B. *Why Significant:* This regulation recognizes significant operating cost differences existing between components within a provider institution, and assures equitable reimbursement by providing for separate certification. C. *Regulatory Analysis:* Not required. D. *Need:* To establish clear, concise, and comprehensive criteria that can be uniformly applied. E. *Legal Basis:* Sec. 1861(o), (f), (g), and (j) of the Social Security Act. F. *Chronology:* The proposal is currently under review. When the review is completed it will be submitted to the Department for approval.	James Conrad, Standards and Certification Analyst, HSOB, 2nd Flr., Dogwood East Bldg., 1849 Gwynn Oak Ave., Baltimore, MD 21207, 301-594-7940.	Proposed Rule January-March 1980.
HCFA-10—Medicare / Medicaid Program: End-Stage Renal Disease (ESRD)—Electrical Requirements Revoked—Revoking Unnecessary Requirements.	A. *Description:* This regulation revokes requirements for emergency generators and ground fault interrupters in freewstanding end-stage renal disease centers because they have proven unnecessary for health and safety. B. *Why Significant:* The purpose of this regulation is to reduce unnecessary and burdensome requirements without affecting the health and safety of patients. C. *Regulatory Analysis:* Not required. D. *Need:* To implement the Department's decision that ESRD facilities are not subject to wet conditions. Therefore, ground fault interruptors are not necessary. E. *Legal Basis:* Sec. 226(g) of the Social Security Act. F. *Chronology:* NPRM was published on November 7, 1978 (44 FR 51822). The comment period closed on January 8, 1979.	Robert Moore, Standards and Certification Analyst, HSOB, 2nd Flr., Dogwood East Bldg., 1849 Gwynn Oak Ave., Baltimore, MD 21207, 301-594-9736.	Final Rule January-March 1979.
HCFA-11—Medicare / Medicaid Program: Safeguards for Patient Funds—Procedures for Protection of Funds.	A. *Description:* This regulation expands standards for protection of personal funds of Medicare and Medicaid patients in skilled nursing facilities and intermediate care facilities. B. *Why Significant:* The regulation will curtail the reported misuse of patient funds and assure that personal funds are fully accounted for and made available to patients when they need them. In addition, there is strong public interest in adequately safeguarding patient funds. C. *Regulatory Analysis:* Not required. D. *Need:* To implement the 1977 and 1978 amendments to the Social Security Act. E. *Legal Basis:* Sec. 1861(j)(14) of the Social Security Act; Sec. 21(a) of Pub. L. 95-142; Sec. 8(a) of Pub. L. 95-292. F. *Chronology:* NPRM was published on September 1, 1978 (43 FR 39154). The comment period closed on October 31, 1978.	Marshall Kapp, Program Analyst, HSOB, 2nd Floor, Dogwood East Bldg., 1849 Gwynn Oak Ave., Baltimore, MD 21207 301-594-5014.	Final Rule January-March 1980.
HCFA-12—Medicaid Program: Extension of Professional Standards Review Organization (PSRO) Review to Intermediate Care Facilities—Conditions for Reviewing Quality and Necessity of Care.	A. *Description:* These regulations set forth conditions under which PSROs will assume responsibility from State Medicaid agencies for reviewing the quality and necessity of health care services provided in intermediate care facilities (ICFs) and intermediate care facilities for the mentally retarded (ICFs-MR). B. *Why Significant:* These regulations will establish criteria for determining whether Medicaid agency review is effective or efficient and will provide that PSROs assume review responsibility and authority in ICFs and ICFs-MR where Medicaid review is not effective or efficient. C. *Regulatory Analysis:* Not required. D. *Need:* To implement the 1977 amendments to the Social Security Act. E. *Legal Basis:* Sec. 1155(a) of the Social Security Act; Sec. 5(d)(3)(B)(i) and Sec. 5(o)(2) of Pub. L. 95-142. F. *Chronology:* NPRM was published on February 14, 1979 (44 FR 9605). The comment period closed on April 16, 1979.	Alan Reider, Acting Director, IRB DPR, HSOB, 1st Flr., Dogwood East Bldg., 1849 Gwynn Oak Ave., Baltimore, MD 21207, 301-594-3960.	Final Rule January-March 1980.
HDFA-13—Medicare / Medicaid Program: Conditions of Participation for Skilled Nursing Facilities (SNFs) and Intermediate Care Facilities (ICFs)—Conditions of Participation.	A. *Description:* The proposed regulations would recodify, revise and consolidate present regulations governing conditions of participation for skilled nursing and intermediate care facilities under the Medicaid and Medicare programs. B. *Why Significant:* This regulation, will focus on patient care, promote cost containment while improving quality care, and achieve more effective compliance. C. *Regulatory Analysis:* Yes, being conducted. D. *Need:* Change in methods of delivering health care and the need to control the most of long term care while improving quality patient care.	J. Richard Lenehan, Jr., Program Analyst, HSOB, 2nd Flr., Dogwood East Bldg., 1849 Gwynn Oak Ave., Baltimore, MD 21207, 301-594-7651.	Proposed Rule January-March 1980.

Health Care Financing Administration—Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
	E. *Legal Basis:* Secs. 1102, 1814, 1832, 1833, 1861, 1863, 1865, 1866, and 1871 of the Social Security Act (42 U.S.C. 1302, 1395, 1395f, 1395k, 1395x, 1395z, 1395bb, 1395cc, 1395hh, 1396(d)(8), and 1905(c)). F. *Chronology:* Notice was published on June 8, 1978 (43 FR 24873).		
HCFA-14—Medicare/Medicaid Program: Effective Date: Provider Agreement—Criteria for Effective Date of Provider Agreement.	A. *Description:* These regulations will make Medicare and Medicaid rules identical in (1) the beginning effective dates of nursing home provider agreements (2) the effect of a change in ownership on the continuation of Federal payments to nursing homes. B. *Why Significant:* This regulation states that provider agreements under Medicare and Medicaid programs will be effective on the date of the onsite health and safety survey if all Federal requirements are met. If they are not met, the effective date is the date on which the requirements are met or on which the provider submits an acceptable plan of correction or waiver request. C. *Regulatory Analysis:* Not required. D. *Need:* To simply administration and prevent unnecessary interruption of benefits to nursing home patients. E. *Legal Basis:* Secs. 1102, 1366, 1902, and 1910 of the Social Security Act (42 U.S.C. 1302, 1395cc, 1396a, 1396i). F. *Chronology:* NPRM was published on February 5, 1979 (44 FR 6958). The comment period closed on April 6, 1979.	James Conrad, Standards and Certification Analyst, HSQB, 2nd Flr., Dogwood East Bldg., 1849 Gwynn Oak Ave., Baltimore, MD 21207, 301-594-7940.	Final Rule January-March 1980.
HCFA-15—Medicare/Medicaid Programs: Sprinkler Systems for Long Term Care Facilities—Requirements for Fire Extinguishment Systems.	A. *Description:* The regulation would propose requirements for fire extinguishment systems in skilled nursing and intermediate care facilities. B. *Why Significant:* Automatic extinguishment systems are an important aspect to patient safety in long term care facilities, but are also costly to install; especially in existing facilities. C. *Regulatory Analysis:* Not required. D. *Need:* Concern by the public to extent requirements for automatic extinguishment systems to all facilities. E. *Legal Basis:* Secs. 1102, and 1861(j) (13) of the Social Security Act (42 U.S.C. 1302.) F. *Chronology:* Notice of Intent was published on December 6, 1978 (43 FR 57166. The comment period closed on January 30, 1979.	Robert Jevec, Program Analyst, HSQB, 2nd Flr., Dogwood East Bldg., 1849 Gwynn Oak Ave., Baltimore, MD 21207, 301-594-3314.	Proposed Rule January-March 1980.
HCFA-16—Medicare/Medicaid Program: Termination of Federal Financial Participation (FFP) in Long Term Care Facilities—Change of FFP Requirements.	A. *Description:* The regulation would amend the Medicaid regulations concerning Federal financial participation (FFP) in cases where a Medicaid nursing home's provider agreement is not renewed or is terminated because the home is out of compliance with Federal requirements. B. *Why Significant:* Guidelines for the termination of FFP in long term care facilities. C. *Regulatory Analysis:* Not required. D. *Need:* This regulation is needed to establish a uniform nationwide Medicaid policy. E. *Legal Basis:* Sec. 1102 of the Social Security Act (42 U.S.C.1302). F. *Chronology:* The proposal is currently being developed. When it is completed it will be submitted to the Department for approval.	Stanley Katz, Director, DTPL, BPP, Rm. 190 EHR, 6401 Security Blvd., Baltimore, MD 21235, 301-594-9595.	April-June 1980.
HCFA-17—Medicare Program: Radiological Services—Procedures for Reimbursement.	A. *Description:* This regulation broadens the scope of the radiology services for which Medicare will reimburse at 100 percent of reasonable charges. B. *Why Significant:* This regulation will help simplify reimbursement procedures and facilitate claims processing by hospitals and Medicare carriers and intermediaries for inpatient radiology services. C. *Regulatory Analysis:* Not required. D. *Need:* Administrative simplicity. E. *Legal Basis:* Sec. 1833(a)(1)(B) of the Social Security Act; Sec. 131 of Pub. L. 90-248. F. *Chronology:* NPRM was published on January 25, 1979 (44 FR 5162). The comment period closed on March 26, 1979.	Jim Menas, Program Analyst, BPP, HCFA, Rm 457 EHR, 6401 Security Blvd., Baltimore, MD 21235, 301-594-9406.	Final Rule April-June 1980.
HCFA-18—Medicare Program: Reimbursement Prepaid Health Plans—Conditions and Principles of Reimbursement.	A. *Description:* This regulation would establish qualifying conditions and principles of reimbursement for Health care prepayment plans (HCPPs), other than health maintenance organizations, (HMOs), which elect to receive reimbursement under the Medicare Supplementary Medical Insurance Program. B. *Why Significant:* The requirements on this regulation for HCPPs are similar to the extent possible, to those provided by the Medicare payment for HMOs reimbursed on a reasonable cost basis. C. *Regulatory Analysis:* Not required. D. *Need:* The consistency in qualifying conditions and reimbursement principles will assure uniform treatment of both these types of prepayment organizations under Medicare. E. *Legal Basis:* Secs. 1802 and 1833(a)(1)(A) of the Social Security Act. F. *Chronology:* The proposal is currently under review. When the review is completed it will be submitted to the Department for approval.	Frank E. Emerson, Program Analyst, BPP, Rm. 1-A-1 ELR, 6401 Security Blvd., Baltimore, MD 21235, 301-597-2968.	Proposed Rule October-December 1979.
HCFA-19—Medicare Program: Written Notice For Non-Reimbursable Services—Clarification of Beneficiary Liability.	A. *Description:* This regulation clarifies that a beneficiary cannot be found liable for certain non-covered items or services if he has not been notified in writing that the items or services in question are excluded from Medicare coverage. B. *Why Significant:* This rule clarifies the current regulation by specifying that a beneficiary will not be found to have knowledge that items and services are not covered unless he has been given written notification from the provider, the fiscal intermediary, or some other appropriate source. C. *Regulatory Analysis:* Not required. D. *Need:* Clarifies the circumstances under which a Medicare beneficiary will be entitled to a presumption of ignorance concerning program coverage. E. *Legal Basis:* Secs. 1897 of the Social Security Act. F. *Chronology:* NPRM was published on December 7, 1978 (43 FR 57307). The comment period closed on February 5, 1979.	Jack Wasserman, Branch Chief, BPP, Rm. 168 EHR, 6401 Security Blvd., Baltimore, MD 21235, 301-594-9301.	Final Rule October-December 1979.
HCFA-20—Medicare Program: Inpatient Services—Foreign Hospitals—Procedures and Criteria for Medicare Payments.	A. *Description:* This regulation sets forth procedures and criteria for Medicare payments for covered inpatient services furnished to beneficiaries by foreign hospitals. B. *Why Significant:* This regulation provides for payment based on 100 percent of customary charges for covered inpatient hospital services furnished by foreign hospitals that elect to receive payment directly from the Medicare program.	Hugh McConville, Deputy Director, DIRS, BPP, Rm. 1-B-5 ELR, 6401 Security Blvd., Baltimore, MD 21235, 301-597-1333.	Final Rule October-December 1979.

Health Care Financing Administration—Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
	C. *Regulatory Analysis:* Not required. D. *Need:* To encourage foreign hospitals to bill the Medicare program directly for services furnished to Medicare beneficiaries. E. *Legal Basis:* Secs. 1814(f) (3) and (4) and 1861(v) of the Social Security Act. F. *Chronology:* NPRM was published on January 12, 1979 (44 FR 2618). The comment period closed on March 13, 1979.		
HCFA-21—Medicare Program: Provider Reimbursement Determinations—Criteria and Procedures for PRRB Hearings and Decisions.	A. *Description:* This regulation would propose criteria for reopening certain provider cost reimbursement determinations. It would also propose procedures for final review of Provider Reimbursement Review Board (PRRB) decisions. B. *Why Significant:* Include more detailed guidelines for PRRB decisions and hearings. C. *Regulatory Analysis:* Not required. D. *Need:* To streamline procedures and to resolve a number of problems which have been identified through experience under current regulations. E. *Legal Basis:* Secs. 1102, 1861(v)(1)(A)(ii), and 1878(f)(1) of the Social Security Act (42 U.S.C. 139500.) F. *Chronology:* The proposal is currently under review. When the review is completed, it will be submitted to the Department for approval.	Stanley Katz, Director, DTPL, BPP, Rm. 190 EHR, 6401 Security Blvd., Baltimore, MD 21235, 301-594-9595.	Proposed Rule October-December 1979.
HCFA-22—Medicare Program: Fiscal Intermediary Performance—Standards, Criteria, and Procedures for Performance of Intermediaries.	A. *Description:* These regulations recodify existing regulations dealing with contracts between the Secretary and Medicare fiscal intermediaries. They also specify standards, criteria, and procedures for determining the efficiency and effectiveness of those intermediaries and for assigning providers to intermediaries. B. *Why Significant:* This regulation would provide that a decision to enter into, review, or terminate an intermediary agreement must be based on a finding made after applying the required standards and criteria that in the particular instance would be in the best interests of the program. It also gives the Secretary the authority, after applying the appropriate standards and criteria, to assign or reassign a provider to a fiscal intermediary and designate a national or regional intermediary to service a class of providers. C. *Regulatory Anaylsis:* Not required. D. *Need:* To implement the 1977 amendments to the Social Security Act. E. *Legal Basis:* Secs. 1102, 1816, 1842, 1961(u), 1971, and 1975 of the Social Security Act; Sec. 14 of Pub. L. 95-142. F. *Chronology:* NPRM was published on November 9, 1978 (43 FR 52256). The comment period closed on January 8, 1979.	Vincent A. Acquisto Acting Deputy Dir. DP, BPO, Rm. 264 EHR, 6401 Security Blvd., Baltimore, MD 21235, 301-594-8005.	Final Rule January-March 1980.
HCFA-23—Medicare Program: Durable Medical Equipment (DME)—Requirements for Purchase of DME.	A. *Description:* This regulation specifies criteria for requiring purchase (on a lease purchase or other basis) of an item of durable medical equipment when purchase would be less costly or more practical than rental. Procedures are proposed for waiving the purchase requirement and coinsurance in specific circumstances. B. *Why Significant:* This regulation would reduce program costs caused by long and costly rentals of equipment and reduce undue expenses of beneficiaries who must pay annual deductibles and coinsurance when equipment is rented over an extended period of time. C. *Regulatory Anaylsis:* Not required. D. *Need:* To implement the 1977 amendments to the Social Security Act. E. *Legal Basis:* Secs. 1102, and 1833(f) of the Social Security Act (42 U.S.C. 1302 and 1395(f)); Sec. 16 of Pub. L. 95-142. F. *Chronology:* NPRM was published on December 14, 1978 (43 FR 58390). The comment period closed on February 1, 1979.	Paul Riesel, Branch Chief, PPRB, BPP, Rm. 1-E-5 ELR, 6401 Security Blvd., Baltimore, MD 21235, 8-594-5431.	Final Rule January-March 1980.
HCFA-24—Medicare Program: Prohibition Against Reassignment—Procedures to Prohibit Reassignment of Claims.	A. *Description:* This regulation specifies criteria and procedures to prohibit providers, physicians, and other suppliers, with certain exceptions, from assigning claims for reimbursement of services to other persons for collection. It also imposes administrative sanctions against providers, physicians, and suppliers who violate this prohibition. B. *Why Significant:* This regulation specifies that a provider who violates prohibition against reassignment would be subject to termination of its provider agreement, and a physician or other supplier would be subject to revocation of the request to receive assignment from Medicare beneficiaries. C. *Regulatory Anaylsis:* Not required. D. *Need:* To implement the 1977 amendments to the Social Security Act. E. *Legal Basis:* Secs. 1102, 1814, 1815, 1835, 1870, and 1871 of the Social Security Act (42 U.S.C. 1395a(b)(5)); Sec. 2 of Pub. L. 95-142. F. *Chronology:* NPRM was published on August 23, 1978 (43 FR 37469). The comment period closed on October 10, 1978.	John Russell, Deputy Director, DMEP, BPP, Rm. 456 EHR, 6401 Security Blvd., Baltimore, MD 21235, 301-594-9410.	Final Rule October-December 1979.
HCFA-25—Medicare Program: Part A Entitlement and Copayments—Clarification of Eligibility Requirements.	A. *Description:* This regulation would clarify, simplify and update existing regulations pertaining to (1) entitlement to Medicare hospital insurance for certain groups and (2) the Medicare inpatient hospital coinsurance, the post-hospital extended care coinsurance, and the blood deductible. B. *Why Significant:* Beneficiaries and potential beneficiaries can more easily understand the conditions that would make them eligible for Medicare and how much money they would have to contribute toward the cost of their hospital care. C. *Regulatory Analysis:* Not required. D. *Need:* To clarify certain portions of the Medicare, Part A regulations so that beneficiaries and potential beneficiaries can more easily understand the conditions that would make them eligible for Medicare and how much money they would have to contribute toward the cost of their hospital care. E. *Legal Basis:* Secs. 226, 1102, 1813 and 1871 of the Social Security Act (42 U.S.C. 426, 426a, 1302, 1395e, and 1395hh). F. *Chronology:* The proposal is currently under review. When the review is completed, it will be submitted to the Department for approval.	Luisa Iglesias, Regulation Analyst BPP, Rm. 5033, MES Bldg., 330 C Street, S.W., Washington, D.C. 20201, 202-245-0624.	Proposed Rule January-March 1980.

Health Care Financing Administration—Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
HCFA-26—Medicare/Medicaid Program: Reimbursement: Internship and Residency Program—Change in Reimbursement Requirements.	A. *Description:* This regulation would eliminate the requirement that a provider's costs be reduced by the amounts of certain grants and donations when calculating the reimbursement allowed under Medicare, Medicaid, or the Maternal and Child Health Program. These grants and donations are those which support approved internship and residency programs in family practice, general medicine, and general pediatrics. B. *Why Significant:* The regulation would allow providers to realize the full benefit of grants for primary care residency programs by not deducting these grants from incurred provider cost before determining Medicare and Medicaid reimbursement. C. *Regulatory Analysis:* Not required. D. *Need:* To avoid nullifying the purpose of specific grants for primary care internship and residency programs. E. *Legal Basis:* Secs. 1102, 1814(b) and 1833(a)(2) of the Social Security Act. F. *Chronology:* NPRM was published on August 10, 1979 (44 FR 47117). The comment period closed on October 9, 1979.	William J. Goeller, Chief, PRB, BPP, Rm. 1-D-1 ELR, 6401 Security Blvd., Baltimore, MD 21235, 301-597-1802.	Final Rule April-June 1980.
HCFA-27—Medicare Program: Teaching Hospitals' Physicians Costs—Criteria for Payments to Teaching Hospitals.	A. *Description:* This regulation proposes criteria under which Medicare would pay reasonable charges for physician services in teaching hospitals or would reimburse teaching hospitals for the reasonable costs of physician services. It would also specify the manner and extent to which payments would be made for certain medical school costs and for services of volunteer physicians. B. *Why Significant:* The regulation provides that the reasonable cost of physician services would be based on that portion of each physician's total compensation which is properly attributable to furnishing services to Medicare beneficiaries; and specifies the conditions under which physician services in a teaching hospital may be reimbursed on a reasonable charge basis under the "grandfather clause" or "private patient" exceptions. C. *Regulatory Analysis:* Not required. D. *Need:* To implement the 1972 amendments to the Social Security Act. E. *Legal Basis:* Secs. 1842(b)(3) and 1861(b)(7)(A) of the Social Security Act; Sec. 227 of Pub. L. 92-603. F. *Chronology:* The proposal is currently under review. When the review is completed, it will be submitted to the Department for approval.	Paul Reisel, Branch Chief, PPRB, BPP, Rm. 1-E-5, ELR, 6401 Security Blvd., Baltimore, MD 21235, 301-594-5431.	Proposed Rule October-December 1979.
HCFA-28—Medicare Program: Special Care Units—Clarifies Definitions and Reimbursement Procedures.	A. *Description:* These regulations refine the definition of hospital special care units and clarify the requirements for their reimbursement under the Medicare program. B. *Why Significant:* The amendments to the current regulation will expand upon the general requirements for special care units, and set specific requirements of nursing care which they must provide to be considered special care units for Medicare program reimbursement purposes. C. *Regulatory Analysis:* Not required. D. *Need:* Clarify the intent of the regulation that the term "special care unit" applies only to those units rendering a level of care that is comparable to intensive care. E. *Legal Basis:* Secs. 1102, 1814(b), 1861(v), and 1871 of the Social Security Act (42 U.S.C. 1302, 1395f, 1395x, and 1395hh). F. *Chronology:* NPRM published on May 16, 1979 (44 FR 28768). The comment period closed on July 16, 1979.	William J. Goeller, Chief, PRB, BPP, Rm. 1-D-1 ELR, 6401 Security Blvd., Baltimore, MD 21235, 301-597-1802.	Final Rule January-March 1980.
HCFA-29—Medicare Program: Reimbursement to Related Organizations—Sets Reimbursement Limits.	A. *Description:* The regulation limits the amount a provider may be reimbursed on the basis of charges when it obtains services, facilities, and supplies from an organization related to the provider by common ownership or control. B. *Why Significant:* The regulation clarifies the meaning and intent of the regulation by defining terms and adding explanatory language. C. *Regulatory Analysis:* Not required. D. *Need:* To make the regulation more understandable to the public, and to reduce those areas of misinterpretation which causes dispute in administration. E. *Legal Basis:* Secs. 1102, 1861(v), and 1871 of the Social Security Act (42 U.S.C. 1302, 1395o(u), and 1395hh). F. *Chronology:* NPRM was published on January 26, 1979 (44 FR 5479). The comment period closed on March 27, 1979.	Paul Trimble, Branch Chief, Accounting Policy Branch, BPP, Rm. 1-G-1 ELR, 6401 Security Blvd., Baltimore, MD 21235, 301-594-8640.	Final Rule January-March 1980.
HCFA-30—Medicare Program: End-stage Renal Disease (ESRD) Networks—Requirements for ESRD Networks.	A. *Description:* The proposed regulation requires that networks establish goals to maximize use of self-dialysis and kidney transplantation and that there be at least one patient representative on each network coordinating council and executive committee. It would also require networks to submit annual reports; ESRD facilities to make individual patient information available to their network medical review boards upon request; and that network meetings be advertised and open to the public. B. *Why Significant:* This regulation is intended to: 1) given ESRD patients and the general public a more active role in network decision making processes; 2) encourage maximum use of the lower cost forms of treatment, self-dialysis and kidney transplantation; and 3) encourage greater objectivity in network decision-making. C. *Regulatory Analysis:* Not required. D. *Need:* To implement the 1978 amendments to the Social Security Act. E. *Legal Basis:* Sec. 1881(c) of the Social Security Act; Pub. L. 95-292. F. *Chronology:* NPRM was published on July 16, 1979 (44 FR 41841). The comment period closed on September 17, 1979.	Philip M. Jos, Director, Office of End Stage Renal Disease, OSP, Rm. 1-D-3, Dogwood West Bldg., 1848 Gwynn Oak Ave., Baltimore, MD 21235, 301-594-6530.	Final Rule April-June 1980.
HCFA-31—Medicare Program: Incentive Reimbursement for End-Stage Renal Disease (ESRD) Services—Methods and Procedures for Reimbursement.	A. *Description:* The regulation would propose methods and procedures for reimbursing providers and facilities for outpatient renal dialysis services provided to ESRD patients.		

Health Care Financing Administration—Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
	B. *Why Significant:* The regulation would provide for prospective payment on various types of dialysis treatment through national rates, periodically adjusted. The rates will be paid subject to an exception process. C. *Regulatory Analysis:* Not required. D. *Need:* The regulation provides for an incentive reimbursement method to encourage economies in the delivery of ESRD services. E. *Legal Basis:* Secs. 1102, 1814(b), 1833, 1861(v)(1), 1871, and 1881 of the Social Security Act (42 U.S.C. 1302, 1395(f), 1395e, 1395(b)(1), 1395hh and 1395rr). F. *Chronology:* The proposal is currently under review. When the review is completed, it will be submitted to the Department for approval.	Philip M. Jos, Director, Office of End Stage Renal Disease, OSP, Rm. 1-D-3, Dogwood West Bldg., 1848 Gwynn Oak Ave., Baltimore, MD 21235, 301-594-6530.	Proposed Rule October-December 1979.
HCFA-32—Medicare Program: Deeming of Income Between Spouses—Financial Eligibility Requirements.	A. *Description:* This regulation would revise current rules for determining Medicaid financial eligibility for the aged, blind, or disabled in States and territories using more restructure eligibility requirements than Supplemental Security Income (SSI) requirements. B. *Why Significant:* The regulation would require these States and territories to cease the deeming of income between aged, blind, or disabled applicants (or recipients) and their spouses, when either the applicant (or recipient) or his or her spouse is institutionalized. C. *Regulatory Analysis:* Not required. D. *Need:* To implement a court order by the Federal District Court of Columbia. E. *Legal Basis: Gray Panthers* vs. Secretary, Department of Health, Education, and Welfare, et al., cure cure action no. 78-0661; Sec. 1102 of the Social Security Act (42 U.S.C. 1203). F. *Chronology:* The proposal is currently under review in the Department.	Michael Fiare, Program Analyst, DMEP, BPP, Rm. 416 EHR, 6401 Security Blvd., Baltimore, MD 21235, 301-594-9127.	Proposed Rule October-December 1979.
HCFA-33—Medicare Program: Educational Programs Reimbursement—Clarification of Reimbursement Policy.	A. *Description:* This proposal would revise the regulation governing the amount of reasonable cost reimbursement due health care providers under Medicare. B. *Why Significant:* The regulation would more clearly identify the provider costs for approved medical, nursing, and paramedical education programs that are allowable and to specify procedures for calculating a provider's net costs of these programs. C. *Regulatory Analysis: Not required.* D. *Need:* Changes which have occurred in the way health care education programs are operated and financed necessitate the revision. Providers and the public generally need to be informed of clarifications of Medicare reimbursement policy. E. *Legal Basis:* Secs. 1102, 1814(b) and 1833(a)(2) of the Social Security Act (42 U.S.C. 1302, 1395f(b), and 1395d(a)(2)). F. *Chronology:* The proposal is currently under review. When the review is completed it will be submitted to the Department for approval.	William Goeller, Chief, Provider Reimbursement Br., BPP, Rm. 1-D-1 ELR, 6401 Security Blvd., Baltimore, MD 21235, 301-597-1802.	Proposed Rule April-June 1980.
HCFA-34—Medicare/Medicaid Program: Proposed List of Additional Items and Services Subject to the Lowest Charge Level—List of Items and Services Subject to Lowest Level Charge Criteria.	A. *Description:* This regulation would add to the list of items and services subject to the lowest charge criteria, 15 of the frequently performed laboratory services for Medicare-Medicaid beneficiaries and 5 items of durable medical equipment most frequently rented or purchased. A laboratory test or service on this list could be subject to the lowest charge provision regardless of whether it was performed on an individual basis (manually or on an automated equipment) or as part of an automated battery. B. *Why Significant:* The lowest charge level regulation implements certain cost containment provisions as set forth by law. C. *Regulatory Analysis: Not required.* D. *Need:* To implement the 1974 and 1975 amendments to the Social Security Act. E. *Legal Basis:* Secs. 1102, 1842(b), 1971, and 1903(i)(1) of the Social Security Act (42 U.S.C. 1302, 1395(b), 1395hh, and 1396(b)(i)(1)). F. *Chronology:* Notice was published on March 26, 1979 (44 FR 18116). The comment period closed on May 10, 1979.	Paul Riesel, Branch Chief, PPRB, BPP, Rm. 1-E-5 ELR, 6401 Security Blvd., Baltimore, MD 21235, 8-594-5431.	Final Notice June-Sept. 1980.
HCFA-35—Medicare/Medicaid Program: Prospective Reimbursement of Rural Health Clinic Services—Principles of Reimbursement.	A. *Description:* This regulation would propose a prospective payment method for reimbursement of rural health clinic services under Medicaid and Medicare. B. *Why Significant:* The regulation would increase efficiency and increase beneficiary access to rural health services. C. *Regulatory Analysis:* Not required. D. *Need:* To implement the 1977 and 1978 amendments to the Social Security Act. E. *Legal Basis:* Secs. 1833(a)(3), 1861(v)(1)(A) and 1902(a)(13) of the Social Security Act; Pub. L. 95-210 and Pub. L. 95-292. F. *Chronology:* The proposal is currently under review. When the review is completed, it will be submitted to the Department for approval.	Bernie Truffer, Acting Section Chief Health Organization, BPP, Rm. 181, EHR, 6401 Security Blvd., Baltimore, MD 21235, 301-597-2584.	Proposed Rule October-December 1979.
HCFA-36—Medicaid Program: Family Planning—Requirements for Family Planning Services.	A. *Description:* This regulation would specify Federal requirements for provision of family planning services under Medicaid. It also would specify types and ranges that may be included by States. B. *Why Significant:* Regulations will assure that States will provide a uniform minimum set of family planning services to carry out the statutory requirement. C. *Regulatory Analysis:* Not required. D. *Need:* To implement the 1972 amendments to the Social Security Act. E. Legal Basis: Secs. 1102, 1905(a)(4)(C) of the Social Security Act (42 U.S.C. 1302, 1396d(a)(4)(C)). F. *Chronology:* NPRM was published on August 9, 1979 (44 FR 46899). The comment period closed on October 9, 1979.	Francina Spencer, Health Insurance Policy Specialist, BPP, Rm. 431 EHR, 6401 Security Blvd., Baltimore, MD 21235, 301-594-9625.	Final Rule April-June 1980.
HCFA-37—Medicaid Program: Reasonable Cost-Related Reimbursement for Skilled Nursing and Intermediate Care Facility Services—Requirements for State Methods of Payment.	A. *Description:* This regulation will clarify and expand requirements for State methods of payment for skilled nursing and intermediate care facility services under State Medicaid programs.	Milton Dezube, Br. Chief, Special Programs, BPP, Rm. 1-A-1 ELR, 6401 Security Blvd., Baltimore, MD 21235 301-597-1804.	Final Rule April-June 1980.

Health Care Financing Administration—Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
	B. *Why Significant:* The regulation will make cost-related reimbursement for long-term care facilities a more effective, more accurate form of payment. C. *Regulatory Analysis:* Not required. D. *Need:* The regulations are needed to clarify inconsistancies in the cost-related reimbursement rules published in the FEDERAL REGISTER July 1, 1976. (41 FR 27300) E. *Legal Basis:* Secs. 1102, and 1902(a)(13)(E) of the Social Security Act. F. *Chronology:* NPRM was published on April 18, 1979 (44 FR 23095). The comment period closed on June 18, 1979.		
HCFA-38—Medicaid Program: State Medicaid Contracts—Procedures for Contract Practices.	A. *Description:* This regulation proposes requirements to strengthen protections against questions on contract practices and possible program abuse and to remedy ambiguities and omissions in existing regulations. B. *Why Significant:* The regulation will improve Medicaid program administration by ensuring proper contracting procedures and maximum appropriate competition. C. *Regulatory Analysis:* Not required. D. *Need:* The regulation is needed to implement Federal prior approval authority under 45 CFR Part 74, Administration of Grants. E. Legal Basis: Sec. 1102 of the Social Security Act (42 U.S.C. 1302). F. *Chronology:* The proposal is currently under review. When the review is completed, it will be submitted to the Department for approval.	Leonard Monfred, Branch Chief, Div. of Procurement, BPO, Rm. 264 EHR, 6401 Security Blvd., Baltimore, MD 21235, 301-594-9638.	Proposed Rule January-March 1980.
HCFA-39—Medicaid Program: Hearing Aid and Eyeglass Reimbursement—Procedures for Purchasing Hearing Aids and Eyeglasses.	A. *Description:* The regulations will require Medicaid agencies to establish an acquisition cost (AC) program, volume purchase plan (VPP), or some combination of both as a method of purchasing eyeglasses and hearing aids for Medicaid recipients. The regulation will also set conditions for purchase of hearing aids by Medicaid agencies. B. *Why Significant:* The regulation would limit payment to providers to the lower of the actual acquisition cost plus a reasonable dispensing fee, or the provider's usual and customary charge to the general public. C. *Regulatory Analysis:* Not required. D. *Need:* The regulations are needed to lower the cost and improve the quality of hearing aids and eyeglasses paid for under the State Medicaid program. E. *Legal Basis:* Sec. 1102 of the Social Security Act. F. *Chronology:* NPRM was published on May 25, 1979 (44 FR 30382). The comment period closed on July 24, 1979.	Joel Schaer, Policy Analyst, BPP, Rm. 1-C-5, ELR, 6401 Security Blvd., Baltimore, MD 21235, 301-594-7106.	Final Rule April-June 1980.
HCFA-40—Medicaid Program: Assignments of Benefits Collection of Medical Support—Procedures for Assignment of Benefits.	A. *Description:* These regulations specify new procedures: (1) allowing States to require medicaid recipients to assign their right to private insurance payments or other medical support to the States; (2) authorizing child support enforcement agencies to assist in collection of medical support; and (3) prohibiting Federal payment to any Medicaid recipient who is covered by a private health insurance policy having a Medicaid exclusion clause. B. *Why Significant:* The regulations will reduce erroneous Medicaid payments to services covered by insurance or support orders, by increasing third party recoveries. C. *Regulatory Analysis:* Not required. D. *Need:* To implement the 1977 amendments to the Social Security Act. E. Legal Basis: Sec. 1102 of the Social Security Act, 49 Stat. 647 (42 U.S.C. 1302). F. *Chronology:* NPRM was published on August 29, 1978 (43 FR 38668). The comment period closed on October 10, 1978.	Elizabeth Matheson Program Analyst, BPP, Rm. 5316, MES Bldg., Washington, D.C., 202-245-8097.	Final Rule October-December 1979.
HCFA-41—Medicaid Program: Medicaid Quality Control System Expansion of Information Requirements—Requirements for Completion of Reviews and Reports.	A. *Description:* The regulations would amend the current Medicaid Quality Control (MQC) regulations by requiring States; within specific time frames to: (1) complete a set percentage of eligibility reviews (active cases and negative case actions); and (2) submit individual case review findings. B. *Why Significant:* The regulations will make it easier for States to understand and operate the Medicaid Quality Control program, and improve Federal and State program management by ensuring timely completion of reviews and reports. C. *Regulatory Analysis:* Not required. D. Need: The regulations are needed to amend Medicaid Quality Control regulations by specifying time periods for completion of reviews of the cases in the monthly MQC samples. E. *Legal Basis:* Sec. 1102 of the Social Security Act (42 U.S.C. 1302). F. *Chronology:* The proposal is currently under review. When the review is completed it will be submitted to the Department for approval.	Carlton Stockton, Acting Director, DQCR, BQC, 2-E-5 ELR, 6401 Security Blvd., Baltimore, MD 21235, 301-597-1350.	Proposed Rule October-December 1979.
HCFA-42—Medicare Program: Medicaid Management Information Systems (MMIS)/ Additional Data Requirements—Procedures to Expand or Revise MMIS Requirements.	A. *Description: This regulation will add flexibility to the requirements under Medicaid for mechanized claims processing and information retrieval systems.* B. *Why Significant:* The regulations will set forth a new procedure to improve Medicaid management by ensuring that State Medicaid Management Information Systems (MMIS) are expanded or revised as necessary to meet program needs. C. *Regulatory Anaylsis: Not required.* D. *Need:* The regulations will allow HCFA to expand or revise MMIS requirements periodically as necessitated by changing program needs. E. *Legal Basis:* Secs. 1102, 1902(a)(4) and 1903(a)(3) of the Social Security Act (42 U.S.C. 1302, 1396(a)(4) and 1396 (a)(3)). F. *Chronology:* A proposed rule was published on April 6, 1979 (44 FR 20722). The comment period closed on June 5, 1979.	Wesley Baker, Chief, SSRS, BPP, 591 EHR, 6401 Security Blvd., Baltimore, MD 21235, 301-594-1502.	Final Rule January-March 1980.
HCFA-43—Medicare Program: Medicaid Quality Control Fiscal Allowance & Michel Amendment—Requirements for States to Reduce Payment Error Rates.	A. *Description: This regulation could set a uniform national error target rate of 4% to be achieved by all States by September 30, 1982.* B. *Why Significant:* Under the new requirements, States must reduce their payment error rates to 4% by September 30, 1982 in equal steps beginnings in fiscal year 1980. Federal matching will be denied for erroneous expenditures in excess of the standards. C. *Regulatory Analysis:* Not required. D. *Need:* To implement the Congressional Conference Report on the Fiscal 1979 Supplemental Appropriations Act (1978 amendments to the Social Security Act). E. *Legal Basis:* Secs. 1102 of the Social Security Act; (42 U.S.C. 1302); 49 Stat. 647, as amended; and Pub. L. 96-38.	John Berry, Acting Director, Office of Quality Control Programs, BQC, Rm. 2-A-1 ELR, 6401 Security Blvd., Balto., MD 21235, 301-597-1354.	Final Rule October-December 1979.

Health Care Financing Administration—Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
	F. *Chronology:* NPRM was published on September 25, 1978 (44 FR 55316). The comment period closed on November 26, 1979.		
HCFA-44—Medicare/Medicaid Program: Psychosurgery—Requirements for Psychosurgery Procedures.	A. *Description:* This regulation would mandate specific requirements for the performance of psychosurgical procedures. The regulation would establish a mechanism for assuring that any psychosurgical procedures would be performed with appropriate safeguards and offer a model for State and local governments as well as for other concerned organizations. B. *Why Significant:* The regulation provides specific procedures and constraints in regard to psychosurgical procedures. It should adequately protect human subjects by requiring approval by a panel before procedure takes place. C. *Regulatory Analysis:* Not Required. D. *Need:* The regulation addresses the concern of the public and Congress which generated the report by the National Commission for the Protection of Human Subjects of Biomedical and Behavorial Research in psychosurgery. E. *Legal Basis:* Sec. 1102 of the Social Security Act; (42 U.S.C. 1302). F. *Chronology:* The proposal is currently under development. When it is completed, it will be submitted to the Department for approval.	Mendel J. Kaulman, Chief, Special Cov. Issues Br., BPP, Rm. 463 EHR, 6401 Security Blvd., Balto., MD 21235, 301-594-8569.	Proposed Rule January-March 1980.
HCFA-45—Medicaid Program: Verification of Services—Requirements for Written Verification.	A. *Description:* This regulation would require *all* States to implement a written verification of services program with Medicaid recipients in order to improve the capability to detect and deter fraud and abuse. B. *Why Significant:* The regulation will further clarify State Medicaid agency responsibilities for the control of Medicaid fraud and abuse and strengthen the regulatory requirements so that States can adequately meet their responsibilities. C. *Regulatory Analysis:* Not Required. D. *Need:* The Department will set new policy that requires modified regulation. The intent is to prevent or discourage those practices which increase the cost of the Medicaid program without benefiting Medicaid recipients. E. *Legal Basis:* Secs. 1102, 1902(a)(4)(A), 1902(a)(38), 1902(a)(30), 1903(a)(6), 1903(b)(3), 1903(h), and 1903(q) of the Social Security Act (42 U.S.C. 1302, 1396(a)(4)(A), and 1396a(a)(30)). F. *Chronology:* The proposal is currently under review. When the review is completed, it will be submitted to the Department for approval.	Irvin Cohen, Deputy Dir., Office of Prog. Validation, BOC, Rm. 2-E-5 ELR, 6401 Security Blvd., Balto., MD 21235, 301-594-8213.	Proposed Rule October-December 1979.
HCFA-46—Medicare Program: Withholding Payments to Physicians, Providers, and Suppliers of Services—Procedures to Safeguard Due Process.	A. *Description:* This regulation would clarify due process procedures that must be followed when payments to providers, physicians, and suppliers of services under the Medicare program are withheld because of suspected fraud or willfull misrepresentation. B. *Why Significant:* The regulation will clarify existing procedures by eliminating ambiguities and assuring that due process requirements are met without compromising pending investigation of suspected fraud or willful misrepresentation. C. *Regulatory Analysis:* Not required. D. *Need:* Current regulations do not provide clear notification and review procedures necesary to satisfy due process. The regulation will establish procedures to safeguard Federal financial interest as well as the due process rights of the affected party. E. *Legal Basis:* Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395). F. *Chronology:* The proposal is currently under review. When the review is completed, it will be submitted to the Department for approval.	Irvin Cohen, Deputy Director, Office of Prog. Validation, BOC, Rm. 2-E-5, ELR, 6401 Security Blvd., Balto., MD 21235, 301-594-8213.	Proposed Rule January-March 1980.
HCFA-47—Medicaid Program: Fraud and Abuse in Medicaid—Administrative Sanctions.	A. *Description:* This regulation would establish State plan requirements and procedures which require State Medicaid agencies to exclude from Medicaid program reimbursement providers who defraud or abuse the Medicaid program. B. *Why Significant:* This regulation will give States a clear regulatory authority to pursue appropriate administrative sanctions in the cases of fraud or abuse. C. *Regulatory Analysis:* Not required. D. *Need:* To implement the 1977 amendments to the Social Security Act. E. *Legal Basis:* Secs. 1102, 1902(a)(4)(A), and 1902(a)(30) of the Social Security Act; Pub. L. 95-142. F. *Chronology:* The proposal is currently under review. When the review is completed it will be submitted to the Department for approval.	Irwin Cohen, Deputy Director, OPV, BOC, Rm. 2-3-5 EHR, 6401 Security Blvd., Baltimore, MD 21235, 301-594-8213.	Proposed Rule October-December 1979.
HCFA-48—Medicaid Program: Medicaid Recodification: General Requirements—Technical Corrections.	A. *Description:* These amendments will make technical corrections to the rewritten Medicaid regulations published on September 29, 1978 and March 23, 1979. B. *Why Significant:* This document corrects technical and wording errors in response to public comments. C. *Regulatory Analysis:* Not required. D. *Need:* To make necessary changes either of technical errors or of inadvertent omissions, or improper wording that may have appeared to make substantive changes. E. *Legal Basis:* Sec. 1102 of the Social Security Act (42 U.S.C. 1302). F. *Chronology:* Final rule was published on September 27, 1978 (43 FR 45176) with comments accepted for 3 months. Then on March 23, 1979, final rules with comment period were published (44 FR 17926). The comment period closed on May 22, 1979.	Ann Watts, Program Analyst, Regulations Staff, BPP, Mary E. Switzer Bldg., 330 C Street, S.W., Washington, DC 20201, 202-245-8097.	Final Rule January-March 1980.
HCFA-49—Medicare/Medicaid Program: System for Hospital Uniform Reporting—Requirements for Cost Reporting.	A. *Description:* The regulations require all hospitals that receive payments under the Medicare and Medicaid programs to report cost-related information, such as cost of operation, volume of services, and capital assets, in a prescribed uniform manner. B. *Why Significant:* The purpose is to obtain comparable cost and related data on all participating hospitals for reimbursement, effective cost, and policy analysis, assessment of alternative reimbursement mechanisms and health planning. C. *Regulatory Analysis:* Yes, being conducted. D. *Need:* To implement the 1977 amendments to the Social Security Act. E. *Legal Basis:* Secs. 1121, 1861(v)(1)(F) and 1902(a)(40) of the Social Security Act (42 U.S.C. 1320(a)); Sec. 19 of Pub. L. 95-142.	Bill Cresswell, ORDS, Rm. 1-E-6, Oak Meadows Bldg., 6340 Security Blvd., Balto., MD 21207, 301-597-2367.	Proposed Rule January-March 1980.

Health Care Financing Administration—Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
	F. *Chronology:* NPRM was published on January 23, 1979 (44 FR 4741). The comment period closed on April 23, 1979. A new NPRM is being issued because of the large number of comments received in response to the original notice published and because of the extensive changes made in the system.		
HCFA-50—Medicare/Medicaid Program: Skilled Nursing Facility/Intermediate Care Facility (SNF/ICF) Uniform Cost Reporting—Requirements for Cost Reporting.	A. *Description:* This regulation will propose uniform systems that SNFs and ICFs participating in the Medicaid or Medicare program must use to report cost of operation, volume of services, and capital assets. B. *Why Significant:* This regulation will enable the Department to obtain comparable cost and related data on all participating SNFs and ICFs for effective cost and policy analysis, assessment of alternative reimbursement mechanisms and health planning. C. *Regulatory Analysis:* Decision pending on completion of preliminary study. D. *Need:* To implement the 1977 amendments to the Social Security Act. E. *Legal Basis:* Secs. 1121, 1861(v)(1)(F) and 1902 (a)(40) of the Social Security Act (42 U.S.C. 1320a); Sec. 19 of Pub. L. 95-142. F. *Chronology:* The proposal is currently under review. When the review is completed, it will be submitted to the Department for approval.	Bill Cresswell, ORDS, Rm. 1-E-6, Oak Meadows Bldg., 6340 Security Blvd., Balto, MD 21207, 301-597-2367.	Proposed Rule FY 81.
HCFA-51—Medicare/Medicaid Program: Hospital Discharge and Data Reports—Requirements for Discharge and Bill Data Reports.	A. *Description:* This regulation will require all hospitals to report discharge and billing data in a uniform manner. B. *Why Significant:* This regulation will enable the Department to obtain uniform discharge and bill data on all hospital patients in order to conduct retrospective profile analysis, and to support cost containment legislation and future cost control efforts. C. *Regulatory Analysis:* Decision pending on completion of preliminary study. D. *Need:* To implement the 1977 amendments to the Social Security Act. E. *Legal Basis:* Secs. 1121, 1861(v)(1)(F), and 1902 (a)(40) of the Social Security Act (42 U.S.C. 1320a); Sec. 19 of Pub. L. 95-142. F. *Chronology:* The proposal is currently under review. When the review is completed, it will be submitted to the Department for approval.	Bill Cresswell, ORDS, Rm. 1-E-6, Oak Meadows Bldg., 6340 Security Blvd., Balto, MD 21207, 301-597-2367.	Proposed Rule July-Sept. 1980.
HCFA-52—Medicare/Medicaid Program: Skilled Nursing Facility/Intermediate care Facility (SNF/ICF) Discharge and Bill Data—Requirements for Discharge and Bill Data Reports.	A. *Description:* This regulation will require all SNFs/ICFs to report discharge and billing data in a uniform manner. B. *Why Significant:* This regulation will enable the Department to obtain uniform discharge and bill data on all SNF/ICF patients in order to conduct retrospective profile analysis and to support cost containment legislation and future cost control effors. C. *Regulatory Analysis:* Decision pending on completion of preliminary study. D. *Need:* To implement the 1977 amendments to the Social Security Act. E. *Legal Basis:* Secs. 1121, 1801(v)(1)(F) and 1902(a)(40) of the Social Security Act (42 U.S.C. 1320a) and Sec. 19 of Pub. L. 95-142. F. *Chronology:* The proposal is currently under review. When the review is completed, it will be submitted to the Department for approval.	Bill Cresswell, ORDS, Rm. 1-E-6, Oak Meadows Bldg., 6340 Security Blvd., Balto., MD 21207, 301-597-2367.	Proposed Rule FY 82.
HCFA-53—Medicare/Medicaid Program: Home Health Agency (HHA) Cost and utilization Requirements for Cost Reporting.	A. *Description:* This regulation will propose uniform systems that HHA's participating in the Medicaid or Medicare program must use to report cost of operation, volume of services and capital assets. B. *Why Significant:* This regulation will enable the Department to obtain comparable cost and related data on all participating HHAs for effective cost and policy analysis, assessment of alternative reimbursement mechanisms and health planning. C. *Regulatory Analysis:* Yes, being conducted. D. *Need:* To implement the 1977 amendments to the Social Security Act. E. *Legal Basis:* Secs. 1121, 1861(v)(1)(F), and 1902(a)(40) of the Social Security Act (42 U.S.C. 1320a) Sec. 19 of Pub. L. 95-142. F. *Chronology:* The proposal is currently under development. When it is completed, it will be submitted to the Department for approval.	Bill Cresswell, ORDS, Rm. 1-E-6, Oak Meadows Bldg., 6340 Security Blvd., Balto., MD 21207, 301-597-2367.	Proposed Rule July-Sept '80.
HCFA-54—Medicare/Medicaid Program: Home Health Agency (HHA) Discharge and Bill Data—Requirement for discharge and Bill data.	A. *Description:* This regulation will require all HHAs to report discharge and billing data in a uniform manner. B. *Why Significant:* The regulations will enable the Department to obtain uniform discharge and bill data on all HHA patients in order to conduct retrospective profile analysis, and to support cost containment legislation anf future cost control efforts. C. *Regulatory Analysis:* Decision pending on completion of preliminary study. D. *Need:* To implement the 1977 amendments to the Social Security Act. E. *Legal Basis:* Secs. 1121, 1861(v)(1)(F), and 1902(a) (40) of the Social Security Act (42 U.S.C. 1302a); and sec. 19 of Pub. L. 95-142. F. *Chronology:* The proposal is currently under development. When it is completed, it will be submitted to the Department for approval.	Bill Cresswell, ORDS, Rm. 1-E-6, Oak Meadows Bldg., 6340 Security Blvd., Balto., MD 21207, 301-597-2367.	Proposed Rule FY 81.
HCFA-55—Medicare/Medicaid Program: Use of Federal Funds for Certain Prescribed Drugs—Requirements for Federal Payment for Certain Drugs.	A. *Description:* The proposed regulations would prohibit use of Federal funds under Medicare and Medicaid for certain drugs that have been classified as less than effective by the Food and Drug Administration and drugs that are illegal in interstate commerce. B. *Why Significant:* This regulation will respond to concerns of public interest groups by ensuring that services provided under the Medicare and Medicaid programs are of high quality and that Federal funds are expended in an effective and responsible manner. C. *Regulatory Analysis:* Not required. D. *Need:* To prohibit Medicare and Medicaid payments for drugs which are illegal in interstate commerce or ineffective. E. *Legal Basis:* Secs. 1862(a), 1871, and 1902 of the Social Security Act. F. *Chronology:* The proposal is currently being developed. When it is completed it will be sumbitted to the Department for approval.	Mendell J. Kaufman, Chief, SCIB, BPP, Rm. 463 EHR, 6401 Security Blvd., Balto., MD 21235, 301-594-8569.	Proposed Rule January-March 1980.

Deleted Regulations

Title	Description	Reason for deletion
Technical Amendments: Chiropractors, Physical Therapists, and Speech Pathologists.	The regulations would conform definitions of physical therapist assistant and speech pathologist to other related regulations; clarify requirements for outpatient physical therapy and speech pathology services provided at a home health agency; and provide independent physical therapists and chiropractors the same appeal procedures currently available to other providers.	We plan to incorporate this regulation in an initiative under consideration entitled "Review and Appeal Amendments".
Reimbursement of Federally Funded Health Centers.	These regulations set forth the rules governing reimbursement under medicare for services covered under the Supplementary Medical Insurance Program that are furnished by federally funded health centers.	Deleted temporarily to coordinate policy with Rural Health Clinic reimbursement policy (HCFA-35).
Cost to Related Organizations	These regulations clarify existing policy on Medicare reimbursement for services, facilities, and supplies furnished to a provider of services by an organization related to a provider by common ownership or control. They also codify policy now in program instructions in manuals.	Incorporated in the regulations entitled "Reimbursement to Related Organizations" (HCFA-29).
Negotiated Rates for Lab Tests	This regulation sets a reasonable charge for injection services and for certain diagnostic laboratory tests.	Deleted temporarily. It will be incorporated in a broader policy initiative, currently under development, that would affect laboratory tests, and billing and reimbursement under Medicare and Medicaid.
Prospective Reimbursement Rate—End-State Renal Disease (ESRD).	This notice establishes a rate per treatment for outpatient maintenance dialysis treatments furnished to patients dialyzing in a provider or renal dialysis facility.	Incorporated in the regulation entitled "Incentive Reimbursement for ESRD Services" (HCFA-31).
List of Medicaid Laboratory Tests	This regulation limits reimbursement under the Medicare and Medicaid programs for medical services, supplies, and equipment that do not generally vary significantly in quality from one supplier to another. Payments will be based on the lowest charge levels at which the services are widely and consistently available in a locality.	Incorporated in the regulation entitled "Proposed List of Additional Items and Services Subject to the Lowest Charge Level (HCFA-33).
Medicaid Utilization Control Penalty	This regulation specifies requirements for control over the utilization of inpatient institutional services in the Medicaid program. The regulation also specifies requirements States must meet to avoid reduced Federal matching; the content of quarterly reports; and the methods for making reductions of Federal matching.	Final rule was published on October 1, 1979.
Physician Reimbursement and Assignment	This regulation would propose changes in the current Medicare policy on assignment and reimbursement of physicians.	Deleted pending study of reasonable charge implementation and determination of whether changes are needed.
Corrections to Redesignation and Rewrite of Medicaid Regulations.	These amendments will make technical corrections to the Medicaid regulations that were rewritten and redesignated on September 29, 1978.	Incorporated in the regulation entitled "Medicaid Recodification: General Requirements" (HCFA-48)
Redesignation of Medicaid Administrative Requirements.	Certain administrative requirements for the Medicaid program renumbered to 42 CFR Chapter IV, Subchapter C, on March 23, 1979, are being amended to reflect public comments received.	Incorporate in the regulation entitled "Medicaid Recodification: General Requirements" (HCFA-48).
Target Reimbursement Date—End-Stage Renal Disease (ESRD).	This regulation provides a new optional method of Medicare reimbursement for the cost of home dialysis supplies, equipment and support services furnished to self-care home dialysis patients under the direct supervision of an approved provider or facility.	Final rule with comment period published on October 19, 1979.

Food and Drug Administration—Significant Regulations

Title	Summary	Contact	Decision quarter
FDA 1—Antigen E Assay—Potency Standards.	A. *Description:* This document establishes potency standards for short ragweed pollen extracts. Each final container of a lot of extract will be required to contain a minimum quantity of Antigen E relative to a reference preparation with a known quantity of Antigen E. B. *Why Significant:* The regulation establishes potency requirements for allergenic extracts. This will require manufacturers to conform to specific standards and assure the public of a uniform product. C. *Regulatory Analysis:* Not required. D. *Need:* To improve potency testing. E. *Legal Basis:* Section 351, 58 Stat. 702 42 U.S.C. 262. F. *Chronology:* Notice of proposed rulemaking was published August 3, 1979 (44 FR 45642). Comment period extended from October 2, 1979 to November 10, 1979. The final rule is currently under review by the Agency.	Michael Hooten, Regulations Branch (HFB-620), Bureau of Biologics, Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301-443-1306.	Final Rule April-June 1980.
FDA 2—Limulus Amebocyte Lysate (LAL) Specific Manufacturing Standards.	A. *Description:* This document prescribes additional standards for manufacturing LAL. LAL, prepared from the circulating amebocytes of the horseshoe crab may be used as a reagent for *in vitro* testing to detect bacterial endotoxins in certain biological products and medical devices. B. *Why Significant:* The regulation establishes uniform manufacturing standards to assure production of a uniform product. This is necessary to assure uniform product performance in pyrogen testing. C. *Regulatory Analysis:* Not required. D. *Need:* To improve pyrogen testing. E. *Legal Basis:* Section 351, 58 Stat. 702, 42 U.S.C. 262. F. *Chronology:* The proposal is currently under review by the Agency.	Michael Hooten, Regulations Branch (HFB-620), Bureau of Biologics, Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301-443-1306.	Proposed Rule April-June 1980.
FDA 3—Allergenic Source Material—Standards.	A. *Description:* This document prescribes additional criteria for source materials used in the manufacture of a final allergenic product. Specific requirements will be required for the propagation and maintenance of molds and certain animals. Inspection and recordkeeping requirements will apply to all manufacturers of allergenic products. B. *Why Significant:* The regulation establishes specific standards for certain source materials used to prepare allergenic extracts. This will assure product uniformity. C. *Regulatory Analysis:* Not required. D. *Need:* To assure safety and identity of source material. E. *Legal Basis:* Section 351, 58 Stat. 702, 42 U.S.C. 262. F. *Chronology:* Notice of proposed rulemaking published September 26, 1978 (43 FR 43472). The comment period closed on November 26, 1978. A revised proposal is currently under review by the Agency.	Michael Hooten Regulations Branch (HFB-620), Bureau of Biologics, Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301-443-1306.	Proposed Rule January-March 1980.
FDA 4—Radioallergosobent Test (RAST) Potency Test.	A. *Description:* This document proposes to amend the regulations to require that the RAST be used as a potency test for certain allergenic extracts. Presently, no reliable test is available for most extracts. Manufacturers were invited to attend a workshop at the Bureau on September 10, 1979. A collaborative study will be initiated. The results of the study will be used to develop the proposed rule. B. *Why Significant:* This regulation establishes a specific test to measure potency in a broad variety of allergenic extracts. The use of this test will result in a better measurement of potency. C. *Regulatory Analysis:* Not required. D. *Need:* To improve potency test. E. *Legal Basis:* Section 351, 58 Stat. 702, 42 U.S.C. 262. F. *Chronology:* The proposal is currently being drafted for review by the agency.	Michael Hooten, Regulations Branch, (HFB-620), Bureau of Biologics, Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301-443-1306.	Proposed Rule July-September 1981.

Food and Drug Administration—Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
FDA 5—Error and Accident Reports—Amend Blood GMPs.	A. *Description:* This document proposes that licensed and unlicensed blood establishments submit reports to Bureau of Biologics of errors and accidents that are imminent health hazards. The document also proposes that records of all errors and accidents, including those that are not imminent health hazards, be maintained. B. *Why Significant:* This regulation specifies certain reports required to be submitted by licensed and unlicensed blood establishments. It will provide information to determine the need for revising existing regulations, or developing new regulations. C. *Regulatory Analysis:* Not required. D. *Need:* The data will be used to judge adequacy of existing regulations. E. *Legal Basis:* Section 351, 58 Stat. 702 (42 U.S.C. 262). F. *Chronology:* The proposal is currently under review by the Agency.	Iris Hyman, Regulations Branch (HFB-620), Bureau of Biologics, Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301-443-1306.	Proposed Rule January-March 1980.
FDA 6—Reorganize Whole Blood Regulations.	A. *Description:* This document proposes to revise and reorganize Subpart A in Part 640 which prescribes additional standards for Whole Blood (Human). The regulations are being reorganized to reflect, insofar as possible, a logical sequence beginning with the collection of blood and progressing through storage, testing, labeling and issue. This document will also propose substantive amendments of the present requirements. B. *Why Significant:* This regulation will present an orderly arrangement of requirements for blood establishments to follow. It will assure the production of a safe and effective product and protect the health and safety of donors. C. *Regulatory Analysis:* Not required. D. *Need:* To increase donor and product safety and clarity of the regulations. E. *Legal Basis:* Section 351, 58 Stat. 702, 42 U.S.C. 262. F. *Chronology:* The proposal is currently being drafted for review by the Agency.	Robert Meyer, Regulations Branch (HFB-620), Bureau of Biologics, Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301-443-1306.	Proposed Rule January-March 1980.
FDA 7—Commonality of Blood Labeling—Uniform Labeling Requirements.	A. *Description:* This document proposes to amend the blood regulations as recommended by the American Blood Commission, Committee for Commonality in Blood Banking Automation. B. *Why Significant:* This regulation proposes uniform labeling requirements for blood and blood products. It will promote uniformity throughout the industry and provide increased safety to the public in blood transfusion. C. *Regulatory Analysis:* Not required. D. *Need:* To facilitate uniformity in blood labeling. E. *Legal Basis:* Section 351, 58 Stat. 702, 42 U.S.C. 262. F. *Chronology:* The proposal is currently being drafted for review by the Agency.	Steve Falter, Regulations Branch (HFB-620), Bureau of Biologics, Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301-443-1306.	Proposed Rule July-September 1980.
FDA 8—Notification of FDA Regarding Adverse Reactions—Recordkeeping and Reporting Requirements.	A. *Description:* This document proposes to require that manufacturers notify FDA of adverse reactions from use of their products. B. *Why Significant:* This regulation will require industry to keep records and make reports on specific adverse reactions within specified time limits to the Agency. This information will assist the Agency in evaluating the continued safety, purity, potency and effectiveness of marketed products. C. *Regulatory Analysis:* Not required. D. *Need:* To increase FDA's effectiveness in regulating biological products. E. *Legal Basis:* Section 351, 58 Stat. 702, 42 U.S.C. 262. F. *Chronology:* Notice of Availability of draft proposal was published April 24, 1979. The proposal is currently under review by the Agency.	Richard Fisher, Regulations Branch (HFB-620), Bureau of Biologics, Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301-443-1306.	Proposed Rule April-June 1980.
FDA 9—Panel on Review of Allergenic Extracts-Product Effectiveness.	A. *Description:* This document proposes to place the subject material in categories designated as (1) safe and effective and not misbranded, (2) unsafe or ineffective and misbranded, and (3) not within category (1) or (2) above, on the basis that available data are insufficient to classify such products. B. *Why Significant:* This regulation will establish the safety and effectiveness of currently marketed products. It will assure the public of receiving only those products found to be truly safe and effective. C. *Regulatory Analysis:* Not required. D. *Need:* To bring products into conformance with current standards of safety and effectiveness. E. *Legal Authority:* Section 351, 58 Stat. 702, 42 U.S.C. 262. F. *Chronology:* The proposal is currently being drafted for review by the Agency.	Michael Hooten, Regulations Branch (HFB-620), Bureau of Biologics, Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301-443-1306.	Proposed Rule January-March 1981.
FDA 10—Panel on Review of Viral Vaccines and Rickettsial Vaccines Product Effectiveness.	A. *Description:* This document proposes to place the subject products in categories designated as (1) safe and effective and not misbranded, (2) unsafe or ineffective and misbranded, and (3) not within category (1) or (2) above, on the basis that available data are insufficient to classify such products. B. *Why Significant:* This regulation will establish the safety and effectiveness of currently marketed products. It will assure the public of receiving only those products found to be truly safe and effective. C. *Regulatory Analysis:* Not required. D. *Need:* To bring products into conformance with current standards of safety and effectiveness. E. *Legal Basis:* Section 351, 58 Stat. 702, 42 U.S.C. 262. F. *Chronology:* The proposal is currently review by the Agency.	Steve Falter, Regulations Branch (HFB-620), Bureau of Biologics, Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301-443-1306.	Proposed Rule October-December 1979.
FDA 11—Panel on Review of Blood and Blood Products—Product Effectiveness.	A. *Description:* This document proposes to place the subject products in categories designated as (1) safe and effective and not misbranded, and (2) unsafe or ineffective and misbranded, and (3) not within category (1) or (2) above, on the basis that available data are insufficient to classify such products. B. *Why Significant:* This regulation will establish the safety and effectiveness of currently marketed products. It will assure the public of receiving only those products found to be truly safe and effective. C. *Regulatory Analysis:* Not required. D. *Need:* To bring products into conformance with current standards of safety and effectiveness. E. *Legal Basis:* Section 351, 58 Stat. 702, 42 U.S.C. 262. F. *Chronology:* The proposal is currently being drafted for review by the Agency.	Steve Falter, Regulations Branch (HFB-620), Bureau of Biologics, Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301-443-1306.	Proposed Rule July-September 1980.

Food and Drug Administration—Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
FDA 12—Panel on Review of Bacterial Toxoids and Bacterial Vaccines With U.S. Standards of Potency—Product effectiveness.	A. *Description:* This document proposes to place the subject products in categories designated as (1) safe and effective and not misbranded, and (2) unsafe or ineffective and misbranded, and (3) not within category (1) or (2) above, on the basis that available data are insufficient to classify such products. B. *Why Significant:* This regulation will establish the safety and effectiveness of currently marketed proudcts. It will assure the public of receiving only those products found to be truly safe and effective. C. *Regulatory Analysis:* Not required. D. *Need:* To bring products into conformance with current standards of safety and effectiveness. E. *Legal Basis:* Section 351, 58 Stat. 702, 42 U.S.C. 262. F. *Chronology:* The proposal is currently being drafted for review by the Agency.	Steve Falter, Regulations Branch (HFB-620), Bureau of Biologics, Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301-443-1306.	Proposed Rule July-September 1980.
FDA 13—Bioresearch Monitoring; Standards for Institutional Review Boards for Clinical Investigations.	A. *Description:* This regulation will establish standards for the composition, operation, and responsibility of any institutional review board that reviews clinical investigations involving the use of products regulated by the Food and Drug Administration. B. *Why Significant:* The regulations will provide greater protection of the rights and safety of subjects in clinical investigations and help assure the quality and integrity of the research data used to support the marketing of products regulated by FDA by specifically defining the responsibilies of institutional review boards in clinical investigations. C. *Regulatory Analysis:* Not required. D. *Need:* To clarify existing regulations concerning institutional review boards that review clinical investigations involving new drug products and to extend those regulations to include boards that review investigations on other FDA-regulated products. The regulation will establish specific standards for the composition, operation, and responsibilities of a board in assuring protection of the rights and safety of subjects involved in clinical investigations and assuring the quality and integrity of the research data used to support the marketing of products regulated by FDA. E. *Legal Basis:* 21 U.S.C. 346, 346a, 348, 352, 353, 355, 356, 357, 360, 360c, 360f, 360h-360j, 361, 371(a), 376, 381; 42 U.S.C. 216, 262, 263b-263n. F. *Chronology:* A proposed rule was published on August 8, 1978 (43 FR 35186). On August 14, 1979, the proposal was withdrawn and reproposed (44 FR 47699). Public hearings were held in Bethesda, Maryland, on September 18, 1979, in San Francisco on October 3, 1979, and in Houston on October 16, 1979. The comment period closed on November 12, 1979.	John C. Petricciani, Associate Director for Clinical Research (HFB-4), Bureau of Biologics, Food and Drug Administration, 8800 Rockville Pike, Rockville, MD 20205, 301-496-9320.	Final Rule October-December 1980.
FDA 14—Bioresearch Monitoring; Informed Consent.	A. *Description:* This regulation would establish a single set of informed consent requirements applicable to all investigators involved in investigational studies that either require prior FDA review or are later submitted to FDA in support of an application for a research or marketing permit. B. *Why Significant:* This regulation would clarify existing agency regulations governing informed consent and provide greater protection of the rights of human subjects involved in research activities that fall within the jurisdiction of FDA. C. *Regulatory Analysis:* Not required. D. *Need:* There has been an identifiable need to strengthen and clarify informed consent requirements as they apply to research that involves human subjects and is intended for submission to FDA. This regulation is designed to provide greater protection of the rights and safety of human subjects involved in research activities that fall within the jurisdiction of FDA. E. *Legal Basis:* 21 U.S.C. 346, 346a, 348, 352, 353, 355, 356, 357, 360, 360c, 360f, 360h-360j, 361, 371(a), 376, 381; 42 U.S.C. 216, 262, 263b-263n. F. *Chronology:* The proposed rule was published on August 14, 1979 (44 FR 47713). Public hearings were held in Bethesda, Maryland, on September 18, 1979, in San Francisco on October 3, 1979, and in Houston on October 16, 1979. The comment period closed on November 12, 1979.	John C. Petricciani, Associate Director for Clinical Research (HFB-4), Bureau of Biologics, Food and Drug Administration, 8800 Rockville Pike, Rockville, MD 20205, 301-496-9320.	Final Rule October-December 1980.
FDA 15—Antibiotic Certification; Exemption of Dermatologic and Vaginal Drug Products.	A. *Description:* This regulation would exempt dermatologic and vaginal antibiotics from the requirement for batch certification. The bulk drugs used in manufacturing exempt products would still have to be either certified or released by FDA before being used in manufacturing, however. B. *Why Significant:* Manufacturers would no longer be required to submit to FDA samples and test results for individual batches and could distribute these drug products as a result of their own testing and without notification by FDA that a specific batch is certified. This action will provide more efficient utilization of FDA's staff resources, more efficient certification procedures, and will decrease manufacturers' production costs by eliminating certification expenses. C. *Regulatory Analysis:* Not required. D. *Need:* The current state of manufacturing technology and the high level of compliance with existing monograph requirements demonstrated by manufacturers meet the requirements for consistency set forth in Section 507(c) of the Federal Food, Drug, and Cosmetic Act and warrant exempting this class of antibiotics from batch certification. E. *Legal Basis:* 21 U.S.C. 355, 357. F. *Chronology:* The proposed rule was published on July 6, 1979 (44 FR 39469). The comment period closed on September 4, 1979.	Philip L. Paquin, Chief, General Regulations, Development Branch (HFD-30), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5220.	Final Rule January-March 1980.
FDA 16—Antibiotic Certification; Exemption of Systemic Drug Products.	A. *Description:* This proposal would exempt certain specific classes of systemic antibiotics, as well as specific products by manufacturer, from the certification requirements of 21 U.S.C. 357. The classes that will be proposed for exemption will be those that, in the judgement of the Commissioner of Food and Drugs, no longer require certification to ensure safety and efficacy of use. B. *Why Significant:* This action will further implement FDA's goal of improving the certification program. Manufacturers of certain classes of systemic antibiotics would be exempted from obtaining certification from FDA of each manufactured batch. Thus, they would not be required to submit to FDA samples of test results for individual batches and could distribute these drug products as a result of thier own testing and without notification by FDA that a specific batch is certified. This would result in a decrease in manufacturers' production costs.	Philip L. Paquin, Chief, General Regulations Development Branch, (HFD-30), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5220.	Proposed Rule January-March 1980.

Food and Drug Administration—Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
	C. *Regulatory Analysis:* Not required. D. *Need:* The current state of manufacturing technology and the high level of compliance with existing monograph requirements demonstrated by manufacturers meet the requirements for consistency set forth in Section 507(c) of the Federal Food, Drug, and Cosmetic Act and warrant exempting certain of this class of antibiotics from batch certification. E. *Legal Basis:* 21 U.S.C. 355, 357. F. *Chronology:* The Proposed Rule is being prepared.		
FDA 17—Bioresearch Monitoring; Obligations of Sponsors and Monitors of Clinical Investigations.	A. *Description:* These regulations would establish procedures to be followed by a sonsor and a monitor before initiating, and during the course of, a clinical investigation involving the use of a drug, medical device, food or color additive, or electronic product. B. *Why Significant:* The regulations will provide greater protection of the rights and safety of subjects in clinical investigations and help assure the quality and integrity of the research data used to support the marketing of products regulated by FDA by specifically defining the responsibilities of sponsors and monitors in clinical investigations. C. *Regulatory Analysis:* Not required. D. *Need:* There has been an identifiable need to set forth procedures that would raise the level of the quality of clinical research by more thorough and supervisional contact between the sponsor and investigators. These regulations will define specifically the responsibilities of sponsors and monitors in assuring protection of the rights and safety of subjects involved in clinical investigations and assuring the quality and integrity of the research data used to support the marketing of products regulated by FDA. E. *Legal Basis:* 21 U.S.C. 346, 348, 352, 353, 355, 356, 357, 360, 360b–360f, 360h–360j, 361, 371(a), 376, 381, 42 U.S.C. 216, 262, 263b–263n. F. *Chronology:* The proposed rule was published on September 27, 1977 (42 FR 29412). The comment period closed on December 27, 1977.	Marilyn L. Watson, (HFD–30), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3650.	Final Rule January-March 1980.
FDA 18—Bioresearch Monitoring; Obligations of Clinical Investigators.	A. *Description:* These regulations would clarify existing regulations governing the conduct of persons who conduct clinical investigations on new drug products, and it extends the regulations to include persons who conduct clinical investigations on medical devices, food or color additives, and electronic products. B. *Why Significant:* The regulations will provide greater protection of the rights and safety of subjects in clinical investigations and help assure the quality and integrity of the research data used to support the marketing of products regulated by FDA by specifically defining the responsibilities of clinical investigators. C. *Regulatory Analysis:* Not required. D. *Need:* There has been an identifiable need to clarify existing regulations concerning persons who conduct clinical investigations on new drugs and to extend those regulations to include persons who conduct clinical investigations on other FDA-regulated products. These regulations are designed to assure the validity and reliability of clinical data submitted to FDA, provide greater protection of the rights and safety of subjects involved in the investigations, and provide agency-wide regulatory standards for conducting clinical investigations more efficiently and effectively. E. *Legal Basis:* 21 U.S.C. 346, 348, 352, 353, 355, 356, 357, 360, 360b–360f, 360h–360j, 361, 371(a), 376, 381, 42 U.S.C. 216, 263b–263n. F. *Chronology:* The proposed rule was published on August 8, 1978 (43 FR 35223). The comment period closed on November 6, 1978, and on November 14, 1978 was extended to December 6, 1978.	Marilyn L. Watson, (HFD–30), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3640.	Final Rule October-December 1980.
FDA 19—Drug Efficacy Study Implementation; Abbreviated New Drug Applications for Post-1962 Drugs.	A. *Description:* This proposal would permit applicants to file abbreviated new drug applications (ANDA's) for products identical to approved post-1962 drugs and to omit certain test results that are required in a full NDA to show safety and effectiveness of the product. It would apply only to certain drug products specified by FDA. At present, ANDA's are permitted only for pre-1962 drugs that FDA has found are suitable for that kind of submission. B. *Why Significant:* This will reduce duplicative human testing of drugs and also reduce the cost to the manufacturer of getting the affected drugs on the market. By increasing competition among drug manufacturers, it may reduce drug costs to the consumer. C. *Regulatory Analysis:* Decision pending on completion of preliminary study. D. *Need:* This action will increase competition among drug sources when patients have expired, and lower costs of drug products. E. *Legal Basis:* 21 U.S.C. 355, 371(a). F. *Chronology:* The proposed rule is being prepared.	Jean Mansur, Deputy Assistant Director for Regulatory Affairs, (HFD–30), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3640.	Proposed Rule October-December 1979.
FDA 20—Drug Quality Assurance; Current Good Manufacturing Practice for Large Volume Parenterals.	A. *Description:* These regulations would establish good manufacturing practice for a class of parenteral drug products that can be characterized as terminally sterilized aqueous solutions of 100 ml or more. They would supplement the more general "umbrella" current good manufacturing practice regulations that apply to all drug products. B. *Why Significant:* Large volume parenteral drug products are unique in both use and production. The primary use of many of these products is not based upon traditional drug therapy, but rather on the urgent need of a patient for basic body constituents. Because LVP drug products are usually administered to seriously weakened persons and generally in large volume, a high level of drug quality is required. C. *Regulatory Analysis:* Not required. D. *Need:* To help assure the quality and integrity of these drug products. E. *Legal Basis:* 21 U.S.C. 351, 352, 355, 357, 371. F. *Chronology:* The proposed rule was published on June 1, 1976 (31 FR 22202). The comment period closed on September 29, 1976.	Philip L. Paquin, Chief, General Regulations, Development Branch, (HFD–30), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5220.	Final Rule July-September 1980.
FDA 21—Drug Quality Assurance; Requirements for Designating The Manufacturer's Name on a Drug or Drug Product Label.	A. *Description:* This regulation would specify the conditions under which a person may be identified on a drug or drug product label as its manufacturer. B. *Why Significant:* The definition will identify for users, purchasers, and prescribers the manufacturer of a drug product more in line with the ordinary meaning of the word "manufacturer". C. *Regulatory Analysis:* Not required.	Steve Unger, General Regulations Development Branch, (HFD–30), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5220.	Final Rule January-March 1980.

Food and Drug Administration—Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
	D. *Need:* Under Section 502(b) of the Federal Food, Drug, and Cosmetic Act, a drug is misbranded unless its label bears the name of its manufacturer, packer, or distributor. This regulation will eliminate a previous policy of identifying a manufacturer which was considered misleading. E. *Legal Basis:* 21 U.S.C. 352, 371(a). F. *Chronology:* The proposed rule was published on October 3, 1978 (43 FR 45614). On June 26, 1979, the comment period was extended to August 27, 1979.		
FDA 22—New Drug Evaluation; Public Disclosure of Specifications.	A. *Description:* This regulation would provide for the disclosure of specifications submitted to the agency by the manufacturer of a drug product, unless the specifications serve no regulatory or compliance purpose, are exempt as trade secrets, and have not previously been publicly disclosed. B. *Why Significant:* The public availability of drug specifications will help to assure that all manufacturers of the same drug product meet the same standards of identity, strength, quality, and purity. Consumers and physicians will be able to select a brand of drug product knowing that the standards it is required to meet are comparable to those of other versions of the same drug product. Disclosure will permit the official compendia to maintain current standards applicable to the products of all manufacturers. Consistent compendial specifications and methods will contribute to improving the enforcement programs of Federal, State, and local regulatory agencies who must assure full compliance with legal requirements for drug products. C. *Regulatory Analysis:* Not required. d. *Need:* There are drugs for which specifications are not publicly available. The regulation would resolve this problem. E. *Legal Basis:* 21 U.S.C. 321 et seq., 42 U.S.C. 201 et seq., 5 U.S.C. 552. F. *Chronology:* The proposed rule was published on July 15, 1977 (42 FR 36485). The comment period closed on September 13, 1977.	Edwin V. Dutra, Jr., Precedent Regulations and Legislative Activities Branch, (HFD-30), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6490.	Final Rule April-June 1980.
FDA 23—New Drug Evaluation; Revision of IND/NDA Regulations.	A. *Description:* This proposal would revise the regulations on investigational new drugs (IND's) and new drug applications (NDA's) to improve the efficiency of FDA's operation and to update and refine its internal policies in reviewing, processing, and communicating with sponsors and applicants on IND's and NDA's. The revision would more formally structure the IND phase so that if a drug reaches the NDA stage it would be essentially approvable. B. *Why Significant:* Those revisions can be expected to aid IND sponsors and NDA applicants be expediting the review process, reducing paperwork, and redefining the IND and NDA requirements in line with FDA's experiences in current practices. They should also result in simpler and more useful reporting requirements. C. *Regulatory Analysis:* Not required. D. *Need:* Experience with these regulations after a number of years has identified areas where the IND/NDA procedure and requirements need updating and improving. E. *Legal Basis:* 21 U.S.C. 355, 357, 371(a). F. *Chronology:* A Notice of Public meeting was published on October 12, 1979 (44 FR 58919).	Robert Frankel, Deputy Associate Director for New Drug Evaluation, (HFD-101), Bureau of Drugs, Food and Drugs Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6062.	Proposed Rule July-September 1981.
FDA 24—Prescription Drug Advertising: Revision of Regulations.	A. *Description:* This notice of intent will announce that FDA intends to propose revisions to the present regulations to provide clear requirements for modern advertising techniques and to clarify and establish additional requirements for promotional labeling. B. *Why Significant:* Although some of the revisions to be proposed represent requirements not specifically included in the existing regulations, in many instances they are requirements that have been considered implicit in the regulations or have been agency policy. By setting clear requirements, the revisions will enable drug manufacturers to know what is and is not permissible advertising. C. *Regulatory Analysis:* Not required. D. *Need:* The regulations are not up-to-date inasmuch as advertising methods have changed drastically since the current regulations were published, primarily in the use of electronic media (radio, television, and tapes) in addition to the printed media. E. *Legal Basis:* 21 U.S.C. 321(n), 352, 371. F. *Chronology:* The Notice of Intent is being prepared.	Paul O. Fehnel, Chief, Precedent Regulations and Legislative Activities Branch, (HFD-30), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6490.	Notice of Intent January-March 1980.
FDA 25—Prescription Drug Labeling; Policy on Patient Labeling.	A. *Description:* This regulation would require the manufacturer of a prescription drug product to prepare and distribute labeling that is intended for the patient. The dispenser of the product would be required to provide the labeling to the patient when the product is dispensed. B. *Why Significant:* The regulation is expected to help patients use prescription drug more safely and effectively. C. *Regulatory Analysis:* Yes, being conducted. D. *Need:* To make users of drugs aware of the risks and benefits of drugs prescribed for them and to promote their safe and effective use. E. *Legal Basis:* 21 U.S.C. 352, 353, 355, 357, 371; 42 U.S.C. 262. F. *Chronology:* The proposed rule was published July 6, 1979 (44 FR 40016). A notice of public hearings on the proposed rule was published August 10, 1979 (44 FR 47104). Public hearings were held in Chicago on September 10, 1979, in Los Angeles on September 12, 1979, and in Washington, D.C. on September 14, 1979. On October 12, 1979 (44 FR 58918) the comment period was extended to November 5, 1979.	Michael C. McCrane, General Regulations Development Branch, (HFD-30), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5220.	Final Rule October-December 1980.
FDA 26—Biopharmaceutics Programs; Therapeutic Equivalence Evaluations.	A. *Description:* This regulation would add to FDA's public information regulations a statement that a listing of approved prescription drug products is available. B. *Why Significant:* It will be an aid to all prescribers, dispensers, and purchasers in their efforts to lower drug costs. C. *Regulatory Analysis:* Not required. D. *Need:* To provide a list of approved prescription drug products with their therapeutic equivalence evaluations to assist prescribers, dispensers, and purchasers in their efforts to benefit from generic substitution laws and lower drug costs. E. *Legal Basis:* 21 U.S.C. 321 et seq., 42 U.S.C. 201 et seq., 5 U.S.C. 552. F. *Chronology:* The proposed rule was published on January 12, 1979 (44 FR 2932). The comment period closed on April 12, 1979	Howard Muller, General Regulations Development Branch, (HFD-30), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5220.	Final Rule January-March 1980.

Food and Drug Administration—Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
FDA 27—Summary of Food Labeling Hearings..	A. *Description:* This notice will summarize the testimony presented at five food labeling hearings conducted jointly by FDA, USDA, and FTS, as well as comments submitted in writing and will present the agencies' tentative positions on a variety of food labeling issues. B. *Why Significant:* There is substantial public interest in this program. C. *Regulatory Analysis:* Not required. D. *Need:* To notify the public of FDA's tentative positions on various food labeling issues and what future actions FDA is contemplating. E. *Legal Basis:* Section 403 and 701, (21 U.S.C. 343 and 371) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* The notice is currently under review.	Taylor M. Quinn, Associate Director for Compliance (HFF-300), Bureau of Foods, Food and Drug Administration, 200 C Street, S.W., Washington, D.C. 20204, (202) 245-1243.	Notice of Intent October-December 1979.
FDA 28—Cholesterol-Free Egg Substitute	A. *Description:* This proposed rule will address the issue of the use of the term cholesterol-free in the name of food products. B. *Why Significant:* This issue concerns a matter on which there is substantial public interest. C. *Regulatory Analysis:* Not required. D. *Need:* To establish consistency in labeling of cholesterol content of foods. E. *Legal Basis:* Sections 201(n), 403(a), 701(a), 52 Stat. 1041, as amended; 1047-1048, as amended; 1055 (21 U.S.C. 321(n) 343(a), and 371(a)) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* This proposed rule is currently under review.	Elizabeth Campbell, Guidelines and Compliance Research Branch (HFF-312), Bureau of Foods, Food and Drug Administration, 200 C Street, S.W., Washington, D.C. 20204, (202) 245-3092.	Proposed Rule January-March 1980.
FDA 29—Plant Protein—Common or Usual Names for Foods, Vegetable Protein Products Which Resemble and Substitute for Meats, Seafood, Poultry, Eggs, or Cheese.	A. *Description:* This regulation will establish common or usual names for vegetable protein products and names and definitions of nutritional equivalence for substitutes for the five major protein foods. B. *Why Significant:* There is substantial public interest in having consistent labeling requirements regarding the nutrient content of vegetable protein substitutes. C. *Regulatory Analysis:* Not required. D. *Need:* To provide consistency in the labeling and in the nutrient content of vegetable protein substitutes for the five major protein foods. E. *Legal Basis:* Sections 201(n), 403, 701, 52 Stat. 1041, as amended; 1047-1048, as amended; 1055-1056, as amended (21 U.S.C. 321(n) 343, 371) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* Tentative final rule was published on July 14, 1978 (43 FR 30472). The comment period closed on November 13, 1978.	Elizabeth Campbell, Guidelines and Compliance Research Branch (HFF-312), Bureau of Foods, Food and Drug Administration, 200 C Street, S.W., Washington, D.C. 20204, (202) 245-3092.	Final Rule July-September 1980.
FDA 30—Sugar Labeling of Foods.....	A. *Description:* This proposed rule would amend the nutritional labeling format so that the carbohydrate declaration will have subsets for simple sugars, as well as complex sugar. B. *Why Significant:* There is substantial public interest in having a declaration of sugar content. C. *Regulatory Analysis:* Not required. D. *Need:* To notify the public of the type and amount of carbohydrate being taken in. E. *Legal Basis:* Sections 201(n), 403, 701, 52 Stat. 1041, as amended; 1047-1048, as amended; 1055-1056, as amended (21 U.S.C. 321(n), 343, 371) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* This proposed rule is currently being drafted in the Bureau of Foods.	Elizabeth Campbell, Guidelines and Compliance Research Branch (HFF-312), Bureau of Foods, Food and Drug Administration, 200 C Street, S.W., Washington, D.C. 20204, (202) 245-3092.	Proposed Rule April-June 1980.
FDA 31—General Principles for the Addition of Nutrients to Food.	A. *Description:* This notice with clarify an FDA policy concerning the nutrient fortification of food. This policy is expressed as a series of principles which manufacturers are urged to follow if they elect to add nutrients to a particular food or class of foods. B. *Why Significant:* This final policy statement sets FDA's policy regarding the addition of nutrients to a particular food or class of foods. C. *Regulatory Analysis:* Not required. D. *Need:* To provide a guideline by which nutrients could be added to foods in a most appropriate pattern and potency. E. *Legal Basis:* Sections 201(n), 403(a), and 701(a), 52 Stat. 1041, 1046-1048, as amended; 1055 (21 U.S.C. 321(n), 343, and 371(a)). F. *Chronology:* Proposed rule was published on June 14, 1974 (39 FR 20900). The comment period closed on October 1, 1974.	Elizabeth Campbell, Guidelines and Compliance Research Branch (HFF-312), Bureau of Foods, Food and Drug Administration, 200 C Street, S.W., Washington, D.C. 20204, (202) 245-3092.	Final Policy Statement October-December 1979.
FDA 32—Liquid Protein Products Warning Statement.	A. *Description:* This final rule will set forth label warning requirements for protein supplements that may be used in weight reduction or weight maintenance programs. B. *Why Significant:* There is a potential danger in the misuse of liquid protein products. C. *Regulatory Analysis:* Not required. D. *Need:* To inform potential consumers of the possible dangers of misuse of liquid protein products. E. *Legal Basis:* Sections 201(n), 403(a), 701(a), 52 Stat. 1041, as amended; 1047-1048, as amended; 1055 (21 U.S.C. 321(n), 343(a), and 371(a)) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* The tentative final rule published December 29, 1978 (43 FR 60883). The comment period closed on February 27, 1979.	Elizabeth Campbell, Guidelines and Compliance Research Branch (HFF-312), Bureau of Foods, Food and Drug Administration, 200 C Street, S.W., Washington, D.C. 20204, (202) 245-3092.	Final Rule October-December 1979.

Food and Drug Administration—Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
FDA 33—Aflatoxin in Peanuts	A. *Description:* This final rule will set tolerances for aflatoxin in peanuts. B. *Why Significant:* There is a public health concern regarding the amount of aflatoxin found in peanuts. C. *Regulatory Analysis:* Not required. D. *Need:* To prevent avoidable residues of aflatoxins in peanuts and peanut products. E. *Legal Basis:* Sections 306, 402, 406, 701, 52 Stat. 1045–1046, 1049, 1055–1056, as amended; and 72 Stat. 948 (21 U.S.C. 336, 342, 346, 371) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* The proposed rule published on December 6, 1974 (39 FR 42748). Notice of availability of the assessment of estimated risk resulting from aflatoxins in consumer peanut products and notice of reopening of the comment period published on March 3, 1978 (43 FR 8806). Extension of comment period was published on April 18, 1978 (43 FR 16349). The comment period closed May 17, 1978.	Elizabeth Campbell, Guidelines and Compliance Research Branch (HFF-312), Bureau of Foods, Food and Drug Administration, 200 C Street, S.W., Washington, D.C. 20204, (202) 245-3092.	Final Rule January-March 1980.
FDA 34—Color Certification—Procedures for Non-Conforming Batches.	A. *Description:* This notice would establish guidelines for the certification of color additives to prescribe procedures for the rejection of samples submitted for certification on the basis of analytical response, when the substance causing the response is unidentified. B. *Why Significant:* Procedures for the certification of colors should be uniform and industry should be fully advised of them. C. *Regulatory Analysis:* Not required. D. *Need:* To establish guidelines which formalize the procedures used in certification of colors. E. *Legal Basis:* Section 706 (21 U.S.C. 376) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* This notice is currently being drafted in the Bureau of Foods.	Gerald McCowin, Petitions Control Branch (HFF-334), Bureau of Foods, Food and Drug Administration, 330 Independence Avenue, S.W., Washington, D.C. 20201, (202) 472-5690.	Notice of Intent January-March 1980.
FDA 35—Use of Food Preservatives BHT	A. *Description:* This final rule will establish an interim food additive for BHT. B. *Why Significant:* BHT is a widely used preservative heretofore considered GRAS and about which substantial safety questions have been raised, rendering it subject to the food additive law. Recent re-evaluation of available data indicates that additional information is required to substantiate that its use in food can continue to be deemed safe. C. *Regulatory Analysis:* Not required. D. *Need:* To determine if food preservative BHT can continue to be deemed safe for use in foods. E. *Legal Basis:* Sections 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788, as amended (21 U.S.C. 321(s), 348, 371(a)) of the Federal Food, Drug and Cosmetic Act. F. *Chronology:* The proposed rule published on May 31, 1977 (42 FR 27603). The comment period closed July 26, 1977	Dr. Corbin Miles, GRAS Review Branch (HFF-335), Bureau of Foods, Food and Drug Administration, 330 Independence Avenue, S.W., Washington, D.C. 20201, (202) 472-4750.	Final Rule October-December 1979.
FDA 36—Procedural Regulations for the Cyclic Review and Priority Listing of Food and Color Additives.	A. *Description:* This proposed rule would establish the procedure for the cyclic review and priority listing of food additives. B. *Why Significant:* The FDA believes that industry should be put on notice as to the procedures to be followed and priorities to be set regarding the cyclic review of food and color additives. C. *Regulatory Analysis:* Decision pending on completion of preliminary study. D. *Need:* To give notice as to the order in which food additives will be reviewed under the cyclic review process. E. *Legal Basis:* Sections 201(s), 409, 701(a), and 706, 52 Stat. 1055; 72 Stat. 1784–1788, as amended (21 U.S.C. 321(s), 348, 371(a), 376) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* The proposed rule is currently under review.	Gerald McCowin, Petitions Control Branch (HFF-334), Bureau of Foods, Food and Drug Administration, 330 Independence Avenue, S.W., Washington, D.C. 20201, (202) 472-5690.	Proposed Rule January-March 1980.
FDA 37—Net Weight	A. *Description:* This proposed rule would quantify reasonable variations for foods subject to moisture loss. B. *Why Significant:* There is substantial public interest because of possible economic deception. C. *Regulatory Analysis:* Decision pending on completion of preliminary study. D. Need: To protect the consumer from economic deception. E. *Legal Basis:* Sections 201(n), 403, 701, 52 Stat. 1041, as amended; 1045–1048, as amended; 1055–1056, as amended by 70 Stat. 919; and 72 Stat. 948 (21 U.S.C. 231(n), 343, and 371) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* The proposed rule is currently under review.	Elizabeth Campbell, Guidelines and Compliance Research Branch (HFF-312), Bureau of Foods, Food and Drug Administration, 200 C Street, S.W., Washington, D.C. 20204, (202) 245-3092.	Proposed Rule January-March 1980.
FDA 38—Caffeine	A. *Description:* FDA intends to issue proposals to determine the status of caffeine in soft drinks. B. *Why Significant:* This issue concerns a matter on which there is substantial public interest. C. *Regulatory Analysis:* Decision pending on completion of preliminary study. D. *Need:* The Select Committee on GRAS Substances of the Federation of American Societies for Experimental Biology (FASEB) has recommended that the FDA interim list direct food uses. E. *Legal Basis:* Sections 201(s), 409, 701(a), 52 Stat. 1055; 72 Stat. 1784–1788, as amended; 52 Stat. 1055 (21 U.S.C. 321(s), 348, 371(a)) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* The proposed rule is currently under review.	Dr. Corbin Miles, GRAS Review Branch (HFF-335), Bureau of Foods, Food and Drug Administration, 330 Independence Avenue, S.W., Washington, D.C. 20201, (202) 472-4750.	Proposed Rule October-December 1979.
FDA 39—GRAS Whey—Whey Products and Hydrogen Peroxide Used in Whey Treatments.	A. *Description:* This final rule will establish common or usual names and affirm the GRAS status for whey and whey products. This is a result of ten GRAS petitions. These dried whey products have numerous potential uses in food including sources of milk protein and use as milk solids where not exempted by food standards. B. *Why Significant:* There is substantial public interest in establishing uniform nomenclature and safe uses for these milk protein products. C. *Regulatory Analysis:* Not required. D. *Need:* To establish safe uses of certain milk proteins.	Dr. Corbin Miles, GRAS Review Branch (HFF-335), Bureau of Foods, Food and Drug Administration, 330 Independence Avenue, S.W., Washington, D.C. 20201, (202) 472-4750.	Final Rule October-December 1980.

Food and Drug Administration—Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
	E. *Legal Basis:* Sections 201(s), 409, 701(a), 52 Stat. 1055; 72 Stat. 1784-1788, as amended (21 U.S.C. 321(s), 348, 371(a)) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* The proposed rule published on June 22, 1979 (44 FR 36416). The comment period closed on October 29, 1979.		
FDA 40—Retortable Pouch	A. *Description:* This final rule will provide for safe use of components of laminated pouch intended to contact food under retort conditions. B. *Why Significant:* The retortable pouch could be used in place of the "tin can" in the marketing of many foods. C. *Regulatory Analysis:* Not required. D. *Need:* To protect the public health. E. *Legal Basis:* Section 409, 72 Stat. 1786 (21 U.S.C. 348) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* The notice of filing for several petitions published on November 7, 1975 (40 FR 52076), February 10, 1976 (41 FR 5861), September 13, 1976 (41 FR 38802), February 10, 1978 (43 FR 5891), April 7, 1978 (43 FR 14737), and June 23, 1978 (43 FR 27236). The final rule is currently under review.	Gerald McCowin, Petitions Control Branch (HFF-334), Bureau of Foods, Food and Drug Administration, 330 Independence Avenue, S.W., Washington, D.C. 20201, (202) 472-5690.	Final Rule April-June 1980.
FDA 41—Xylitol	A. *Description:* This proposed rule would determine the status of the use of Xylitol in specific dietary products. B. *Why Significant:* Xylitol is a sweetener. There is much industry and consumer interest in sucrose substitutes. C. *Regulatory Analysis:* Not required. D. *Need:* Data has been submitted to the FDA suggesting that Xylitol may not be safe. E. *Legal Basis:* Sections 409, 701(a), 52 Stat. 1055; 72 Stat. 1785-1788 (21 U.S.C. 348, 371(a)) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* This proposed rule is currently under review.	Gerald McCowin, Petitions Control Branch (HFF-334), Bureau of Foods, Food and Drug Administration, 330 Independence Avenue, S.W., Washington, D.C. 20201, (202) 472-5690.	Proposed Rule October-December 1979.
FDA 42—Food and Color Additives—Risk Assessment.	A. *Description:* This proposed rule would establish standard procedures for assessing the safety of food and color additives. B. *Why Significant:* The risk assessment procedure to be used is likely to be of particular public interest with regard to how it addresses food and color additives that may contain carcinogenic substances. C. *Regulatory Analysis:* Not required. D. *Need:* To clarify agency policy on carcinogenic constituents of food and color additives. E. *Legal Basis:* Sections 201(s), 201(t), 402, 409, 701, 52 Stat. 1046-1047, as amended; 72 Stat. 1784-1788, as amended (21 U.S.C. 321(s), 321(t), 342, 348, 371) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* The proposed rule is currently under review.	Gerald McCowin, Petitions Control Branch (HFF-334), Bureau of Foods, Food and Drug Administration, 330 Independence Avenue, S.W., Washington, D.C. 20201, (202) 472-5690.	Proposed Rule January-March 1980.
FDA 43—Trichloroethylene	A. *Description:* This final rule will prohibit trichloroethylene in human food because it may pose a risk of cancer. B. *Why Significant:* There is substantial FDA interest due to public health concerns indicated above. C. *Regulatory Analysis:* Not required. D. *Need:* To protect the public health. E. *Legal Basis:* Sections 201(s), 402, 409, 701, 52 Stat. 1046-1047, as amended; 72 Stat. 1784-1788, as amended (21 U.S.C. 321(s), 342, 348, 371) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* The proposed rule published on September 27, 1977 (42 FR 49465). The commont period closed on November 28, 1977.	Gerald McCowin, Petitions Control Branch (HFF-334), Bureau of Foods, Food and Drug Administration, 330 Independence Avenue, S.W., Washington, D.C. 20201, (202) 472-5690.	Final Rule January-March 1980.
FDA 44—Use of Chlorine Gas in an Aqueous Solution.	A. *Description:* This proposed rule would establish GRAS conditions of use for chlorine food sanitizers. This is the result of twelve GRAS petitions for uses of chlorine, hypochlorus acid, and chlorine dioxide as food sanitizing solutions. B. *Why Significant:* There is a substantial public health issued involved. C. *Regulatory Analysis:* Not required. D. *Need:* To establish safe uses of chlorine in a sanitizing agent. E. *Legal Basis:* Sections 201(s), 409, 701(a), 52 Stat. 1055; 72 Stat. 1784-1788, as amended (21 U.S.C. 321(s), 348, 371(a)) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* The proposed rule is currently under review.	Dr. Corbin Miles, GRAS Review Branch (HFF-335), Bureau of Foods, Food and Drug Administration, 330 Independence Avenue, S.W., Washington, D.C. 20201, (202) 472-4750.	Proposed Rule April-June 1980.
FDA 45—Nitrite as a Color Additive in Bacon	A. *Description:* This proposed rule would resolve the issue regarding nitrite as a color additive in bacon. B. *Why Significant:* There is substantial public interest and controversy regarding the use of nitrite in bacon. C. *Regulatory Analysis:* Decision pending on completion of preliminary study. D. *Need:* To clarify the status of nitrite as a color additive in bacon. E. *Legal Basis:* Sections 201(s), 201(t)(1), 402(a), 701(a), 706, 72 Stat. 1784; 74 Stat. 397, 52 Stat. 1046, 1055-1056, as amended (21 U.S.C. 321(s), 321(t)(1), 342(a), 371(a), 376) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* The proposed rule is currently under review.	Gerald McCowin, Petitions Control Branch (HFF-334), Bureau of Foods, Food and Drug Administration, 330 Independence Avenue, S.W., Washington, D.C. 20201, (202) 472-5690.	Proposed Rule October-December 1979.
FDA 46—Prior Sanction Status of Nitrites in Poultry Products.	A. *Description:* this proposed rule would resolve the issue regarding whether there is a prior sanction for nitrites in poultry products. B. *Why Significant:* There is substantial interest and controversy in the legal status of nitrites. C. *Regulatory Analysis:* Not required. D. *Need:* To protect the public health. E. *Legal Basis:* Sections 201(s), 201(t)(1), 402(a), 701(a), 706, 72 Stat. 1784; 74 Stat. 397; 52 Stat. 1046, 1055-1056, as amended (21 U.S.C. 321(s), 321(t)(1), 342(a), 376) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* The proposed rule is currently under review.	Gerald McCowin, Petitions Control Branch (HFF-334), Bureau of Foods, Food and Drug Administration, 330 Independence Avenue, S.W., Washington, D.C. 20201, (202) 472-5690.	Proposed Rule October-December 1979.
FDA 47—Safety of Food Ingredients Sucrose and Corn Sugar.	A. *Description:* The proposed rule would rule on the GRAS status of sucrose and corn sugar. B. *Why Significant:* There is much consumer concern about the health implications of consumption of sucrose and corn syrup. C. *Regulatory Analysis:* Not required.	Dr. Corbin Miles, GRAS Review Branch (HFF-335), Bureau of Foods, Food and Drug Administration, 330 Independence Avenue, S.W.,	Proposed Rule October-December 1979.

Food and Drug Administration—Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
	D. *Need:* To re-evaluate the safety of all GRAS ingredients. E. *Legal Basis:* Sections 201(s), 409, 701(a), 52 Stat. 1055 (21 U.S.C. 321(s), 348, 371(a)) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* This proposed rule is currently under review.	Washington, D.C. 20201, (202) 472-4750.	
FDA 48—Optional Ingredient Labeling Regarding Certain Food Standards.	A. *Description:* This proposed rule would revise certain food standards to require that all optional ingredients be labeled in accord with 21 CFR 101. B. *Why Significant:* There is substantial public interest in having all optional ingredients properly labeled. C. *Regulatory Analysis:* Decision pending on completion of preliminary study. D. *Need:* To promote honesty and fair dealing in the interest of consumer. E. *Legal Basis:* Sections 401, 701(e), 52 Stat. 1046, as amended; 70 Stat. 919, as amended (21 U.S.C. 341, 371(e)) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* The proposed rule is currently under review.	Dr. Prince Hamit, Deputy Director, Division of Food Technology, (HFF-411), Bureau of Foods, Food and Drug Administration, 200 C Street, S.W., Washington, D.C. 20204, (202) 245-1164.	Proposed Rule January-March 1980.
FDA 49—National Shellfish Safety Program	A. Description: A notice to withdraw the proposed National Shellfish Safety Program regulation and a proposal to continue the voluntary National Shellfish Program. B. *Why Significant:* An improved voluntary National Shellfish Program would help ensure the safety and wholesomeness of shellfish harvested in waters of participating states. C. *Regulatory Analysis:* Not required. D. *Need:* To improve the voluntary National Shellfish Program. E. *Legal Basis:* Sections 402, 403, 701(a), Pub. L. 717; 52 Stat. 1046-1048, 1055, as amended (21 U.S.C. 342, 343, 371(a)) of the Federal Food, Drug, and Cosmetic Act; Sections 301, 308, 311, 361, Pub. L. 410; 58 Stat. 691, 693, 703; 74 Stat. 364, as amended (42 U.S.C. 241, 242, 243, 246) of the Public Health Service Act. F. *Chronology:* The proposed rule published on June 19, 1975 (40 FR 25916). The comment period closed November 13, 1975.	David Clem, Shellfish Sanitation Branch, (HFF-417), Bureau of Foods, Food and Drug Administration, 200 C Street, S.W., Washington, D.C. 20204, (202) 245-1557.	Notice of Intent/Proposed Rule April-June 1980.
FDA 50—Dietary Supplement of Vitamins and Minerals.	A. *Description:* This proposed rule would establish a regulation for vitamin/mineral nutritional supplements and the labeling requirements. B. *Why Significant:* There is substantial public concern over the possibility that the availability of vitamin and mineral supplements may be in some way restricted by this regulation. C. *Regulatory Analysis:* Not required. D. *Need:* To make available products and labeling information adequate for consumers to regulate their own intake of vitamins and minerals. E. *Legal Basis:* Section 201(n), 403 (a) and (j), 701 (a) and (e), 52 Stat. 1041, as amended; 1047-1048, as amended (21 U.S.C. 321(n), 343 (a) and (j), 371(n) and (e) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* The proposed rule is currently under review.	Dr. Allen Forbes, Associate Director, Nutrition and Food Sciences, (HFF-200), Bureau of Foods, Food and Drug Administration, 200 C Street, S.W., Washington, D.C. 20204, (202) 245-1561.	Proposed Rule January-March 1980.
FDA 51—Labeling of Sodium and Potassium Content of Foods.	A. *Description:* This proposed rule would amend § 105.69 ("foods used to regulate sodium- and potassium-intake") to change the present mode of declaring sodium content and to add a description of how potassium content is also to be declared. There shall also be a new paragraph in § 101.17 ("Food Labeling Warning statements") to provide for warnings regarding potassium content on labels of some salt substitutes. B. *Why Significant:* There is substantial public interest in and a health need for consumers being able to regulate their own intake of salts. C. *Regulatory Analysis:* Not required. D. *Need:* To give consumers an opportunity to regulate their intake of sodium acid potassium. E. *Legal Basis:* Sections 201 (n) and (s), 402(a)(2)(c), 403(a), 409(c)(1)(a), and 701(a) (U.S.C. 321 (n) and (s), 342(a)(2)(c), 343(a), 348(c)(1)(a), and 371(a)) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* The proposed rule is currently being drafted in the Bureau of Foods.	Dr. Allen Forbes, Associate Director, Nutrition and Food Sciences, (HFF-200), Bureau of Foods, Food and Drug Administration, 200 C Street, S.W., Washington, D.C. 20204, (202) 245-1561.	Proposed Rule July-September 1980.
FDA 52—Lead Acetate	A. *Description:* This proposed rule would act upon a color additive petition for the use of lead acetate as a hair color. B. *Why Significant:* There is substantial interest in determining whether the use of lead acetate as a hair color is safe. This touches upon other questions regarding lead toxicity. C. *Regulatory Analysis:* Not required. D. *Need:* To determine whether lead acetate can safely be used as a hair dye ingredient. E. *Legal Basis:* Sections 706, 74 Stat. 399-403, as amended (21 U.S.C. 376) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* The proposed rule is currently being drafted in the Bureau of Foods.	Geral McCowin, Petitions Control Branch, (HFF-334), Bureau of Foods, Food and Drug Administration, 330 Independence Avenue, S.W., Washington, D.C. 20201, (202) 472-5690.	Proposed Rule January-March 1980.
FDA 53—CTFA Cosmetic Ingredient Dictionary.	A. *Description:* This final rule would finalize recognition of the CTFA (Cosmetic, Toiletry, and Fragrance Association, Inc.). Cosmetic Ingredient Dictionary, Second Ed., 1976, as petitioned by the CTFA, as a new source of ingredient names adopted for use in cosmetic ingredient labeling. On the initiative of the FDA, the final rule also lists several supplements and new editions of other currently recognized compenda which are proposed for adoption. B. *Why Significant:* FDA believes it to be important that the cosmetic industry have a uniform nomenclature of cosmetic ingredients. C. *Regulatory Analysis:* Not required. D. *Need:* To provide industry with a uniform nomenclature of cosmetic ingredients. E. *Legal Basis:* Sections 5(c), 6(a), 80 Stat. 1298, 1299 (15 U.S.C. 1454, 1455) of the Fair Packaging and Labeling Act and Sections 701(e), 70 Stat. 919, as amended (21 U.S.C. 371(e)) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* The proposed rule published on October 28, 1977 (42 FR 56757). The comment period closed on December 27, 1977.	H. J. Eiermann, Director, Division of Cosmetic Technology, (HFF-440), Bureau of Foods, Food and Drug Administration, 200 C Street, S.W., Washington, D.C. 20204, (202) 245-1530.	Final Rule October-December 1979.
FDA 54—Bubble Bath Products Warning	A. *Description:* On January 28, 1977, a notice was published proposing a required caution statement on labels of cosmetics bubble bath products. The caution statement was proposed in light of many consumer complaints of rashes and genito-urinary tract infections. The term "bubble bath products"	H. J. Eiermann, Director, Division of Cosmetic Technology, (HFF-440), Bureau of Foods, Food and Drug Administration,	Final Rule January-March 1980.

Food and Drug Administration—Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
	is defined for the purpose of the regulation. B. *Why Significant:* There is substantial FDA interest in informing consumers of possible problems which may occur while using these products. C. *Regulatory Analysis:* Not required. D. *Need:* To caution the consumers as to possible problems which may occur while using these products. E. *Legal Basis:* Sections 201(n), 601, 602, 701(a), 52 Stat. 1041, as amended; 1054, as amended; 1055 (21 U.S.C. 321(n), 361, 371(a)) of the Federal Food, Drug, and Cosmetic Act. F *Chronology* The proposed rule published on January 28, 1977 (42 FR 5386). The comment period closed on April 29, 1977.	200 C Street, S.W., Washington, D.C. 20204, (202) 245-1530.	
FDA 55—Procedural Regulations for Cyclic Review of Animal Drugs.	A. *Description:* This proposed rule would establish procedures and priorities for cyclic review. B. *Why Significant:* The FDA believes it is important that industry be put on notice, as to the procedures to be followed and priorities to be set regarding the cyclic review of animal drugs. C. *Regulatory Analysis:* Decision pending on completion of preliminary study. D. *Need:* To set procedures and priorities for cyclic review. E. *Legal Basis:* Sections 512, 701(a), 52 Stat. 343-351 (21 U.S.C. 360, 371(a)) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* The proposed rule is currently being drafted in the Bureau of Foods.	Dr. Bob Scheuplein, Chief, Food Animal Additive Staff (HFF-154), Bureau of Foods, Food and Drug Administration, 200 C Street, S.W., Washington, D.C. 20204, (202) 472-5760.	Proposed Rule March-June 1980.
FDA 56—Sensitivity of Method	A. *Description:* This final rule would establish criteria and procedures for evaluating assays for carcinogenic residues in animal-derived food. B. *Why Significant:* Industry needs guidelines as to what human safety data is required by FDA for new animal drug approval. C. *Regulatory Analysis:* Yes, being conducted. D. *Need:* To facilitate a determination of the safety of drugs intended for food producing animals. E. *Legal Basis:* Sections 402, 403, 409, 512, 701(a), 706, 52 Stat. 1046-1048, as amended; 1055, 72 Stat. 1785-1788, as amended; 74 Stat. 399-403, as amended, 82 Stat. 343-351 (21 U.S.C. 342, 343, 348, 360(b), 371(a), 376) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* The proposed rule was published on March 20, 1979 (44 FR 17070). The comment period closed on July 18, 1979. Notice of hearing published on April 20, 1979 (44 FR 23538). Hearing was held on June 4, 1979.	Bob Scheuplein, Chief, Food Animal Additive Staff (HFF-154), Bureau of Foods, Food and Drug Administration, 200 C Street, S.W., Washington, D.C. 20204, (202) 472-5760.	Final Rule July-September 1980.
FDA 57—Investigational Device Exemptions	A. *Description:* This regulation provides requirements for conducting clinical investigations of medical devices used with human subjects. B. *Why Significant:* The regulation will ensure that human subjects will be adequately protected during clinical investigations and that the data is the product of adequate and well controlled studies. C. *Regulatory Analysis:* Not required. D. *Need:* To implement section 520(g) of the Medical Device Amendments of 1976 and establish procedures for sponsors to obtain an investigational device exemption, and responsibilities of institutional review boards and investigators during the course of a clinical investigation. E. *Legal Basis:* 21 U.S.C. 360j(g). F. *Chronology:* Tentative final rule was published May 12, 1978 (43 FR 20726). The comment period closed December 5, 1978.	Joseph L. Hackett, Investigation Devcie Exemption Coordinator (HFK-403), Bureau of Medical Devices, Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, MD 20910, (301) 427-8162.	Final Rule October-December 1979.
FDA 58—Classification of Preenactment Devices.	A. *Description:* These regulations classify all medical devices marketed prior to May 28, 1976 into three regulatory control categories. The classifications are based on the recommendations of eight expert advisory panels. B. *Why Significant:* The classification regulations will determine the extent to which a device must be regulated to assure its safety and effectiveness. The classification regulations advise manufactuers whether their devices are subject to general controls, performance standards, or premarket approval. C. *Regulatory Analysis:* Not required. D. *Need:* To implement sections 513 (c) and (d) of the Medical Device Amendments of 1976. E. *Legal Basis:* 21 U.S.C 360c (c) and (d). F. *Chronology:* Final Regulation for Neurological Devices published September 4, 1979 (44 FR 51726); proposed rules published: Cardiovascular, March 9, 1979 (44 FR 13284), comment period closed May 8, 1979; OB/GYN, April 3, 1979 (44 FR 19894), comment period closed June 4, 1979; General Hospital, August 24, 1979 (44 FR 49844), comment period closed October 23, 1979; Physical Medicine, August 28, 1979 (44 FR 50458), comment period closed October 29, 1979; and Hematology/Pathology, September 11, 1979 (44 FR 52950), comment period closes November 13, 1979.	Robert S. Kennedy, Associate Director for Device Evaluation (HFK-400), Bureau of Medical Devices, Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, MD 20910, (301) 427-7230.	Final Rule April-June 1980.
FDA 59—Regulations to Require Premarket Approval.	A. *Description:* After classification has been completed for each Class III preenactment device, section 515(b) of the Medical Device Amendments requires promulgation of regulations that call for the submission of premarket approval applications. B. *Why Significant:* The regulations will contain information on hazards from use of the device to be eliminated or reduced by premarket approval, and the benefit to the public from use of the device. C. *Regulatory Analysis:* Decision pending on completion of preliminary study. D. *Need:* To implement section 515(b) of the Medical Device Amendments of 1976. E. *Legal Basis:* 21 U.S.C. 360e(b). F. *Chronology:* The proposal is currently being prepared.	Keith Lusted, Premarket Approval Coordinator (HFK-402), Bureau of Medical Devices, Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, MD 20910, (301) 427-8162.	Proposed Rule July-September 1980.
FDA 60—Premarket Approval Procedural Regulation.	A. *Description:* This regulation will provide procedural requirements for submission of premarket approval applications, including safety and effectiveness requirements for all Class III medical devices. B. *Why Significant:* The regulation is essential to ensure that FDA receives adequate information on the safety and effectiveness of all Class III devices. C. *Regulatory Analysis:* Decision pending on completion of preliminary study. D. *Need:* To implement section 515 of the Medical Device Amendments of 1976. E. *Legal Basis:* 21 U.S.C. 360e. F. *Chronology:* The proposal is currently under review.	Keith Lusted, Premarket Approval Coordinator (HFK-402), Bureau of Medical Devices, Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, MD 20910, (301) 427-8162.	Proposed Rule January-March 1980.

Food and Drug Administration—Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
FDA 61—Product Development Protocol	A. *Description:* This guideline will set forth suggested procedures for, and contents of, product development protocols to enable manufacturers to develop protocols in lieu of submitting separte investigational device exemption applications (IDEs) and premarket approval applications (PMAs). B. *Why Significant:* The PDP procedures will be of great assistance to the rapid development of innovative devices because it should be less expensive than the conventional two-step investigation and premarket approval procedure. The PDP procedure should be of great assistance to the small device manufacturers. C. *Regulatory Analysis:* Not required. D. *Need:* To implement section 515(f) of the Medical Device Amendments of 1976. E. *Legal Basis:* 21 U.S.C. 360e(f). F. *Chronology:* The notice is currently under review.	Keith Lusted, Premarket Approval Coordinator (HFK-402), Bureau of Medical Devices, Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, MD 20910, (301) 427-8162.	Notice of Intent April-June 1980.
FDA 62—Performance Standards Procedural Regulation.	A. *Description:* This regulation will prescribe the procedures by which performance standards will be established developed, and promulgated for all Class II medical devices. B. *Why Significant:* The regulation will reduce the risk to the public of Class II devices by ensuring that they are manufactured in accordance with prescribed standards. C. *Regulatory Analysis:* Not required. D. *Need:* To implement section 514 of the Medical Device Amendments of 1976, and inform the public how standards will be established and how they may participate in the standards setting process. E. *Legal Basis:* 21 U.S.C. 360d. F. *Chronology:* Proposed rule was published July 25, 1978 (43 FR 32264). The comment period closed November 30, 1978.	Robert Cangelosi, Acting Director, Division of General Medical Device Standards (HFK-310), Bureau of Medical Devices, Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, MD 20910, (301) 427-7182.	Final Rule October-December 1979.
FDA 63—Voluntary Standards Policy Statement.	A. *Description:* This notice will set forth FDA's statement on voluntary standards policy advising the public and interested organizations of FDA's strategy for the development and assistance in voluntary standards activities. B. *Why Significant:* By encouraging the development of voluntary standards government expenditures will be reduced because the government will be seeking the development of standards through voluntary standards setting organizations and using existing industry expertise, in lieu of the more costly mandatory standards approach. C. *Regulatory Analysis:* Not required. D. *Need:* To inform the public of the role of voluntary standards in the standards development process. E. *Legal Basis:* This notice supplements the agency's authority to develop standards under 21 U.S.C. 360d. F. *Chronology:* The notice is currently under review.	Robert Cangelosi, Acting Director, Division of General Medical Device Standards (HFK-310), Bureau of Medical Devices, Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, MD 20910, (301) 427-7182.	Notice of Intent October-December 1979.
FDA 64-Restricted Device Regulation	A. *Description:* This regulation will establish a criteria for manufacturers to determine whether a device is a restricted device and thus subject to certain labeling requirements as set forth in the regulation. B. *Why Significant:* The regulation will ensure that all restricted devices are subject to uniform labeling requirements. Once the regulation becomes a final rule, FDA inspectors will have access to manufacturing files concerning restricted devices. C. *Regulatory Analysis:* Not required. D. *Need:* To implement section 520(e) of the Medical Device Amendments of 1976 and adhere to the decision of the Courts in: *Becton, Dickinson and Company v. FDA*, 589 F.2d 1175 (2d Cir. 1978); and *In the Matter of Establishment Inspection of Portex, Inc., FDA, Appellant*, 595 F.2d 84 (1st Cir. 1979) E. *Legal Basis:* 21 U.S.C. 360j(e). F. *Chronology:* The proposal is currently under review.	Michael Lidsky, Office of ADRP (HFK-70), Bureau of Medical Devices, Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, MD 20910, (301) 427-7114.	Proposed Rule January-March 1980.
FDA 65—Mandatory Experience Reporting	A. *Description:* The regulation will set forth mandatory reporting requirements for manufacturers and distributors concerning devices which cause or could cause deaths or injuries, or are the subject of a corrective action. B. *Why Significant:* The regulation will provide greater patient protection by ensuring that FDA receives information on devices that are unsafe or ineffective. C. *Regulatory Analysis:* Not required. D. *Need:* To implement section 519 of the Medical Device Amendments of 1976 and enable FDA to monitor the safety of devices. E. *Legal Basis:* 21 U.S.C. 360i. F. *Chronology:* The proposal is currently under review.	Chester Reynolds, Chief, Device Experience Branch (HFK-125); Bureau of Medical Devices; Food and Drug Administration, 8757 Georgia Avenue; Silver Spring, MD 20910; (301) 427-8100.	Proposed Rules January-March 1980.
FDA 66—Maximum Residue Limits for Ethylene Oxide, Ethylene Chlorhydrin, and Ethylene Glycol.	A. *Description:* This regulation will impose residue limits on the use of ethylene oxide as a sterilant for certain drugs and devices by: (1) Establishing maximum residue limits for ethylene oxide and its two major reaction products; and (2) Maximum daily levels of exposure for drug products for ehtylene oxide and its two major reaction products. B. *Why Significant:* The regulation addresses an issue of substantial public interest and controversy—the continued use of ETO at the levels of use proposed by FDA. C. *Regulatory Analysis:* Decision pending on completion of preliminary study. D. *Need:* To develop safe levels of use for ethylene oxide, ethylene chlorhydrin, and ethylene glycol. E. *Legal Basis:* 21 U.S.C. 351, 355, 356, 367, 360b, 360c, 360k, 371(a).	Carl Bruch, Deputy Associate Director for Device Evaluation (HFK-400), Bureau of Medical Devices, Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, MD 20910 (301) 427-7230.	Tentative Final Rule Date of Publication Not Yet Determined.

Food and Drug Administration—Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
	F. *Chronology:* Proposed rule was published June 23, 1978 (43 FR 27474). The comment period closed August 22, 1978.		
FDA 67—California Application for Exemption from Preemption.	A. *Description:* This regulation will set forth which provisions of California's medical device laws are exempted from preemption and which laws are not preempted (i.e., no Federal law currently exists). B. *Why Significant:* This regulation will have an impact on California's comprehensive program for the regulation of medical devices. C. *Regulatory Analysis:* Not required. D. *Need:* To respond to the petition submitted by the State of California as required by section 521(b) of the Medical Device Amendments of 1976. E. *Legal Basis:* 21 U.S.C. 360k. F. *Chronology:* Tentative final rule was published April 3, 1979 (44 FR 19438). The comment period closed June 4, 1979.	Joseph M. Sheehan, Office of ADRP (HFK-70), Bureau of Medical Devices, Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, MD 20910, (301) 427-7114.	Final Rule January-March 1980.
FDA 68—Applications for Exemption from Preemption for State and Local Hearing Aid Requirements.	A. *Description:* This regulation responds to 19 state applications for exemption from preemption for hearing aid requirements. B. *Why Significant:* This regulation will determine whether 19 states may continue their regulation of the sale of hearing aids. C. *Regulatory Analysis:* Not required. D. *Need:* To respond to the 19 state petitions as required by section 521(b) of the Medical Device Amendments of 1976. E. *Legal Basis:* 21 U.S.C. 360k. F. *Chronology:* Proposed rule was published July 28, 1978 (43 FR 33180). The comment period closed September 26, 1978.	Joseph M. Sheehan, Office of ADRP (HFK-70), Bureau of Medical Devices, Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, MD 20910, (301) 427-7114.	Final Rule October-December 1979.
FDA 69—Additional Applications for Exemption from Preemption for State and Local Hearing Aid Requirements.	A. *Description:* This regulation responds to two additional state applications for exemption from preemption for hearing aid requirements. B. *Why Significant:* This regulation will determine whether two states may continue their regulation of the sale of hearing aids. C. *Regulatory Analysis:* Not required. D. *Need:* To respond to two additional state petitions as required by section 521(b) of the Medical Device Amendments of 1976. E. *Legal Basis:* 21 U.S.C. 360k. F. *Chronology:* Proposed rule was published April 13, 1979 (44 FR 22119). The comment period closed June 12, 1979.	Joseph M. Sheehan, Legal Associate, Office of ADRP (HFK-70), Bureau of Medical Devices, Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, MD 20910, (301) 427-7114.	Final Rule April-June 1980.
FDA 70—Recommendations for State and Local Agencies Concerning Accidental Radioactive Contamination of Human Food and Animal Feeds.	A. *Description:* The recommendations would consist of Protective Action Guides (PAGs), defined as the projected radiological dose equivalent or dose commitment to individuals in the general population that warrants protective action following a release of radioactive material. The Department of Health, Education, and Welfare was assigned agency responsibility for this task in the FEDERAL REGISTER of December 24, 1975 (40 FR 59494) by the Federal Preparedness Agency, General Services Administration. Within HEW, this function has been delegated to the Commissioner of Food and Drugs. B. *Why Significant:* Provides guidance following radiological incidents, including nuclear power plant accidents. C. *Regulatory Analysis:* Not required. D. *Need:* To develop necessary guidance under responsibility assigned by Federal Preparedness Agency. E. *Legal Basis:* Federal Preparedness Agency Notice in 40 FR 59494 and Public Health Service Act, 42 U.S.C. 241, 242o 243. F. *Chronology:* Proposed rule published on December 15, 1978 (43 FR 58790). Comment period closed on February 13, 1979.	Gail D. Schmidt, Standards and Regulations Branch (HFX-460), Bureau of Radiological Health, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-3426.	Final Rule May-July 1980.
FDA 71—Recommendations for National Standards for Medical Radiation Technologists.	A. *Description:* The Notice of Intent announced that the Bureau of Radiological Health will be establishing recommended qualifications for medical radiation technologists. The Notice solicited professional and public input about existing practices of credentialing, the need for uniform national standards, and possible approaches for ensuring that all medical radiation technologists demonstrate a certain level of competence in conducting medical radiation examinations. B. *Why Significant:* The issue concerns a matter on which there is substantial public interest as evidenced by the more than 500 comment letters received on the Notice of Intent. C. *Regulatory Analysis:* Not required. D. *Need:* Medical radiation technologists exercise considerable influence over patient exposure during radiological procedures and so criteria for their credentialing are essential. E. *Legal Basis:* Public Health Service Act, 42 U.S.C. 241, 243, 263d. F. *Chronology:* Notice of intent published on March 13, 1979 (44 FR 14637). Comment period closed on July 11, 1979.	Charles P. Froom, Standards and Regulations Branch (HFX-460), Bureau of Radiological Health, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-3426.	Proposed Rule June-August 1980.
FDA 72—Recommendations on Exposures from Diagnostic X-Ray Examinations.	A. *Description:* There exists a considerable range in the entrance skin exposure and the resulting organ doses for the same x-ray procedure conducted at different medical facilities and often within the same facility. Radiation exposure recommendations are being investigated that will permit radiologists, radiation protection personnel, and others to evaluate exposure values used in a given facility. Following the analysis of the comments generated by the Notice of inquiry, a program decision will be made as to the course of action the Bureau will pursue. B. *Why Significant:* The recommendations could have a great impact on reducing human exposure from medical x-ray examinations which accounts for ninety percent of public exposure to man-made ionizing radiation. C. *Regulatory Analysis:* Not required. D. *Need:* This recommendation will encourage facilities which are delivering excessive exposures compared to the usual exposures for specific examinations to reevaluate their procedures and lower their exposures. E. *Legal Basis:* Public Health Service Act, 42 U.S.C. 263d. F. *Chronology:* Notice of inquiry published on August 17, 1979 (44 FR 48354). Comment period closes on December 17, 1979.	Raymond F. Coakley, Jr., Standards and Regulations Branch (HFX-460), Bureau of Radiological Health, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-3426.	Proposed Rule October-December 1981.
FDA 73—Recommendations for Referral Criteria for Diagnostic Radiological Examinations.	A. *Description:* An often cited reason for the overuse of diagnostic radiological examinations is the lack of referral criteria for specific examinations. The National Conference on Referral Criteria for X-Ray Examinations addressed this problem. One of the most important recommendations resulting from the Conference, publicly ratified by the Commissioner, was that which estab-	Robert A. Phillips, Standards and Regulations Branch (HFX-460), Bureau of Radiological Health, Food and Drug Administration, 5600	Notice of Intent July-September 1980.

Food and Drug Administration—Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
	lished the Government as a facilitator in the cooperative medical professional organizations. The purpose of this announcement is: (1) To state FDA's intent to facilitate the development of referral criteria through expert panels of physicians, grants, and contracts, (2) To provide a listing of candidate radiological (including nuclear medicine) examinations; and (3) To announce means through which public participation in the process can be assured. B. *Why Significant:* These recommendations should sharply reduce the use of diagnostic x-ray procedures in those circumstances where experience has shown that such examinations do not significantly improve the patient's recovery from disease or injury. C. *Regulatory Analysis:* Not required. D. *Need:* To reduce human exposure to medical x-ray in those instances where no significant medical benefit would result. E. *Legal Basis:* Public Health Service Act, 42 U.S.C. 241, 242, 243. F. *Chronology:* The notice is currently under development.	Fishers Lane, Rockville, MD 20857.	
FDA 74—Neomycin Containing Animal Drugs	A. *Description:* To prescribe safe and effective conditions of use for neomycin containing animal drugs. B. *Why Significant:* This proposal would require the submission of new animal drug applications containing adequate data to establish the safe and effective conditions of use for new animal drugs in food producing animals. C. *Regulatory Analysis:* Not required. D. *Need:* Additional data are required for safety of residues of neomycin. E. *Legal Basis:* Sections 512, 701(a), 52 Stat. 1055, 82 Stat. 343-351 (21 U.S.C. 360b, 371(a)). F. *Chronology:* Notice of Proposed Rulemaking in preparation.	Dr. Charles E. Haines, Division of Drugs for Swine and Minor Species (HFV-136), Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3410.	Proposed Rule April-June 1980.
FDA 75—Sulfonamide Containing Animal Drugs.	A. *Description:* To amend 21 CFR 510.450 setting out prescribed requirements for studies to establish safe and effective conditions of use for sulfonamide containing drugs in food producing animals. B. *Why Significant:* All sponsors of sulfonamide containing drugs for use in food producing animals will be required to submit adequate information of establish safe and effective conditions of use including tolerances for safe residues in the edible products. C. *Regulatory Analysis:* Decisions pending on completion of preliminary study. D. *Need:* Data currently available is not adequate to establish safe tolerances for residues of sulfonamide drugs in edible products of food producing animals. E. *Legal Basis:* Sections 512, 701(a), 52 Stat. 1055, 82 Stat. 343-351 (21 U.S.C. 360b, 371(a)). F. *Chronology:* 21 CFR 510.450 was initially promulgated October 23, 1970 (35 FR 16538). It was amended to require interim studies on July 22, 1974 (39 FR 26633).	Dr. Emilio E. Viera, Division of Drugs for Swine and Minor Species (HFV-136), Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3410.	Proposed Rule April-June 1980.
FDA 76—Medicated Feed Task Force Implementation.	A. *Description:* Amends the regulations to provide revised criteria for the need of an approved medicated feed application for the manufacture of medicated feeds. B. *Why Significant:* This proposal would materially change the current requirements for approval for the use of drugs in the manufacture of medicated feeds. C. *Regulatory Analysis:* Not required. D. *Need:* The proposal would establish sound and consistent criteria for approval of medicated feed applications. E. *Legal Basis:* Secs 512, 701(a), 52 Stat. 1055, 82 Stat. 343-351 (21 U.S.C. 360b, 371(a)). F. *Chronology:* Revised feed definitions proposed January 17, 1978 (43 FR 2526). Task Force Report made available by FR Notice December 15, 1978 (43 FR 58634). FEDERAL REGISTER of March 6, 1979 (44 FR 12206) deferred action on definitions proposal to become a part of the Medicated Feed Task Force implementation.	Dr. Robert P. Schmidt, Division of Animal Feeds (HFV-224), Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3390.	Proposed Rule April-June 1980.
FDA 77—Teat Dips	A. *Description:* To establish a regulation prescribing data requirements to establish safe and effective use of teat dips in the dairy industry. B. *Why Significant:* The regulation will require that all articles offered for use as teat dips are new animal drugs and will require that they be the subject of an approved new animal drug application. C. *Regulatory Analysis:* Not required. D. *Need:* Such products have been shown not to be safe and effective for this use. E. *Legal Basis:* Sections 512, 701(a), 52 Stat. 1055, 82 Stat. 343-351 (21 U.S.C. 360b, 371(a)). F. *Chronology:* A notice of proposed rulemaking issued in the FEDERAL REGISTER of August 9, 1977 (42 FR 40217). Comment period closed on March 10, 1978.	Dr. Howard Meyers, Division of Surveillance (HFV-214), Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1848.	Final Rule July-September 1980.
FDA 78—Animal Drugs for Minor Species	A. *Description:* To modify the safety and effectiveness requirements for approval of new animal drug applications for use of a drug in a minor species or the minor use of a drug in a major species. B. *Why Significant:* To assure the availability of new animal drugs for use in minor species or for a minor use in a major species. C. *Regulatory Analysis:* Not required. D. *Need:* Because of little economic incentive to drug manufacturers. Under current criteria few drugs have been approved for use in minor species. E. *Legal Basis:* Sections 512, 701(a), 52 Stat. 1055, 82 Stat. 343-351 (21 U.S.C. 360b, 371(a)). F. *Chronology:* A notice of proposed rulemaking issued in the FEDERAL REGISTER of July 20, 1979 (44 FR 42714). Comment period closed on October 19, 1979.	Dr. Thomas V. Raines, Division of Drugs for Avian Species (HFV-149), Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4913.	Final Rule April-June 1980.
FDA 79—Sterility and Pyrogencity of Animal Drugs.	A. *Description:* To amend the current good manufacturing practice regulations for injectable animal drugs to require that they be sterile and free of extrinsic pyrogenic material. B. *Why Significant:* May require firms currently manufacturing such drugs to revise and update manufacturing facilities. C. *Regulatory Analysis:* Decision pending on completion of preliminary study.	Ms. Pat Cushing, Division of Compliance (HFV-234), Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857,	Notice of Proposed Rulemaking October-December 1980.

Food and Drug Administration—Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
	D. *Need:* Parenteral drugs that are not sterile and free of extrinsic pyrogenic material are potentially unsafe for such use. E. *Legal Basis:* Sections 501, 502, 512, 701(a) 52 Stat. 1049–1053 as amended, 1055 82 Stat. 343–351 (21 U.S.C. 351, 352, 360b, 371(a)). F. Chronology: A notice of intent was published in the FEDERAL REGISTER of December 15, 1978 (43 FR 58591). Comment period closed on June 13, 1979.	301-443-3460.	
FDA 80—Approval of Supplemental New Animal Drug Applications.	A. *Description:* Conditions are set forth under which a supplemental new animal drug application may be approved with or without a complete reevaluation of all safety and effectiveness data in the parent application. B. *Why Significant:* The regulation constitutes a change in agency policy regarding such approvals. C. *Regulatory Analysis:* Not required. D. *Need:* The regulation will facilitate approval of minor changes in approved applications including improving safety and effectiveness of the drug on an expeditious basis. E. *Legal Basis:* Sections 512, 701(a), 52 Stat. 1055, 82 Stat. 343–351 (21 U.S.C. 360b, 371(a)). F. *Chronology:* Notice of intent published November 12, 1976 (41 FR 50003) and notice of proposed rulemaking on December 23, 1977 (42 FR 64367). Comment period closed on March 23, 1978.	John R. Markus, Chief Chemist, Scientific Evaluation, (HFV-104), Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4313.	Final Rule October-December 1979.
FDA 81—Prohibited Substances; Deodorizer Distillates.	A. *Description:* The regulation would prohibit the use of deodorizer distillate substances in animal feed. B. *Why Significant:* Such substances have been implicated in the contamination of animal feed resulting in the destruction of contaminated food producing animals. C. *Regulatory Analysis:* Not required. D. *Need:* Deodorizer distillate substances contain concentrated pesticide and other chemical residues from their application to growing crops. E. *Legal Basis:* Sections 201(g), 402, 409, 701(a), 52 Stat. 1046–1047 as amended 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 342, 348, 371(a)). F. *Chronology:* Notice of Proposed Rulemaking published September 9, 1975 (40 FR 41797). Comment period closed on December 10, 1975.	John R. McDowell, Division of Animal Feeds (HFV-222), Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5362.	Tentative Final Rule October-December 1980.

Office of Human Development Services

Title	Summary	Contact	Decision quarter
HDS-1—Grants for State and Community Programs and Aging: General Rules.	A. *Description:* This regulation would revise existing regulations to clarify current policies and consolidate the requirements for multipurpose senior centers, social services and nutrition services provided through state and area agencies on aging. The regulation would also specify the requirements for the long-term care ombudsman program and implement other changes. B. *Why Significant:* This regulation would provide the framework for developing comprehensive and coordinated systems for social service and congregate and home delivered nutrition services. Preference would be given to those older persons with the greatest economic or soccial needs. C *Regulatory Analysis:* Not required. D. *Need:* To implement the 1978 Amendments to the Older Americans Act. E. *Legal Basis:* 42 U.S.C. 3001 et seq. F. *Chronology:* Notice of Decision to Regulate was published on January 31, 1980 (44 FR 6155). Notice of Proposed Rulemaking was published on July 31, 1979 (44 FR 45032). The comment period closed on October 1, 1979.	Fred Luhman, Chief, Div. of State & Community Programs, Room 4748 HEW North Bldg., 330 Independence Ave., S.W., Washington, D.C. (202) 472-3057.	Final Rule January-March 1980.
HDS-2—Grants to Indian Tribal Organizations for Social and Nutrition Services: General Rules.	A. *Description:* This regulation would establish procedures for eligible Indian tribal organizations to apply for grants to provide social and nutrition services to Indians age 60 and older. B. *Why Significant:* This is a new program which would result in increased social and nutrition services for older Indians. C. *Regulatory Analysis:* Not required. D. *Need:* To implement the provisions of Title VI of the Older Americans Act, as amended. E. *Legal Authority:* 42 U.S.C. 3057. F. *Chronology:* Notice of Decision to Regulate was published on January 31, 1979 (44 FR 6155).	Fran Holland, Aging Program Specialist, Administration on Aging, Room 4748 HEW North Bldg., 330 Independence Ave., S.W., Washington, D.C. 20201, (202) 472-3058.	Proposed Rule December 1979.
HDS-3—Vocational Rehabilitation and Independent Living Programs: General Rules.	A. *Description:* This regulation would revise existing regulations to clarify current policies and implement new program authorities including vocational rehabilitation services to Indian tribes and independent living services. B. *Wy Significant:* This regulation would change the State Plan requirements and expand the kinds of services available to handicapped individuals. C. *Regulatory Analysis:* Not required. D. *Need:* To implement the 1978 Amendments to the Rehabilitation Act of 1973. E. *Legal Basis:* 42 U.S.C. 3001 et seq. F. *Chronology:* Notice of Decision to Regulate was published on January 31, 1980 (44 FR 6155). Notice of Proposed Rulemaking was published in July 31, 1979 (44 FR 45032). The comment period closed on October 1, 1979.	Harold F. Shay, Director, Div. of Manpower Development, Rehabilitation Services Administration, Room 3321 M.E. Switzer Bldg., 330 C Street, S.W., Washington, D.C. 20201 (202) 245-0079.	Proposed Rule—December 1979.
HDS-4—Developmental Disabilities Program: General Rules.	A. *Description:* This regulation would revise existing regulations to clarify current policies and implement changes in the following areas: Definition of developmental disability; rights of the developmentally disabled; protection and advocacy systems; state planning councils; the state plan; allotments; and special project grants. B. *Why Significant:* This regulation would change the state plan requirements and concentrate funds on a limited number of priority service areas for the developmentally disabled. C. *Regulatory Analysis:* Not required. D. *Need:* To implement the 1978 Amendments to the Developmental Disabilities Assistance and Bill of Rights Act. E. *Legal Basis:* 42 U.S.C. 6008. F. *Chronology:* None.	Ms. Marjorie H. Kirkland, Bureau of Developmental Disabilities, Rehabilitation Services Administration, Room 3070 M.E. Switzer Bldg., 330 C Street, S.W., Washington, D.C. 20201, (202) 245-0335.	Proposed Rule—December 1979.

Office of Human Development Services—Continued

Title	Summary	Contact	Decision quarter
HDS-5—Social Service Programs: Consolidated Grants to Insular Areas.	A. *Description:* This regulation would specify the procedures for application and use of a single grant award consolidating the formula grant funds available for social services to the Insular Areas under Titles I, IV-A, IV-B, X, XIV, XVI and XX of the Social Security Act. B. *Why Significant:* This regulation will allow the Insular Areas greater flexibility for setting social services priorities and in responding to the needs of their populations. C. *Regulatory Analysis:* Not required. D. *Need:* To implement a 1977 Amendment to the Omnibus Territories Act. E. *Legal Basis:* 48 U.S.C. 1469(a). F. *Chronology:* None.	William F. Renahan, Program Analyst, Div of Policy Coordination, Offc. of Human Development Services, Room 334F 4, H.H. Humphrey Bldg., Washington, D.C. 20201, (202) 245-2874.	Proposed Rule—December 1979.
HDS-6—Native American Program: General Rules.	A. *Description:* This regulation would simplify and clarify existing regulations and implement significant changes in policies and operation to reflect experience in operating the program. B. *Why Significant:* The Native American Grants provide valuable resources to Native Americans in their efforts to achieve economic and social self-sufficiency. C. *Regulatory Analysis:* Not required. D. *Need:* Regulations are needed to provide detailed requirements for the receipt and use of grants under the Native Americans Program Act of 1974. E. *Legal Basis:* 42 U.S.C. 2991. F. *Chronology:* None.	Casimer Wichlacz, Director, Policy Planning & Budget Division, Administration for Native American, Room 357G, H.H. Humphrey Bldg., 200 Independence Ave., S.W., 20201, (202) 426-3940.	Proposed Rule—December 1979.
HDS-7—Child Abuse and Neglect Prevention and Treatment Program: General rules.	A. *Description:* This regulation will implement statutory amendments to the Child Abuse Prevention and Treatment Act, which provides descretionary grants for demonstration and service projects and research projects to private, nonprofit organizations. In addition, it provides special grants to States who meet the eligibility criteria for child abuse prevention and treatment projects. B. *Why Significant:* This regulation will revise the definition of child abuse and neglect to include sexual abuse and sexual exploitation as required by the statute. This will broaden the scope of services provided by the Act. C. *Regulatory Analysis:* Not required. D. *Need:* To implement the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978. E. *Legal Basis:* 42 U.S.C. 5101 et seq. F. *Chronology:* Notice of Decision to Regulate was published on September 6, 1978 (43 FR 39593).	Frank Ferro, Associate Chief, Children's Bureau, Administration for Children, Youth, and Families, Donohoe Bldg., Room 2030, 400 6th St., S.W., Washington, D.C. 20013, (202) 755-7418.	Proposed Rule—December 1979.
HDS-8—Title IV-B Child Welfare Services: General Rules.	A. *Description:* This regulation will revise the existing regulation to require the States to jointly develop with the Department current State plans for the delivery of child welfare services. In addition, this revision will separate the Title IV-B provisions from the Title IV-A provision and relocate the regulation from 45 CFR Part 220 to 45 CFR Part 1355. B. *Why Significant:* The States have not submitted new Title IV-B State plans or amendments since 1975. The planning process provided for in the new regulation will assist the States in identifying problems in child welfare services delivery, and planning for resolution of those problems in a priority order. C. *Regulatory Analysis:* Decision pending on completion of preliminary study. D. *Need:* The regulation was written ten years ago and is in need of updating and separation from the IV-A program regulation. This is part of the Operation Common Sense program to revise HDS regulations. E. *Legal Basis:* 42 U.S.C. 620 et seq. F. *Chronology:* None.	Frank Ferro, Associate Chief, Children's Bureau, Administration for Children, Youth, and Families, Donohoe Bldg., Room 2030, 400 6th St., S.W., Washington, D.C. 20013, (202) 755-7418.	Proposed Rule—January-March 1980.
HDS-9—Work Incentive Programs: relocation to Chapter XIII of 45 CFR.	A. *Description:* This regulation would relocate Part 224 (Work Incentive Programs for AFDC Recipients) from Chapter II of Title 45 of the Code of Federal Regulations (CFR) to Chapter XIII of 45 CFR. The regulation would delete references to the Social and Rehabilitation Service (an obsolete agency) and make other technical changes. B. *Why Significant:* This regulation would not cause any changes in the way in which this program is operated. C. *Regulatory Analysis:* Not required. D. *Need:* This regulation is needed to consolidate in Chapter XIII of 45 CFR all regulations administered by the Office of Human Development Services. E. *Legal Basis:* 42 U.S.C. 630 et seq. F. *Chronology:* None.	Merwin S. Hans, Executive Director, National Coordination Committee Work Incentive Program, Room 5102, Patrick Henry Bldg., 601 D Street, N.W., Washington, D.C. 20201, (202) 376-6694.	Final Rule January-March 1980.
HDS-10—Social Service Programs Under Titles I, IV, X, XIV, XVI (AABD) and XX of the Social Security Act: Relocation to Chapter XIII of 45 CFR.	A. *Description:* This regulation would relocate Part 220 (Service Programs for Families and Children), Part 222 (Service Programs for Aged, Blind and Disabled), and Part 228 (Social Services Programs for Individuals and Families), from Chapter II of Title 45 of the Code of Federal Regulations (CFR) to Chapter XIII of 45 CFR. The regulation would delete references to the Social and Rehabilitation Service (an obsolete agency) and make other technical changes, but no policy changes would be made. B. *Why Significant:* This regulation would not cause any changes in the way in which these programs are operated. C. *Regulatory Analysis:* Not required. D. *Need:* This regulation is needed to consolidate in Chapter XIII of 45 CFR all regulations administered by the Office of Human Development Services. E. *Legal Basis:* 42 U.S.C. 1302, 302-303, 1202, 1203, 1352-1353, 1382-1383. F. *Chronology:* None.	Johnnie U. Brooks, Director, Office of Policy Control Administration for Public Services, Room 2225, Mary E. Switzer Bldg., 330 C Street, S.W. Washington, D.C. 20201 (202) 245-9415.	Final Rule January-March 1980.
HDS-11—Work Incentive Program: New Procedures to Determine the WIN Sanction Period.	A. *Description:* This regulation would amend the Work Incentive (WIN) Program rules for Aid to Families with Dependent Children (AFDC) applicants and recipients who must register for employment and training, and related services. The regulation would remove provisions which impose fixed periods of AFDC grant ineligibility (sanction periods) on persons who are deregistered from the WIN program for failure or refusal to participate without good cause. Instead, this regulation would establish an individually determined sanction period that is based on the length of time that the person refused to participate. B. *Why Significant:* During the sanction period, the individual will not be permitted to register in the WIN program and, therefore will not be eligible for the AFDC grant.	Merwin S. Hans, Executive Director, National Coordination Committee Work Incentive Program, Room 5102, Patrick Henry Bldg., 601 D Street, N.W., Washington, D.C. 20213, (202) 376-6694.	Final Rule—December 1979.

Office of Human Development Services—Continued

Title	Summary	Contact	Decision quarter
	C. *Regulatory Analysis:* Not required. D. *Need:* This regulation is necessary to comply with a U.S. District Court decision and judgment entered on September 14, 1977. The case of *McClean* v. *Califano,* 458 F. Supp. 285 (S.D.N.Y. 1977), invalidated the regulations at 29 CFR 56.77 and 45 CFR 224.77 which imposed fixed periods of AFDC grant ineligibility (sanction periods) on individuals who are deregistered from the WIN program for failure or refusal to participate without good cause. After that, similar judgments were entered in other jurisdictions, and in *Crosby* v. *Califano,* Civil Action No. 78-3067 (S.D. Ill.), the court entered, on May 22, 1979, an order applying to all jurisdictions not previously covered. E. *Legal Basis:* 42 U.S.C. 630 et seq. F. *Chronology:* Notice of Proposed Rulemaking was publishing on November 17, 1978 (43 FR 53771). The comment period closed on January 16, 1979.		
SSA-1—Aid to Families With Dependent Children Program—Adjustment for Quality Control in Federal Financial Participation, 45 CFR Part 205.	A. *Description:* These final regulations will provide for incentive payments to States for reducing their AFDC error rate below 4 percent. B. *Why Significant:* These regulations will further improve State management of the AFDC program. C. *Regulatory Analysis:* Not required. D. *Need:* These regulations are needed to provide methods for calculating payments to States; and to improve quality control systems. E. *Legal Basis:* Social Security Amendments of 1977; 42 U.S.C. 603, 607. F. *Chronology:* A notice of Proposed Rulemaking was published on November 20, 1978 (43 FR 54105). The comment period ended on January 19, 1979.	Sean Hurley, (202) 245-8999, Program Specialist, Office of Family Assistance, Room 4111 Switzer Bldg., 330 C Street, S.W., Washington, D.C. 20201.	Final Rule October-December 1979.
SSA-2—Aid to Families With Dependent Children Program—Reduction in Federal Financial Participation, 45 CFR Part 205.	A. *Description:* In these final regulations, we explain that States must reduce their AFDC payment error rates to 4 percent by September 30, 1982. We also explain how we will determine a State's error rate and what happens if a State does not reduce its errors to a prescribed rate. B. *Why Significant:* These regulations will result in a significant reduction in erroneous payments in the AFDC program. C. *Regulatory Analysis:* None. D. *Need:* These regulations are required by the Supplemental Appropriations Act of 1979. E. *Legal Basis:* Pub. L. 96-38; 49 Stat. 647. F. *Chronology:* A Notice of Proposed Rulemaking was published on September 25, 1979. (44 FR 55318). The comment period ends on November 26, 1979.	Jack Schanberger, (301) 594-6785, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235.	Final Rule October-December 1979.
SSA-3—Aid to Families With Dependent Children Program—Access to Wage Record Information, 45 CFR Parts 205 and 206.	A. *Description:* These final regulations will require State AFDC agencies to request and use wage information from State unemployment compensation agencies, or, if not available, from the Social Security Administration. B. *Why Significant:* States will use the requested wage information to determine eligibility for, or amount of, financial assistance or services given under the AFDC program. This is expected to help reduce error rates in State AFDC agencies. C. *Regulatory Analysis:* Not required. D. *Need:* These regulations will specify what State AFDC agencies must do in order to comply with a statutory mandate: Sec. 403 of Pub. L. 95-216, which amended section 402(a) of the Social Security Act to add a new paragraph (29). E. *Legal Basis:* Sections 402, 411, 1102, 1106(a) of the Social Security Act, as amended, 49 Stat. 647, as amended, 91 Stat. 1561, 53 Stat. 1398, as amended, 42 U.S.C. 602, 611, 1302, 1306(a), and section 403 of Pub. L. 95-216, 91 Stat. 1561. F. *Chronology:* Interim regulations were published on January 30, 1978 (43 FR 3907). Invitation to comment was published on June 14, 1978 (43 FR 25672). Notice of Proposed Rulemaking was published on January 11, 1979 (44 FR 2404). Comment period ended March 12, 1979.	Ms. Helen Hamilton, (202) 245-1676, Program Specialist, Office of Family Assistance, Room 4111 Switzer Bldg., 330 C Street, S.W., Washington, D.C. 20201.	Final Rule October-December 1979.
SSA-4—Aid to Families With Dependent Children Program—Quality Control Reviews—General Administration, 45 CFR Part 205.	A. *Description:* The proposed regulations will require States to submit findings from their monthly AFDC review sample to SSA within 75 days after the sample month. Also, States will be required to submit findings on not less than 98 percent of the cases selected for the monthly review sample unless an alternative completion plan for that State is approved by the Secretary. The anticipated result is that the monthly review findings will be promptly submitted and not delayed until the end of the 6-month sample period. B. *Why Significant:* This change would assure more rapid availability of quality control data. This would enable SSA to complete our reports on a more timely and updated basis. Timely data on payment error rates will assist administrators in determining where funds are being lost and in taking action to correct problems. C. *Regulatory Analysis:* Not required. D. *Need:* These proposed regulations implement an administrative decision that was made. E. *Legal Basis:* 42 U.S.C. 302, 602, 1202, 1352 and 1382. F. *Chronology:* A Notice of Decision to Regulate was published on June 15, 1979 (44 FR 34606).	Sean Hurley, (202) 245-8999, Program Specialist, Office of Family Assistance, Room 4111 Switzer Bldg., 330 C Street, S.W., Washington, D.C. 20201.	Proposed Rule January-March 1980.
SSA-5—Assistance Programs—State Plan for Methods of Personnel Administration, 45 CFR Parts 205 and 235.	A. *Description:* These final regulations in Part 235 will clarify policies and simplify procedures for personnel administration included in State plans under title IV-A of the Social Security Act except in Guam, Puerto Rico, and the Virgin Islands. In Part 205, the rules will be updated on standards of personnel administration for financial assistance and social services programs under titles I, IV-A, X, XIV, and XVI(AABD) in Guam, Puerto Rico, and the Virgin Islands. B. *Why Significant:* These regulations will separate SSA policies and procedures for the AFDC program from those of two other agencies (all formerly administered by the Social and Rehabilitation service). The rules will relieve the Office of Personnel Management of an unnecessary workload. C. *Regulatory Analysis:* Not required. D. *Need:* SSA regulations are in obsolete form as published by the defunct Social and Rehabilitation Service; they encumber the Office of Personnel Management and the State agencies with unnecessary procedures and unclear policies. E. *Legal Basis:* 42 U.S.C. 1302 (Social Security Act, as amended, and Pub. L. 91-648). F. *Chronology:* None.	Ms. Evelyn Greene, Program Specialist, (202) 472-3793, Office of Family Assistance, Room 4111 Switzer Bldg., 330 C Street, S.W., Washington, D.C. 20201.	Final Rule April-June 1980.

Office of Human Development Services—Continued

Title	Summary	Contact	Decision quarter
SSA-6—Assistance Programs—Federal Matching Funds for State and Local Training, 45 CFR Parts 205 and 235.	A. *Description:* These final regulations will state the requirements for Federal financial participation in training of employees of States administering financial assistance programs. B. *Why Significant:* The revision of these regulations was initiated by the Social and Rehabilitation Service prior to its dissolution, and State agencies have participated in developing them. C. *Regulatory Analysis:* Not required. D. *Need:* These regulations are needed to clarify and strengthen States' training policies. E. *Legal Basis:* Sections 2, 3, 402, 403, 1002, 1003, 1102, 1402, 1403, 1602, and 1603 of the Social Security Act as amended; 42 U.S.C. 202, 302, 602, 603, 1202, 1203, 1302, 1352, 1353 and 1383. F. *Chronology:* Two notices were published on January 11, 1977, a Notice of Information (42 FR 2440) and a Notice of Proposed Rulemaking (42 FR 2445).	Evelyn Green, (202) 472-3793, Program Specialist, Office of Family Assistance, Room 4111 Switzer Bldg., 330 C Street, S.W., Washington, D.C. 20201.	Final Rule January-March 1980.
SSA-7—Aid to Families With Dependent Children Program—Redetermining Eligibility and Computing Supplementary Payment, 45 CFR Parts 232, 233, and 302.	A. *Description:* These proposed regulations will require that eligibility be based on the current month's reported support payments, and each month's supplemental payment be based on the largest part of the amount collected in the current month that would not cause ineligibility. They will provide uniform and equitable redeterminations of eligibility and payment amounts. B. *Why Significant:* These proposed regulations would affect AFDC and Child Support Enforcement programs in 14 States and in Puerto Rico, Guam, Virgin Islands, and the District of Columbia. C. *Regulatory Analysis:* Not required. D. *Need:* These proposed regulations will assure that no family receiving child support payments will suffer a loss in disposable income as a result of the initiation of the Child Support Enforcement Program. E. *Legal Basis:* 402(a)(7), (8), (10), and (28) and 1102 of the Social Security Act as amended; 42 U.S.C. 607(a)(7), (8), (10) and (28) and 1302 as amended, Section 202 of Pub. L. 94-88. F. *Chronology:* A Notice of Decision to Regulate was published on May 18, 1979 (44 FR 29122).	Alice Stewart, (202) 245-1694, Program Specialist, Office of Family Assistance, Room 4120 Switzer Bldg., 330 C Street, S.W., Washington, D.C. 20201.	Proposed Rule January-March 1980.
SSA-8—Aid to Families With Dependent Children Program—Equity Methods for Evaluating Resources, 45 CFR Part 233.	A. *Description:* These proposed regulations provide that equity value be used instead of current market value when determining resources. B. *Why Significant:* These proposed regulations will affect AFDC for all jurisdictions and adult assistance administered in Guam, Puerto Rico, and the Virgin Islands. C. *Regulatory Analysis:* Not Required. D. *Need:* These proposed regulations are prompted by and reflect the U.S. Court of Appeals decision in *NWRO v. Matthews* (553 F. 2d 637). E. *Legal Basis:* 42 U.S.C. 602 and 1302. F. *Chronology:* The Notice of Decision to Regulate was published on June 19, 1979 (44 FR 35241).	Juanita Henderson, (202) 245-0203, Program Specialist, Office of Family Assistance, Room 4119 Switzer Bldg., 330 C Street, S.W., Washington, D.C. 20201.	Proposed Rule January-March 1980.
SSA-9—Aid to Families With Dependent Children Program—Inclusion of Child Receiving Old-Age, Survivors' and Disability Insurance Benefits into an AFDC Assistance Unit, 45 CFR Part 233.	A. *Description:* The proposed regulations will reaffirm an AFDC caretaker's option to include in the AFDC assistance unit a child who receives OASDI benefits under Title II of the Social Security Act, even when such benefits are sufficient to meet the child's needs under the State's AFDC payment standard. B. *Why Significant:* The proposed regulations will codify internal policy memoranda in effect between the Federal Government and the States. C. *Regulatory Analysis:* Not required. D. *Need:* Policy clarification is required between State Letter 1068 and subsequent policy issuance in order to resolve two conflicting interpretations. E. *Legal Basis:* 42 U.S.C. 602 and 1302. F. *Chronology:* A Notice of Decision to Regulate was published on March 6, 1979 (44 FR 12214).	Connie Katz, (202) 245-0962, Program Specialist, Office of Family Assistance, Room 4111 Switzer Bldg., 330 C Street, S.W., Washington, D.C. 20201.	Proposed Rule January-March 1980.
SSA-10—Aid to Families With Dependent Children Program—Coverage and Condition of Financial Assistance Program; Residence, 45 CFR Part 233.	A. *Description:* These final regulations expand the definition of "resident" to include anyone who at the time of application is living in the State, is not receiving assistance from another State, and entered the State with a job commitment or seeking employment (whether or not currently employed). B. *Why Significant:* These regulations will make it possible for migrant and itinerant workers with families who are denied AFDC and Medicaid benefits because they move from State to State for employment purposes, to meet the residence requirement for assistance from the State and receive benefits if they are otherwise eligible. C. *Regulatory Analysis:* Not required. D. *Need:* These regulations are needed to conform to Medicaid regulations published on August 8, 1978. E. *Legal Basis:* Sections 402(b) and 1102 of the Social Security Act, as amended; 42 U.S.C. 602 and 1302. F. *Chronology:* Interim regulations were published on July 17, 1979 (44 FR 41459). The comment period ended September 17, 1979.	A. Slade, (202) 245-0521, Program Specialist, Office of Family Assistance, Room 4117 Switzer Bldg., 330 C Street, S.W., Washington, D.C. 20201.	Final Rule January-March 1980.

Office of Human Development Services—Continued

Title	Summary	Contact	Decision quarter
SSA-11—Aid to Families With Dependent Children Program—Continued Absence of the Parent from the Home, 45 CFR Part 233.	A. *Description:* A child will be considered deprived of parental support or care by reason of continued absence of a parent from the home when: (1) A parent has been convicted of an offense and is under sentence of a court; (2) the sentence requires the parent to perform unpaid public work or community service during working hours; and (3) the parent is permitted to live at home while serving the sentence for reasons in the public interest. B. *Why Significant:* The final regulations will broaden the interpretation of the statutory provision, "continued absence from the home." It is inequitable to grant AFDC to families with a parent in prison, but to deny AFDC to families with a parent who, although permitted to live at home, must serve a court-imposed sentence at unpaid work which deprives the children of economic support. C. *Regulatory Analysis:* Not required. D. *Need:* These regulations are needed to grant AFDC to families of children deprived of parental support or care because a parent cannot seek or accept a job while serving a sentence at unpaid work. E. *Legal Basis:* Secs. 406 and 1102 of the Social Security Act, as amended, 49 Stat. 629 as amended, 49 Stat. 647 as amended, 42 U.S.C. 606 and 1302. F. *Chronology:* A Notice of Decision to Regulate was published on August 10, 1978 (43 FR 35511). Notice of Proposed Rulemaking was published on July 2, 1979 (44 FR 38606). Comment period ended August 31, 1979.	Ms. Joyce Fernandez, (202) 245-0982, Program Specialist, Office of Family Assistance, 330 C Street, S.W., Washington, D.C. 20201.	Final Rule January-March 1980.
SSA-12—Aid to Families With Dependent Children Program—Protective Vendor and Two Party Payments for Dependent Children, 45 CFR Part 234.	A. *Description:* These final regulations will increase from 10 to 20 percent the Federal matching of funds for protective and two-party payments in State AFDC cases. Two-party payment checks require endorsement by the individual and the provider of care. B. *Why Significant:* The final regulations will clarify provisions for making protective and vendor payments and specifically authorize Federal funding for two-party checks, require statement of reasons for payments he put in child's file, and increase available funding. C. *Regulatory Analysis:* Not required. D. *Need:* The final regulations are needed to implement sec. 3 of Pub. L. 95-171, which increases from 10 to 20 percent the Federal matching funds available to States for the number of individuals for whom protective, vendor, and two-party payments can be made in any month. E. *Legal Basis:* Sections 402, 403, and 1102 of the Social Security Act, as amended; 42 U.S.C. 602, 603, 606, and 1302; sec. 3 of Pub. L. 95-171. F. Chronology: A Notice of Decision to Regulate was published on May 16, 1978 (43 FR 21015). A Notice of Proppsed Rulemaking was published on March 2, 1979. The comment period ended May 1, 1979.	C. B. Wooldridge, (202) 245-8817, Program Specialist, Office of Family Assistance, Room 4111 Switzer Bldg., 330 C Street, S.W., Washington, D.C. 20201.	Final Rule January-March 1980.
SSA-13—Aid to Families with Dependent Children Program—Administrative and Fiscal Requirements for Federal Financial Participation in Financial Assistance to Individual, 45 CFR Part 236.	A. *Description:* The proposed regulations will define "financial assistance payments" and list the types of assistance payments for which Federal matching funds are available. They will also provide requirements that States must meet in the payment process, and provide requirements having to do with making payments. B. *Why Significant:* These proposed regulations are important because they will explain how to handle incorrect payments that are excluded from the AFDC quality control system, how to select the proper payee, how to determine the correct payment and how to determine the method of payment. C. *Regulatory Analysis:* Not required. D. *Need:* Although these rules are in Part IV-500 of the Handbook of Public Assistance, they should be updated and transferred to the regulations. E. Legal Basis: Sections 402(a)(5) and 1102 of the Social Security Act. F. *Chronology:* A Notice of Decision to Regulate was published on October 1, 1979 (44 FR 56389).	John Seneta, (202) 245-0244, Program Specialist, Office of Family Assistance, Room 4129 Switzer Bldg., 330 C Street, S.W., Washington, D.C. 20201.	Proposed Rule April-June 1980.
SSA-14—Social Security Administration—Reorganization and Updating of Disclosure Regulations, 20 CFR Part 401.	A. *Description:* These final regulations provide for disclosure of information from social security records under the Social Security Act, the Freedom of Information Act, the Privacy Act, and other related statutes. B. *Why Significant:* These final regulations will reflect the policies SSA will follow in deciding whether to disclose information from its records. C. *Regulatory Analysis:* Not required. D. *Need:* Strong public interest in SSA's rules on disclosing information from its records indicates a need to publish these regulations. E. *Legal Basis:* Privacy Act of 1974 (Pub. L. 93-579); 5 U.S.C. 552 Freedom of Information Act (Pub. L. 94-409). F. *Chronology:* A Notice of Proposed Rulemaking was published on April 10, 1979, with a comment period ending June 19, 1978 (44 FR 21495). A notice was published on June 1, 1979, which extended the comment period to August 31, 1979 (44 FR 31667).	Armand Esposito, (301) 594-7455, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235.	Final Rule January-March 1980.
SSA-15—Social Security Administration—Availability of Information and Records to the Public, 20 CFR Parts 401 and 422.	A. *Description:* These proposed regulations will revise SSA's rules on the Freedom of Information Act to make them consistent with HEW's regulations in 45 CFR part 5, transfer material concerning HCFA's Medicare program and relocate certain rules to bring SSA's rules on disclosure and the availability of information together in one part. B. *Why Significant:* These are basically technical revisions to make SSA's rules consistent with those in 45 CFR Part 5. C. *Regulatory Analysis:* Not required. D. *Need:* There is a need to review SSA's rules on the availability of information for consistency with HEW's, revise our rules to reflect creation of Health Care Financing Administration, and to transfer certain Medicare information which no longer applies to SSA activities to 42 CFR part 405. E. *Legal Basis:* 42 U.S.C. 405 and 1302. F. *Chronology:* A Notice of Decision to Regulate was published on May 18, 1979 (44 FR 29102).	Armand Esposito, (301) 594-7455, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Md 21235.	Proposed Rule April-June 1980.

Office of Human Development Services—Continued

Title	Summary	Contact	Decision quarter
SSA-16—Old Age, Survivors, Disability Insurance Program—Quarters of Coverage and Insured Status, 20 CFR Part 404, Subpart B.	A. *Description:* These final regulations contain rules for determining quarters of coverage and insured status of a worker when a person claims old age, disability, dependent, or survivors benefits under Title III of the Social Security Act. B. *Why Significant:* These final regulations simplify the language of existing regulations making them easier to understand. Outdated material is eliminated. C. *Regulatory Analysis:* Not required. D. *Need:* The regulations are being rewritten to meet the Department's "Operation Common Sense" standards. E. *Legal Basis:* 42 U.S.C. 412, 413, 414, and 1302. F. *Chronology:* A Notice of Decision to Regulate was published on March 27, 1979 (44 FR 18237). A Notice of Proposed Rulemaking was published on July 11, 1979 (44 FR 40526); the comment period ended on September 10, 1979.	David Smith, (301) 594-7336, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Md. 21235.	Final Rule January-March 1980.
SSA-17—Old-Age, Survivors, Disability Insurance Program—New Methods for Computing Benefit Amounts, 20 CFR Part 404, Subpart C.	A. *Description:* These final regulations will explain the decoupling provisions of the Social Security Amendments of 1977 whereby a worker's basic benefit amount is computed from his earnings as a ratio of the total earnings of all workers. They will also explain the amended provisions for computing minimum benefit amounts and cost-of-living increases and recomputing the basic benefit. B. *Why Significant:* The provisions of these regulations will stabilize the relationship between initial benefits and the worker's earnings by means of wage indexing. C. *Regulatory Analysis:* Not Required. D. *Need:* The final regulations are required to publish definition of " average of the total wages," and are needed for complex provisions to be explained in layman's language. E. *Legal Basis:* Social Security Amendments of 1977 (Pub. L. 95-216); 42 U.S.C. 405, 415. F. *Chronology:* A Notice of Decision to Regulate was published on March 23, 1978 (43 FR 12033). Interim regulations were published December 29, 1978 (43 FR 60877). The comment period ended February 27, 1979.	Jack Schanberger, (301) 594-6785, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Md. 21235.	Final Rule October-December 1979.
SSA-18—Old-Age, Survivors, Disability Insurance Program—Basic Computation of Benefits and Lump Sums, 20 CFR Part 404, Subpart C.	A. *Description:* These proposed regulations will contain the rules on computations of primary insurance amounts (PIA) under the old-age, survivors, and disability insurance programs. (An individual's PIA is the basic tool we use to find the amount of the individual's monthly benefit as well as the monthly benefits of his or her family.) B. *Why Significant:* These proposed regulations will simplify the complex provisions for computing benefits. C. *Regulatory Analysis:* Not required. D. *Need:* These regulations are being rewritten to meet the Department's "Operation Common Sense" standards. E. *Legal Basis* Sec. 215 of the Social Security Act; 42 U.S.C. 415. F. *Chronology:* A Notice of Decision to Regulate was published on March 6, 1979 (44 FR 12205).	Jack Schanberger, (301) 594-6785, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Md. 21235.	Proposed Rule January-March 1980.
SSA-19—Old-Age, Survivors, Disability Insurance Program—Reduction of Benefits to Maximum, 20 CFR Part 404, Subpart E.	A. *Description:* These final regulations will provide a formula for determining the maximum monthly benefit that a family can recieve. B. *Why Significant:* These regulations will explain how the maximum benefits payable to a family will be computed from prescribed percentages of the primary insurance amount. C. *Regulatory Analysis:* Not required. D. *Need:* The final regulations are needed to complement regulations on "New Methods for Computing Benefit Amounts." E. *Legal Basis:* Social Security Amendments of 1977 (Pub. L. 95-216); 42 U.S.C. 403, 405. F. *Chronology:* A Notice of Decision to Regulate was published on March 23, 1978 (43 FR 12033). A Notice of Proposed Rulemaking was published on December 29, 1978 (43 FR 60956). The comment period ended February 27, 1979.	Jack Schanberger, (301) 594-6785, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Md. 21235.	Final Rule October-December 1979.
SSA-20—Old-Age, Survivors, Disability Insurance Program—The Retirement Test, 20 CFR Part 404, Subpart E.	A. *Description:* These final regulations implement a statutory provision which permits payment of monthly benefits because of low earnings in a month only at the time of initial retirement. Thereafter, the right to payments depends on earnings in a year. B. *Why Significant:* The statutory provision represents a radical change in the retirement test and the law lacks the specificity for implementation. C. Regulatory Analysis: Not required. D. *Need:* The law does not provide specificity for implementation of this provision. E. *Legal Basis:* Sections 203 and 1102 of the Social Security Act as amended; 42 U.S.C. 403 and 1302; Pub. L. 95-216. F. *Chronology:* A Notice of Decision to Regulate was published on August 15, 1978 (43 FR 36110). Interim regulations were published on November 17, 1978 (43 FR 53713). The comment period ended on January 16, 1979.	Clara Powell, (301) 594-7459, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Md. 21235.	Final Rule.
SSA-21—Old-Age, Survivors, Disability Insurance Program—Deductions, Reduction; and Nonpayment of Benefits, 20 CFR Part 404, Subpart E.	A. *Description:* This proposal is a recodification of the rules for making deductions from benefits, reducing benefits, and for nonpayment of benefits in the old-age, survivors, and disability insurance programs. B. *Why Significant:* The recodified regulations will be easier for the public to use and will update amendment material not contained in current regulations. C. *Regulatory Analysis:* Not required. D. *Need:* We propose to remove seldom used provisions, obsolete examples, and long, rambling paragraphs. The rules are rewritten in simpler terms under HEW's "Operaton Common Sense."	Marval Cazer, (301) 594-7453, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Md. 21235.	Proposed Rule April-June 1980.

Office of Human Development Services—Continued

Title	Summary	Contact	Decision quarter
	E. *Legal Basis:* 42 U.S.C. 405 and 1302; Sections 203, 205, and 224 of the Social Security Act. F. *Chronology:* A Notice of Decision to Regulate was published on July 11, 1979 (44 FR 40531).		
SSA-21-A—Old-Age, Survivors, Disability Insurance and Supplemental Security Income Programs—Experiments to Improve the Hearing Process By Having the Social Security Administration Represented at the Hearing, 20 CFR Part 404 Subpart J and Part 416 Subpart N.	A. *Description:* The proposed regulations will permit an experiment to be conducted in four hearing offices in which an SSA representative will be a party to an Administrative Law Judge hearing. Under this experiment, the representative will be responsible for preparing the case for the hearing, where the claimant is represented, and also for defending the prior decision at the hearing. B. *Why Significant:* SSA representation at the ALJ hearing is one of the changes we are considering to improve the process for making disability decisions. The ALJ, by relinquishing many of his or her present duties to the SSA representative (e.g., obtaining additional evidence), will be able to concentrate on the decision-making role. We also believe this change may reduce the time for holding hearings and reduce the cost of the hearing process. C. *Regulatory Analysis:* Not required. D. *Need:* We need the experiment to test whether the SSA representative concept will improve this part of the disability decision-making process. The administrative decision to implement this experiment was made by the Commissioner of Social Security on April 11, 1979. E. *Legal Basis:* 42 U.S.C. 405(A) and 1383. F. *Chronology:* None.	Charles Campbell, (301) 594-7453, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Md. 21235.	Proposed Rule October-December 1979.
SSA-22—Old-Age, Survivors, Disability Insurance and Supplemental Security Income Programs—Limitation for Holding Hearings, Issuing Hearing Decisions and Issuing Appeals Decisions, 20 CFR Part 404 Subpart J and Part 416 Subpart N.	A. *Description:* These proposed regulations will provide time frames for the holding of hearings, issuance of hearing decisions and Appeals Council reviews for all Title II and Title XVI disability cases. Good cause exceptions which generally benefit claimants are also described. B. *Why Significant:* This regulation provides regulatory assurance to claimants that appeals will be heard promptly and decisions issued promptly. C. *Regulatory Analysis:* Not required. D. *Need:* These proposed regulations are needed because, over the last several years, Congress, the Courts, representatives of individuals in social security matters, and the general public have expressed concern over delays in holding hearings, issuing hearing decisions and the reviews of these decisions. In addition, the Court of Appeals in *Blankenship v. Califano* ordered the Secretary to prepare and submit regulations for the Court's approval to remedy the problem of unreasonable delays in conducting hearings for the OASDI and SSI programs. E. *Legal Basis:* 42 U.S.C. 405, 1302, 1320(c)(8), 1383, 1395ff, and 1395(ii). F. *Chronology:* None.	Phil Berge, (301) 594-7452, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Md. 21235.	Proposed Rule Pending court approval.
SSA-23—Old-Age, Survivors, Disability Insurance and Supplemental Security Income Programs—Procedures, Payment of Benefits; Determinations, Reconsiderations, Hearings and Appeals, 20 CFR Part 404, Subparts J, R, and S, and Part 416, Subparts N and O.	A. *Description:* These final regulations will explain the administrative review process and procedures relating to claimant representation. B. *Why Significant:* These regulations explain people's procedural rights in dealings with the Social Security Administration. This revision makes the rules clearer and easier to understand. C. *Regulatory Analysis:* Not required. D. Need: These regulations are being rewritten under "Operation Common Sense." E. *Legal Basis:* 42 U.S.C. 405, 406, 1302, and 1383. F. *Chronology:* A Notice of Decision to Regulate was published on October 24, 1978 (43 FR 49545). A Notice of Proposed Rule Making was published on April 4, 1979 (44 FR 20176). The comment period ended June 4, 1979.	Cliff Terry, (301) 594-7519, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Md. 21235.	Final Rule April-June 1980.
SSA-24—Old-Age, Survivors, Disability Insurance Program—Employment, Wages, Self-Employment, SEI, 20 CFR Part 404, Subpart K.	A. *Description:* These final regulations will, in simpler terms define the types of work that are included or excluded for social security purposes. B. *Why Significant:* These final regulations simplify the language of existing regulations making them easier to understand. Outdated material is eliminated. C. *Regulatory Analysis:* Not required. D. *Need:* These regulations are being rewritten under "Operation Common Sense" to make them simpler and easier to use. E. *Legal Basis:* 42 U.S.C. 405, 409, 410, 411, 429, 430, 431 and 1302. F. *Chronology:* A Notice of Decision to Regulate was published on October 24, 1978 (43 FR 49545); A Notice of Proposed Rule Making was published on July 16, 1979 (44 FR 41222); the comment period closed on September 14, 1979.	David Smith, (301) 594-7336, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Md. 21235.	Final Rule January-March 1980.
SSA-25—Old-Age, Survivors, Disability Insurance Program—Coverage of Employees of State and Local Governments, 20 CFR Part 404, Subpart M.	A. *Description:* These proposed regulations will expand the current rules on including employees of State and local governments and interstate instrumentalities in the social security program. B. *Why Significant:* These proposed regulations will reflect the policies States must follow in applying for coverage of its employees and those of its local subdivisions, how to terminate its agreements, when it must pay its social security contributions, file wage reports, etc. C. *Regulatory Analysis:* Not required. D. *Need:* The current regulations need to be organized into a logical sequence and to be updated to reflect many policies which all parties have been following for many years. We will be reviewing all policies in this area to reduce recordkeeping burdens and to assess their import in the trust funds. E. *Legal Basis:* 42 U.S.C. 418.	Armand Esposito, (301) 594-7455, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Md. 21235.	Proposed Rule July-September 1980.

Office of Human Development Services—Continued

Title	Summary	Contact	Decision quarter
	F. *Chronology:* A Notice of Decision to Regulate was published on September 28, 1979 (44 FR 55899).		
SSA-26—Old-Age, Survivors, Disability Insurance Program—Wage Credits for Veterans and Members of the Uniformed Services, 20 CFR Part 404, Subpart N.	A. *Description:* These final regulations will recodify the rules regarding wage credits for veterans and members of the uniformed services. B. *Why Significant:* The policies affect the social security benefits of most servicemen. C. Regulatory Analysis: Not required. D. *Need:* These regulations are being rewritten to meet the Department's "Operation Common Sense" standards. E. *Legal Basis:* Secs. 205, 210, 217, 229, and 1102 of the Social Security Act, as amended; 42 U.S.C. 405, 410, 417, 429, and 1302. F. *Chronology:* A Notice of Decision to Regulate was published on March 27, 1979 (44 FR 18237). A Notice of Proposed Rule Making was published on September 28, 1979 (44 FR 55899). The comment period ends on November 27, 1979.	Vera Schlosser, (301) 594-7332, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Md. 21235.	Final Rule January-March 1980.
SSA-27—Old-Age, Survivors, Disability Insurance and Supplemental Security Income Programs—Disability, 20 CFR Part 404, Subpart P and Part 416, Subpart I.	A. *Description:* These final regulations will include the rules for determining disability under Title II and determining disability and blindness under Title XVI of the Social Security Act. B. *Why Significant:* The final regulations are significant because they state the disability rules in a clear and useful manner. C. *Regulatory Analysis:* Not required. D. *Need:* These regulations are being rewritten to meet the Department's "Operation Common Sense" Standards. E. *Legal Basis:* 42 U.S.C. 405, 433, 1302, 1382c and 1383. F. *Chronology:* A Notice of Decision to Regulate was published on October 24, 1978 (43 FR 49545) and a Notice of Proposed Rule Making was published on July 3, 1979 (44 FR 38879). The comment period ended on September 4, 1979.	William Ziegler, (301) 543-7415, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Md. 21235.	Final Rule April-June 1980.
SSA-28—Old-Age, Survivors, Disability Insurance and Supplemental Security Income Programs—Determining SGA: Earnings Guidelines for Years Beginning 1980, 20 CFR Part 404 Subpart P and Part 416 Subpart I.	A. *Description:* Under the law, a person who is able to do substantial gainful activity is not disabled for payment purposes. These interim regulations will specify the monthly earnings amounts that are used as guidelines to determine whether a person has done Substantial Gainful Activity. B. *Why Significant:* The increased guideline amounts reflect the general rise in earnings level of workers in the national economy. C. *Regulatory Analysis:* Not required. D. *Need:* Revised guidelines are needed for 1980 and the regulations should be in place by calendar year 1980. E. *Legal Basis:* 42 U.S.C. 405, 423, 1302, 1382c and 1383. F. *Chronology:* None.	David Smith, (301) 594-7336, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235.	Interim Rule January-March 1980.
SSA-29—Old-Age, Survivors, Disability Insurance and Supplemental Security Income Programs—Representative Payee, 20 CFR Part 404 Subpart Q and Part 416 Subpart F.	A. *Description:* The proposed regulations will state the rules used in determining when a beneficiary needs a representative payee, how a representative payee is selected, and how we assure that the representative payee uses payments in the best interest of the beneficiary. B. *Why Significant:* The proposed regulations will be simpler and easier for the public to understand. The guidelines for the use of representative payees are important for members of the public to know. C. *Regulatory Analysis:* Not required. D. *Need:* These regulations are being rewritten to meet the Department's "Operation Common Sense" standards. E. *Legal Basis:* 42 U.S.C. 405, 1302, 1383. F. *Chronology:* A Notice of Decision to Regulate was published on June 19, 1979 (44 FR 35241).	Ken Dyer, (301) 594-7454, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235.	Proposed Rule April-June 1980.
SSA-30—Supplemental Security Income Program—Eligibility, 20 CFR Part 416, Subpart B.	A. *Description:* These proposed regulations will state requirements for individuals to be eligible for SSI benefits. B. *Why Significant:* The proposed regulations simplify the language of existing regulations. Also, they expand the definition of a resident of an institution to agree with that in operating procedures. C. *Regulatory Analysis:* None. D. *Need:* These regulations are being rewritten to meet the Department's "Operation Common Sense" standards. E. *Legal Basis:* 42 USC 1302, 1381a, 1382, 1382c, 1383 and 1383b. F. *Chronology:* A Notice of Decision to Regulate was published March 27, 1979 (44 FR 18237).	Rita Hauth, (301) 594-7112, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235.	Proposed Rule January-March 1980.
SSA-31—Supplemental Security Income Program—Eligibility Redeterminations, 20 CFR Part 416, Subpart B.	A. *Description:* These interim regulations will provide that eligibility redeterminations will be scheduled at various intervals depending on the individual situations; i.e., the likelihood of change in circumstances. B. *Why Significant:* The interim regulations will reduce costs by cutting down on frequency of redeterminations of individuals who are in situations that rarely change. C. *Regulatory Analysis:* None. D. *Need:* Rules are needed to conduct redeterminations less frequently than at 12 month intervals. E. *Legal Basis:* 42 U.S.C. 1302, 1381a, 1382 and 1383. F. *Chronology:* None.	Rita Hauth, (301) 594-7112, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235.	Interim Rule October-December 1979.

Office of Human Development Services—Continued

Title	Summary	Contact	Decision quarter
SSA-32—Supplemental Security Income Program—Filing of Applications, 20 CFR Part 416, Subpart C.	A. *Description:* These proposed regulations will include rules on filing applications for supplemental security income. They will describe the requirements for filing, who may file, how to file, and when. B. *Why Significant:* The proposed regulations will be simplier and easier for members of the public to understand. Information as to what and how to file an application and its effects is important for SSI claimants to have. C. *Regulatory Analysis: Not required.* D. *Need:* These regulations are being rewritten to meet the Department's "Operation Common Sense" standards. E. *Legal Basis:* 42 U.S.C. 1382(c) and 1383(e). F. *Chronology:* A Notice of Decision to Regulate was published on March 27, 1979 (44 FR 18237).	Ken Dyer, (301) 594-7454, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235.	Proposed Rule October-December 1979.
SSA-33—Supplemental Security Income Program—Amount of Benefits, 20 CFR Part 416, Subpart D.	A. *Description:* This proposed recodification under Operation Common Sense revises and reorganizes rules on how the Social Security Administration figures amounts of monthly benefits payable to eligible individuals and eligible couples under the Supplemental Security Income (SSI) program. B. *Why Significant:* This recodification will clarify the rules and make them easier to understand. No policy change is involved. C. *Regulatory Analysis:* Not required. D. *Need:* Social Security Administration wants to provide the public with clearer regulations. E. *Legal Basis:* Secs. 1611 and 1612, secs. 210 and 211, Pub. L. 93-66, as amended, 88 Stat. 1466-1469, 87 Stat. 154, 42 U.S.C. 1382 and 1382a. F. *Chronology:* A Notice of Decision to Regulate was published on July 11, 1979 (44 FR 40531).	Virginia Kohan, (301) 594-6629, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235.	Proposed Rule April-June 1980.
SSA-34—Supplemental Security Income Program—Payment of Benefits, Overpayment, Underpayment, Recovery of Overpayment, 20 CFR Part 416, Subpart E.	A. *Description:* These proposed regulations will make clear that current tests are alternative tests for eligible individuals, but they are not alternative tests for ineligible individuals. B. *Why Significant:* The proposed regulations clarify how we decide whether adjustment or recovery of an overpayment would defeat the purpose of the Supplemental Security Income program. C. *Regulatory Analysis:* Not required. D. *Need:* These regulations are needed to clarify the current tests for recovery of overpayment. E. *Legal Basis:* Sec. 1102 and 1631(b) of the Social Security Act as amended; 42 U.S.C. 1302 and 1383. F. *Chronology:* A Notice of Decision to Regulate was published on March 27, 1979 (44 FR 18238).	Marval Cazer, (301) 594-7463, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235.	Proposed Rule October-December 1979.
SSA-35—Supplemental Security Income Program—Reports Required 20 CFR Part 416, Subpart G.	A. *Description:* This proposed recodification under Operation Common Sense revises and reorganizes rules on reports required from each applicant, eligible individual, eligible spouse, and eligible child under the Supplemental Security Income program. The rules cover provisions regarding reports required and explain the penalties for failures to report on time. B. *Why Significant:* This recodification will clarify the rules and make them easier to understand. No policy change is involved. C. *Regulatory Analysis:* Not required. D. *Need:* Social Security Administration wants to provide the public with clearer regulations. E. *Legal Basis:* Secs. 1102, 1611, 1612, 1613, 1614, and 1631 of the Social Security Act, as amended; Sec. 211 of Pub. L. 93-66; 49 Stat. 647, as amended; 86 Stat. 1466, 1468, 1470, 1471, and 1475; 87 Stat. 154; 42 U.S.C. 1302, 1382, 1382a, 1382b, 1382c, and 1383. F. *Chronology:* Notice of Decision to Regulate was published on July 11, 1979 (44 FR 40531).	Virginia Kohan, (301) 594-6629, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235.	Proposed Rule January-March 1980.
SSA-36—Supplemental Security Income Program—Family Relationships 20 CFR Part 416, Subpart J.	A. *Description:* These proposed regulations will define spouse, child, and parents for SSI purposes. B. *Why Significant:* The regulations are significant because determinations on family relationship questions must be made in order to know: (1) what limits on income and resources to use in order to determine eligibility; (2) what income to count in order to determine the benefit amount; and (3) what benefit amount applies. This revision makes the rules clearer and easier to read. C. *Regulatory Analysis:* Not required. D. *Need:* These regulations are being rewritten to meet the Department's "Operation Common Sense" standards. E. *Legal Basis:* 42 U.S.C. 1302, 1382c, and 1383.	Cliff Terry, (301) 594-7519, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235.	Proposed Rule October-December 1979.

Office of Human Development Services—Continued

Title	Summary	Contact	Decision quarter
	F. *Chronology:* A Notice of Decision to Regulate was published on March 27, 1979 (44 FR 18237).		
SSA-37—Supplemental Security Income Program—Program Income 20 CFR Part 416, Subpart K.	A. *Description:* These final regulations will explain how we consider income under the supplemental security income program how we define it and how we count the amount of individual benefits. B. *Why Significant:* The regulations will simplify and reorganize the rules for clarity and more logical sequence. Existing regulations have been amended to the extent that they are difficult to understand. C. *Regulatory Analysis:* None. D. *Need:* We need to provide the public with clearer regulations and meet the Department's "Operation Common Sense" standards. E. *Legal Basis:* 42 U.S.C. 1302, 1382, 1382a, 1382b, 1382c and 1383. F. *Chronology:* A Notice of Decision to Regulate was published on October 24, 1978 (43 FR 49545). A Notice of Proposed Rule Making was published on February 1, 1979 (44 FR 41054). The comment period ended April 2, 1979.	Rita Hauth, (301) 594-7112, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235.	Final Rule January-March 1980.
SSA-38—Supplemental Security Income Program—Resources, 20 CFR Part 416, Subpart L.	A. *Description:* These proposed regulations will describe what we count as resources in determining eligibility for supplemental security income. B. *Why Significant:* The purpose of these recodified regulations is to make the rules clearer and easier for the public to understand. C. *Regulatory Analysis:* Not required. D. *Need:* These regulations are being rewritten to meet the Department's "Operation Common Sense" standards. E. *Legal Basis:* 42 U.S.C. 1302, 1382, 1382b, 1382c, and 1383. F. *Chronology:* A Notice of Decision to Regulate was published on March 27, 1979 (44 FR 12837).	Henry Lerner, (301) 594-7414, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235.	Proposed Rule April-June 1980.
SSA-39—Supplemental Security Income Program—Reductions, Suspensions, and Terminations, 20 CFR Part 416, Subpart M.	A. *Description:* These proposed regulations will contain the rules for reducing, suspending and terminating an SSI recipient's benefits. They are being rewritten to provide greater clarity to the reader and to consider policy additions, revisions, and clarification. B. *Why Significant:* The rules will be clearer and easier for the public to read. C. *Regulatory Analysis:* Not required. D. *Need:* These regulations are being rewritten to meet the Department's "Operation Common Sense" standards. E. *Legal Basis:* 42 U.S.C. 1302, 1382, 1382c, 1382d, and 1383. F. *Chronology:* A Notice of Decision to Regulate was published on June 19, 1979 (44 FR 35241).	Charles Campbell, (301) 594-7453, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235.	Proposed Rule April-June 1980.
SSA-40—Supplemental Security Income Program—Referrals of Persons Eligible for Supplemental Security Income to Other Agencies, 20 CFR Part 416, Subpart Q.	A. *Description:* The proposed regulations deal with the referral of persons eligible for supplemental security income to other agencies for treatment as services. B. *Why Significant:* The recodification of the regulations will make them simpler and easier to use. Referrals for treatment or services are important for disability claimants under the Supplemental Security Income program to know about. C. *Regulatory Analysis:* Not required. D. *Need:* These regulations are being rewritten to meet the Department's "Operation Common Sense" standards. E. *Legal Basis:* 42 U.S.C. 1382(e)(3)(A) and 1382d. F. *Chronology:* A Notice of Decision to Regulate was published on June 19, 1979 (44 FR 35241).	Ken Dyer, (301) 594-7454, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235.	Proposed Rule January-March 1980.
SSA-41—Supplemental Security Income Program—Interim Assistance Provisions, 20 CFR Part 4316, Subpart S.	A. *Description:* This proposed recodification under Operation Common Sense revises and reorganizes rules on interim assistance provisions under the Supplemental Security Income program. The rules permit the Social Security Administration to enter into an agreement with a State to repay the State for interim assistance it gives an individual while an application for SSI is pending. B. *Why Significant:* This recodification will clarify the rules and make them easier to understand. The rules permit SSA to withhold an individual's SSI benefit payment and send it to the State as repayment for interim assistance, upon the individual's written authorization. A policy change will allow the authorization to go into effect upon notice to SSA of receipt by the State. C. *Regulatory Analysis:* Not required. D. *Need:* Social Security Administration wants to provide the public with clearer regulations and to update policy to take advantage of modern electronic communications facilities. E. *Legal Basis:* Secs. 1102 and 1631 of the Social Security Act as amended; 49 Stat. 647 as amended; 86 Stat. 1475 as amended; 42 U.S.C. 1302 and 1383. F. *Chronology:* A Notice of Decision to Regulate was published on July 11, 1979 (44 FR 40531).	Virginia Kohan, (301) 594-6629, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235.	Proposed Rule January-March 1980.
SSA-42—Supplemental Security Income Program—Pass Along Benefit Increase With Limitation for Hold-Harmless States, 20 CFR Part 416, Subpart T.	A. *Description:* These final regulations will implement provisions of section 1618 of the Social Security Act by interpreting the statute to include those beneficiaries who receive only State supplementation and to provide guidelines for related State agreements. B. *Why Significant:* The regulations will interpret the law and provide a basis for implementation. They will define State supplementary payments and make it clear that State Supplementary only cases are included in the pass-along requirement. C. *Regulatory Analysis:* Not required. D. *Need:* The law is not specific enough to be entirely self-effectuating. E. *Legal Basis:* Secs. 1102, 1601, 1618, and 1631(d) of the Social Security Act as amended; 42 U.S.C. 1302, 1381, 1382e, 1382g, 1383(d)(1); sec. 401 of Pub. L. 92-603 as amended by sec. 504 of Pub. L. 94-566; and sec. 2 of Pub. L. 94-585. F. *Chronology:* A notice of Proposed Rule Making was published on March 27, 1979 (44 FR 18238). The comment period ended May 29, 1979	Clara Powell, (301) 594-6629, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235.	Final Rule January-March 1980.

Office of Human Development Services—Continued

Title	Summary	Contact	Decision quarter
SSA-43—Supplemental Security Income Program—Medicaid Eligibility Determinations, 20 CFR Part 416, Subpart U.	A. *Description:* The proposed regulations will give the rules under which Social Security Administration agrees to make determinations of Medicaid eligibility for SSI beneficiaries on behalf of States and to give States other assistance in Medcaid program administration. B. *Why Significant:* The agreements avoid duplication of effort between State and Federal governments and simplify the Medicaid application process for applicants. This revision makes the rules clearer and easier to read. C. *Regulatory Analysis:* Not required. D. *Need:* The regulations are being rewritten under "Operation Common Sense" to make the rules clearer and easier to use. E. *Legal Basis:* 42 U.S.C. 1302, 1383, 1383c and 4222. F. *Chronology:* A Notice of Decision to Regulate was published on June 19, 1979 (44 FR 35241).	Cliff Terry, (301) 594-7519, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235.	Proposed Rule January-March 1980.
OCR-1—Equal Employment Opportunity in Public Broadcasting: Regulations.	A. *Description:* This regulation will require that equal opportunity in employment be afforded to all persons by all public tele-communications entities receiving funds from the Corporation for Public Broadcasting, that the corporation satisfy itself that applicants for grants or contracts are affording equal opportunity in employment and to monitor the equal employment opportunity practices of recipients in order to eliminate discrimination in employment by recipients on the grounds of race, color, religion, national origin, or sex. B. *Why Significant:* Substantial public interest is anticipated given that all public telecommunications entities that receive Federal funds from the Corporation for Public Broadcasting will be subject to this regulation and many entities will be required to implement affirmative action programs. C. *Regulatory Analysis:* Not required. D. *Need.* The Public Telecommunications Financing Act of 1978 requires HEW to promulgate regulations to carry out the requirements of the Act. E. *Legal Basis:* Section 398, Communications Act of 1934, 47 U.S.C. 398, as amended by the Public Telecommunications Financing Act of 1978. F. *Chronology:* Notice of Intent to Develop regulations March 13, 1979, 44 FR 14582.	Wendy Pallen, Policy Attorney, OCR—HEW/OSPR, Wash., D.C. 20201, 202-472-3220.	NPRM: 1st Quarter FY 80. Final Rulemaking: 3rd Quarter FY 80.
OCR-2—Health, Welfare & Social Service Programs: Provisions of Services to Limited English Speaking persons.	A. *Description:* This Regulation will require agencies receiving HEW funds to develop capacity to provide services to Limited English Speaking persons in order to eliminate discrimination against persons due to their national origin and limited English Speaking ability. B. *Why Significant:* Substantial public interest is anticipated given that all health, welfare and social service recipients will be subject to this regulation and special requirements will be imposed on recipients serving a substantial number of limited English Speaking beneficiaries. C. *Regulatory Analysis:* Decision pending on completion of preliminary study. D. *Need:* OCR believes that the denial of services to limited English Speaking persons constitutes a violation of Title VI of the Civil Rights Act of 1964. Therefore, regulation is necessary to delineate recipients responsibilities in the delivery of services to limited English Speaking persons. E. *Legal Basis:* Sec. 601, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d. F. *Chronology:* None.	Ellen Miyasato, Attorney OCR, Wash., D.C. 2201, 202-472-3220.	NPRM Last Quarter 1980.
OCR-3—Access to Educational Programs for National Origin Minority Children with a Primary or Home Language other than English.	A. *Description:* The purpose of this regulation is to ensure that: (1) Students will not be excluded from participation in, be denied the benefits of, or be subjected to discrimination in education programs because they have a primary or home language other than English; and (2) that limited ability to speak, understand, read or write English will not bar equal and effective participation in Federally assisted education programs. B. *Why Significant:* Substantial public interest is anticipated because the regulation will require transitional bilingual education for certain students in K-8, and English as a second language for all children of limited English proficiency. C. *Regulatory Analysis:* Decision pending on completion of preliminary study. D. *Need:* Regulations are necessary to clarify Title VI of the Civil Rights Act by clearly stating what initially constitutes a Title VI Violation, and specifying what districts must do to correct violations in regard to access to educational programs for national origin minority children with a primary or home language other than English. E. *Legal Basis:* Section 601 of Title VI of the Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d. F. *Chronology:* None.	Dave Leeman, Staff Attorney, Office of General Counsel, Civil Rights, Wash., D.C. 20201, 202-245-7736.	NPRM: 1st Quarter FY 80.
ASE-1—Strengthening State Educational Agency Management (ESEA, Title V, Part B) (Final).	A. *Description:* The regulations govern a grant program to strengthen the leadership and management roles of SEAs. B. *Why Significant:* Continues program begun in 1965 to help strengthen leadership resources of SEAs. C. *Regulatory Analysis:* Not required D. *Need:* Amendments to law are stated in general terms, implementing requirements are needed E. *Legal Authority:* Title V, Part B, Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95-561). F. *Chronology:* NPRM published May 14, 1979. Comment period closed July 13, 1979.	David G. Phillips, Division of State Educational Assistance Programs, U.S. Office of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202, (202) 245-2495.	Final regulations December 14, 1979.
ASE-2—Educational Improvements, Resources, and Support (Final).	A. *Description:* The regulations establish requirements for State administration of programs for (1) acquisition of instructional materials and school library resources, (2) improvement in local educational practices, and (3) guidance, counseling, and testing. B. *Why significant:* These programs touch every school district in the nation and also provide benefits to private schools. C. *Regulatory Analysis:* Not required. D. *Need:* Amendments to the law set general policy; major provisions need regulations. E. *Legal Authority:* Title IV of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95-561). F. *Chronology:* NPRMM published May 14, 1979. Comment period closed July 13, 1979.	Louise V. Sutherland, School Media Resources Branch, Bureau of Elementary and Secondary Education, U.S. Office of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202, (202) 245-2488.	Final regulations December 31, 1979.

Office of Education Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
ASE-3—Title I, ESEA—Migrant Education Program, (Final).	A. *Description:* The regulations establish State and local advisory councils, adjust summer count of children, coordinate migrant education activities, reorder priority of services for currently pre-migratory children, establish a review procedure for State application standards, and establish circumstances under which the Commissioner will by-pass or reallocate a State's funds. B. *Why Significant:* Considerable public interest because of new requirements for applicants C. *Regulatory Analysis:* Not required. D. *Need:* Statue specifically requires regulations E. *Legal Authority:* Subpart 1, Part B of title I of the Elementary and Secondary Education Act of 1975, as amended by the Education Amendments of 1978 (Pub. L. 95-561). F. *Chronology:* NPRM published May 14, 1979. Comment period closed July 13, 1979.	John D. Ridgway, Education Program Specialist, U.S. Office of Education (Room 2031, FOB-6), 400 Maryland Ave., S.W., Washington, D.C. 20202, (202) 245-2222.	Final regulations December 21, 1979.
ASE-4—Biomedical Sciences Program (Final).	A. *Description:* The regulations implement a program to assist certain young people in preparing for and pursuing studies leading to one of the biomedical professions. B. *Why significant:* This is the first OE program to fund projects that encourage talented, disadvanaged secondary students to prepare for careers in the biomedical sciences. C. *Regulatory Analysis:* Not required. D. *Need:* The law is stated in general terms; implementing provisions are needed. E. *Legal Authority:* Part L of title III of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95-561). F. *Chronology:* NPRM published June 25, 1979. Comment period closed August 24, 1979.	Melvin Engelhart, U.S. Office of Education (Room 3012, ROB-3), 400 Maryland Avenue, S.W., Washington, D.C. 20202, (202) 245-8407.	Final regulations December 21, 1979.
ASE-5—Safe Schools Program (Amendments to NPRM).	A. *Description:* The regulations would establish criteria for selection of 15 LEAs for funding. B. *Why Significant:* Would assist States in helping those areas with the highest concentration of crimes in schools. C. *Regulatory Analysis:* Not required. D. *Need:* Regulations are needed to implement statutory requirements of the Education Amendements of 1978. E. *Legal Authority:* Part I of Title IX of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95-561). F. *Chronology:* NPRM published June 7, 1979.	Robert L. Thomas, Education Program Specialist, U.S. Office of Education (Room 3010, ROB-3), 400 Maryland Avenue, S.W., Washington, D.C. 20202, (202) 245-2605.	Amendments to NPRM November 26, 1979. To be incorporated into final regulations May 25, 1980.
ASE-6—Safe Schools Program (Final)	A. *Description:* The regulations establish crime in schools. B. *Why Significant:* Interest in reducing crime in schools. C. *Regulatory Analysis:* Not required. D. *Need:* Regulations are needed to implement the statute. E. *Legal Authority: Part D of Title IX of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95-561).* F. *Chronology:* NPRM published June 7, 1979. Comment period closed August 6, 1979.	Robert L. Thomas, Education Program Specialist, U.S. Office of Education (Room 3010, ROB-3), 400 Maryland Avenue, S.W., Washington, D.C. 20202, (202) 245-2605.	Final regulations May 25, 1980
ASE-7—Health Education Program (Final)	A. *Description:* The regulations govern the awarding of grants designed to establish an support; at State and local levels, programs of health education in elementary and secondary schools. B. *Why Significant:* Increased national awareness of need for health education in schools. This is the first OE program of this nature. C. *Regulatory Analysis:* Not required. D. *Need:* The law is stated in general terms; implementing requirements are needed for this new program. E. *Legal Authority:* Part I of Title III of the Education Amendments of 1978 (Pub. L. 95-561). F. *Chronology:* NPRM published June 13, 1979. Comment period closed August 13, 1979.	Simon McNeely, Senior Program Coordination Officer/ BESE/ SLEP, U.S. Office of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202, (202) 245-8407.	Final regulations December 20, 1979.
ASE-8—Follow Through (NPRM)	A. *Description:* The regulations establish criteria for second generation of Follow Through projects and sponsors. B. *Why Significant:* Policy change from demonstration to service program. C. *Regulatory Analysis:* Not required. D. *Need:* The agency is considering a major change in policy and is requesting public comment on the proposal. E. *Legal Authority:* Title V of the Economic Opportunity Act of 1964, as amended in 1978 by (Pub. L 95-568). F. *Chronology:* Decision to Develop Regulations published Jan. 11, 1979.	Susan Green, Program Coordinator, Division of Follow Through, U.S. Office of Education, 400 Maryland Avenue, S.W., Rm. 3624, ROB-3, Washington, D.C. 20202, (202) 245-2501.	NPRM January 21, 1980.
ASE-9—Population Education Program (Final).	A. *Description:* The regulations state provisions for agencies participating in a program that assists the development of population education in elementary and secondary schools. B. *Why Significant:* Reflects national awareness of the potential impact of demographic conditions and changes on the national economy, and on social, political and cultural development. C. *Regulatory Analysis:* Not required. D. *Need:* The law is stated in general terms; implementing requirements are needed for this new program. E. *Legal Authority:* Part M of Title III of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95-561). F. *Chronology:* NPRM published May 10, 1979. Comment period closed July 9, 1979.	Dr. Ernest A. Crider, Parent/ Early Childhood and Special Programs Staff, BSI, U.S. Office of Education, Room 2083, FOB-6, 400 Maryland Avenue, S.W., Washington, D.C. 20202, (202) 245-8118.	Final regulations Dec. 17, 1979.
ASE-10—Preschool Partnership Program (Final).	A. *Description:* The regulations state provisions—for participation in a program to assist the development of pilot projects for families fo pre-school children. B. *Why Significant:* Reflects national awareness of importance of role of parental involvement prior to children's formal schooling.	Dr. Ernest A. Crider, Parent/ Early Childhood and Special Programs Staff, BSI, U.S. Office of Education, Room 2083, 400 Maryland Avenue,	Final regulations December 19, 1979.

Office of Education Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
	C. *Regulatory Analysis:* Not required. D. *Need:* The law is stated in general terms; implementing requirements are needed for this new program. E. *Legal Authority:* Part D, Sec. 325, of Title III of the Elementary and Secondary Education Act 1965, as amended by the education Amendments of 1978 (Pub. L. 95-561). F. *Chronology:* NPRM published June 7, 1979. Comment period closed August 6, 1979.	S.W., Washington, D.C. 20202, (202) 245-8118.	
ASE-11—Title I, ESEA; Awarding of Special Grants to LEAs (Final).	A. *Description:* The regulations govern the awarding of special grants to LEAs in counties with especially high concentrations of children from low-income families. B. *Why Significant:* Provide methods for the allocation of remaining title I grant funds after all eligible counties in a State have received funds according to a statutory formula. C. *Regulatory Analysis:* Not required. D. *Need:* Regulations are needed to implement statutory provision for this new type of grant. E. *Legal Authority:* Sec. 117 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95-561). F. *Chronology:* NPRM published June 14, 1979. Comment period closed August 13, 1979.	Carolyn Horner, Division of Education for the Disadvantaged, U.S. Office of Education, (Room 3642, ROB-3), 400 Maryland Avenue, S.W., Washington, D.C. 20202, (202) 245-2638.	Final regulations January 11, 1980.
ASE-12—Education Division General Provision Regulations (Final).	A. *Description:* The regulations consolidate fiscal and administrative requirements for Education Division direct grant and State-administered programs. B. *Why Significant:* All Education Division fiscal and administrative requirements are combined in one document. C. *Regulatory Analysis:* Not Completed. D. *Need:* Regulations are needed to assist eligible parties in applying for grants and administering projects. E. *Legal Basis:* Sec. 408(a)(1) of Pub. L. 90-247, as amended, 88 Stat. 559, 560 (20 U.S.C. 1221e-3(a)(1). F. *Chronology:* NPRM published May 4, 1979. Comment period closed July 3, 1979.	A. Neal Shedd, Director, Division of Regulations Management, U.S. Office of Education (Room 2129, FOB-6), 400 Maryland Avenue, S.W., Washington, D.C. 20202, (202) 245-7091.	Final regulations December 19, 1979.
ASE-13—Bilingual Education Programs (Final).	A. *Description:* The regulations establish standards and procedures for eligibility requirements, definitions, program requirements, evaluation procedures, and use of funds. B. *Why Significant:* Significant public interest because of new policy of Agency to serve children on basis of need rather than percentage of enrollment. C. *Regulatory Analysis:* Not required. D. *Need:* Regulations needed to implement statutory amendments and changes in Agency policy. E. *Legal Basis:* Title VII of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95-561). F. *Chronology:* NPRM published June 29, 1979. Comment period closed August 28, 1979.	Ms. Barbara J. Wells, Office of Education (Room 421, Reporters Bldg.), 400 Maryland Ave., S.W., Washington, D.C. 20202, (202) 447-9273.	Final regulations December 31, 1979.
ASE-14—Environmental Education Program (Final).	A. *Description:* The regulations simplify previous regulations governing grants for environmental education projects. B. *Why Significant:* Technical amendments to regulations provide (1) support for multi-year projects and (2) specific and weighted selection criteria. C. *Regulatory Analysis:* Not required. D. *Need:* Statutory amendments provides general policy; implementing requirements are needed. E. *Legal Authority:* Pub. L. 91-516, as amended by Pub. L. 93-278 and Title III of the Education Amendments of 1978 (Pub. L. 95-561). F. *Chronology:* NPRM published March 3, 1979. Comment period closed May 2, 1979.	Sylvia Wright, Program Officer, Office of Environmental Education, U.S. Office of Education (Room 2025, FOB-6), 400 Maryland Avenue, S.W., Washington, D.C. 20202, (202) 245-9231.	Final regulations December 13, 1979.
ASE-15—Indochina Refugee Children Assistance Program (Final).	A. *Description:* These regulations specify requirements for participation in a program that assists SEAs in providing educational services for Indochinese refugee children. B. *Why Significant:* Standards will be established for determining actual expense incurred by grantees in implementing the program. C. *Regulatory Analysis:* Not required. D. *Need:* Regulations are needed to implement statutory amendments and provide guidance for SEA program administration. E. *Legal Authority:* Title II of Pub. L. 94-405, as amended by the Education Amendments of 1978 (Pub. L. 95-561). F. *Chronology:* NPRM published June 25, 1979. Comment period closed August 24, 1979.	James H. Lockhart, Director, Indochinese Refugee Task Force, U.S. Office of Education (Room 2189, FOB-6), 400 Maryland Avenue, S.W., Washington, D.C. 20202, (202) 245-3081.	Final regulations December 28, 1979.
ASE-16—Title I, ESEA—Financial Assistance to LEAs and SEAs to meet special educational needs (Final).	A. *Description:* The regulations govern programs providing financial assistance to: (a) Local educational agencies for projects to meet the special educational needs of educationally deprived children in low-income areas; (b) State agencies for projects to meet the special educational needs of handicapped, neglected or delinquent children; and (c) State educational agencies to meet the special educational needs of migratory children. B. *Why Significant:* The program has great national interest. It is the highest funded program of OE for special educational needs of children. C. *Regulatory Analysis:* Not completed. D. *Need:* To implement changes resulting from the Education Amendments of 1978 (Pub. L. (95-561). E. *Legal Authority:* Title I of the Elementary and Secondary Education Act of 1978, amended by (Pub. L. 95-561) F. *Chronology:* NPRM published June 29, 1979. Comment period closed August 29, 1979	Dr. John Staehle, U.S. Office of Education (Room 3642, ROB-3), 400 Maryland Avenue, S.W., Washington, D.C. 20202, (202) 245-2720.	Final regulations March 31, 1980.
ASE-17—Correction Education Demonstration Program (Final).	A. *Description:* The regulations establish provisions, including selection criteria, for applicants under the Act. B. *Why Significant:* This program has national interest. It is OE's only demonstration program for correction education. C. *Regulatory Analysis:* Not required. D. *Need:* Regulations are required to implement this new program.	James Spillane, U.S. Office of Education (Room 2045, FOB-6), 400 Maryland Avenue, S.W., Washington, D.C. 20202, (202) 245-7292.	Final regulations December 28, 1979.

Office of Education Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
	E. *Legal Authority:* Correction Education Demonstration Project Act of 1978, Title III, Secs. 371-374 of Part J of the Education Amendments of 1978 (Pub. L. 95-561). F. *Chronology:* NPRM published June 7, 1979. Comment period over August 6, 1979.		
ASE-18—Administration of Education Programs and Duties of the State Educational Agency (ESEA, Title V, Part A) (Final).	A. *Description:* The regulations govern the program for consolidated administration of Titles I and IV of the Elementary and Secondary Education Act of 1965, as amended. B. *Why Significant:* Consolidates administrative funds of two programs. It offers the potential of consolidating funds of many programs. C. *Regulatory Analysis:* Not required. D. *Need:* The law is stated in general terms; implementing requirements are needed. E. *Legal Authority:* Title V, Part A, Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95-561). F. *Chronology:* NPRM published May 14, 1979. Comment period closed July 13, 1979.	David G. Phillips, Division of State Educational Assistance Programs, U.S. Office of Education, 400 Maryland Avenue SW., Washington, D.C. 20202, (202) 245-2495.	Final regulations December 14, 1979.
ASE-19—Adult Education Program (final)	A. *Description:* The regulations expand the current delivery system of adult education and broaden the outreach of the program. B. *Why Significant:* Two million adults affected by the State-administered program. In addition, discretionary programs provide $2.5 million each for the adult Indochinese and immigrant programs. C. *Regulatory Analysis:* Not required. D. *Need:* Regulations are needed to provide uniform interpretation and implementation of the law. E. *Legal Authority:* Adult Education Act (Pub. L. 91-230), as amended by Education Amendments of 1978 (Pub. L. 95-561). F. *Chronology:* NPRM published 6/28/79. Comment period closed on 8/28/79.	Paul V. Delker, Adult Education Program, U.S. Office of Education, 7th and D Streets, S.W., Washington, D.C. 20202, (202) 245-2278.	Final regulations January 28, 1980.
ASE-20—Metric Education Program (Final)	A. *Description:* The regulations establish selection criteria for projects to prepare students, parents, and other adults to use the metric systems. B. *Why Significant:* Technical changes. C. *Regulatory Analysis:* Not required. D. *Need:* Regulations are needed to clarify program purpose, objectives, and selection criteria. E. *Legal Authority:* Sec. 403 of Pub. L. 93-380, as amended by the Education Amendments of 1978 (Pub. L. 95-561). F. *Chronology:* NPRM published 5/16/79. Comment period closed 7/9/79.	Floyd Davis, Metric Education Program, U.S. Office of Education, 831 Riviera Building, 1832 M Street, N.W., Washington, D.C. 20202, (202) 653-5920.	Final regulations December 14, 1979.
ASE-21—Consumers' Education Program (Final).	A. *Description:* The regulations govern the awarding of grants to education institutions and community agencies to provide consumers' education to persons of all ages. B. *Why Significant:* Technical changes. C. *Regulatory Analysis:* Not required. D. *Need:* Regulations are needed to clarify standards and establish uniform selection criteria. E. *Legal Authority:* Sec. 811 of Pub. L. 93-380, as amended by the Education Amendments of 1978 (Pub. L. 95-561). F. *Chronology:* NPRM published 5/16/79. Comment period closed 7/2/79.	Dustin W. Wilson, Jr., Office of Consumers' Education, U.S. Office of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202, (202) 653-5983.	Final regulations December 21, 1979.
ASE-22—Community Education Program (Final).	A. *Description:* The regulations expand the scope and responsibilities of the present Community Education Program. B. *Why Significant:* Substantial public interest. C. *Regulatory Analysis:* Not required. D. *Need:* Regulations are needed to clarify the law. E. *Legal Authority:* Sec. 405 of Pub. L. 93-380, as amended by the Education Amendments of 1978 (Pub. L. 95-561). F. *Chronology:* NPRM published 6/29/79. Comment period closed 8/28/79.	Ron Costaldi, Community Education Program, U.S. Office of Education, 7th and D Streets, S.W., Washington, D.C. 20202, (202) 245-0691.	Final regulations January 15, 1980.
ASE-23—Youth Employment Program (Final)	A. *Description:* Regulations establish provisions for Federal assistance to help prepare children to take their place as working members of society. B. *Why Significant:* Substantial public interest. C. *Regulatory Analysis:* Not required. D. *Need:* Regulations are needed to interpret and clarify the law. E. *Legal Authority:* Sec. 627 of the Education Amendments of 1978 (Pub. L. 95-561). F. *Chronology:* NPRM published 6/25/79. Comment period closed 8/24/79.	Ron Tarlian, BOAE, U.S. Office of Education, 7th and D Streets, S.W., Washington, D.C. 20202, (202) 245-9730.	Final regulations December 31, 1979
ASE-24—Vocational Education (NPRM)	A. *Description:* Regulations would allow for more flexibility in the use of funds set aside for the disadvantaged and the handicapped. B. *Why Significant:* All State departments of education are affected in terms of financial status and matching requirements. C. *Regulatory Analysis:* Not required. D. *Need:* Amendments to existing regulations are needed to provide interpretation and implementation of the law. E. *Legal Authority:* Sec. 110, Pub. L. 94-482, as amended by Pub. L. 96-46. F. *Chronology:* Final regulations published October 3, 1977	LeRoy Cornelson, BOAE, U.S. Office of Education, 7th and D Streets, S.W., Washington, D.C. 20202, (202) 472-3440.	NPRM—December 31, 1979.
ASE-25—Emergency School Aid (Final)	A. *Description:* The regulations clarify status and establish program standards for issuing grant awards. B. *Why Significant:* Substantial public interest. C. *Regulatory Analysis:* Not required. D. *Need:* The law is stated in general terms; implementing instructions are needed. E. *Legal Authority:* The Education Amendments of 1978 (Pub. L. 95-561). F. *Chronology:* NPRM published 6/29/79. Comment period closed 8/28/79.	George Rhodes, Equal Education Opportunity Program, U.S. Office of Education, (Room 2001, FOB-6), 400 Maryland Avenue, S.W., Washington, D.C. 20202, (202) 245-7857.	Final regulations February 4, 1980.
ASE-26—Ethnic Heritage Studies Program (Final).	A. *Description:* The regulations improve the existing criteria for eligibility and for selection of applicants for grants. B. *Why Significant:* Technical changes. C. *Regulatory Analysis:* Not required. D. *Need:* Technical changes are needed in the existing regulations to simplify and revise the selection criteria.	Lawrence Koziarz, Acting Director, Ethnic Heritage Studies Branch, BSI, U.S. Office of Education (Room 3928, ROB-3), 400 Maryland Avenue, S.W., Washington, D.C. 20202, (202) 245-2544.	Final regulations December 28, 1979.

Office of Education Significant Regulations—Continued.

Title	Summary	Contact	Decision quarter
	E. *Legal Authority:* The Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1972, 1974, and 1978 (Pub. L. 95-561). F. *Chronology:* NPRM published 6/22/79. Comment period closed 8/21/79.		
ASE-27—Law School Clinical Experience Program (NPRM).	A. *Description:* The regulations would provide rules for establishing and expanding programs in law schools to provide clinical experience to students in the practice of law. B. *Why Significant:* Currently no regulations exist. The regulations establish policy for the program. C. *Regulatory Analysis:* Not required. D. *Need:* The regulations are needed because they contain the criteria and procedures for operating the program. E. *Legal Authority:* Title XI of the Higher Education Act of 1965, as amended by Pub. L. 90-575, 92-318, and the Education Amendments of 1976 (Pub. L. 94-482). F. *Chronology:* None.	Donald Bigelow, Bureau of Higher and Continuing Education, U.S. Office of Education (Room 3060, ROB-3), 400 Maryland Avenue, S.W., Washington, D.C. 20202, (202) 245-2347.	NPRM—December 14, 1979.
ASE-28—Modern Foreign Language and Area Studies (Final).	A. *Description:* The regulations permit the Office of Education to award stipends to students undergoing training in summer intensive language programs. B. *Why Significant:* Technical amendment. C. *Regulatory Analysis:* Not required. D. *Need:* Need for amendments to present regulations. Funding authority for summer fellowships is contained in FY 1980 budget period. Present regulations restrict awards to academic year. E. *Legal Authority:* Title VI of the National Defense Education Act of 1958, (Pub. L. 85-864), as amended by the Education Amendments of 1972 (Pub. L. 92-318). F. *Chronology:* Final regulations published May 23, 1977.	Joseph Bemonte, Chief, Centers and Research Section, Division of International Education, U.S. Office of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202, (202) 245-2636.	Final regulations December 17, 1979.
ASE-29—Education Appeal Board (Final).....	A. *Description:* The regulations establish an Education Appeal Board to provide impartial administrative procedures for the resolution of adverse monetary audit findings for State-administered programs and to conduct certain other proceedings designed to provide process for States and other recipients. B. *Why Significant:* The Education Appeal Board provides the only Office of Education independent adjudicatory mechanism established by law (Education Amendments of 1978, Sections 451-6 of the General Education Provisions Act) to (1) conduct audit appeals from States and other grantees, (2) conduct withholding, termination, and cease and desist hearings, and (3) conduct any other proceedings designated by the Commissioner as being within the jurisdiction of the Board. C. *Regulatory Analysis.* Not required. D. *Need:* Regulations are needed to extend the jurisdiction of the Title I ESEA Audit Hearing Board and implement requirements of the law. E. *Legal Authority:* The Education Amendments of 1978 (Pub. L. 95—561). F. *Chronology:* Interim final regulations published 5/25/79. Comment period closed 7/24/79.	Dr. David Pollen, U.S. Office of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202, (202) 245-7836.	Final regulations December 31, 1979.
ASE-30—National Diffusion Network (Final)...	A. *Description:* The regulations govern the selection of projects and establish criteria for awards. B. *Why Significant:* Expanding eligible projects by extending impact into post secondary areas. C. *Regulatory Analysis:* Not required. D. *Need:* Law requires program changes. E. *Legal Authority:* The Education Amendments of 1978 (Pub. L. 95—561). F. *Chronology:* NPRM published 6/29/79. Comment period closed 8/30/79.	Dr. Andrew M. Lebby, U.S. Office of Education, (Room 3616, ROB-3), 400 Maryland Avenue, S.W., Washington, D.C. 20202, (202) 245-9582.	Final regulations December 19, 1979.
ASE-31—Eligibility of Foreign Medical School (Final).	A. *Description:* The regulations establish procedures and criteria for determining whether medical schools located outside the United States and Canada are eligible to apply for participation in the Guaranteed Student Loan Program. B. *Why Significant:* The regulations establish policy for the program. Currently, no regulations exist. C. *Regulatory Analysis:* Not required. D. *Need:* The procedure and criteria are needed to effectively determine the eligibility of foreign medical schools who apply for participation in the GSLP. E. *Legal Authority:* Higher Education Act of 1965, as amended. F. *Chronology:* NPRM published April 23, 1979. Comment period closed 6/22/79.	Mr. John R. Proffitt, Director, Division of Eligibility and Agency Evaluation, Bureau of Higher and Continuing Education, U.S. Office of Education (Rm. 3030, ROB-3), 400 Maryland Ave., S.W., Washington, D.C. 20202.	Final regulations March 12, 1980.
ASE-32—Graduate and Professional Opportunities Program Public Service Fellowships Programs, Domestic Mining and Mineral and Mineral Fuel Conservation Fellowships Program (NPRM).	A. *Description:* The regulations would increase the stipend paid to fellows. The regulations would also stipulate the rate of the institutional allowance paid to institutions participating in the Graduate Professional Program. B. *Why Significant:* Technical Changes. C. *Regulatory Analysis:* Not required. D. *Need:* Amendments to existing regulations are needed to permit OE to increase the stipend rate to a level comparable with other fellowship programs. F. *Chronology:* Final regulations for Graduate and Professional Opportunities Program published March 6, 1979; for Public Service Fellowships Program published August 9, 1977; and for Domestic Mining and Mineral and Mineral Fuel Conservation Fellowships Program published August 3, 1977.	Dr. Donald N. Bigelow, Graduate Training Branch, Division of Training and Facilities, Bureau of Higher and Continuing Education, U.S. Office of Education, 400 Maryland Avenue, S.W., Room 3060, ROB-3, Washington, D.C. 20202.	NPRM December 13, 1979.

Office of Education Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
ASE-33—Cooperative Education (Final)	A. *Description:* The regulations permit multi-year funding of demonstration and exploration awards from a single years appropriation. B. *Why Significant:* Technical changes. C. *Regulatory Analysis:* Not required. D. *Need:* Amendments to existing regulations are needed to permit OE to fund large multi-year demonstration grants out of one years appropriation. The current regulations provide for annual grants only. E. *Legal Authority:* Title VIII of the Higher Education Act of 1965, as amended by the Education Amendments of 1976 (Pub. L. 94-482). F. *Chronology:* Final regulations published May 2, 1978.	Dr. John L. Chase, Chief, Cooperative Education Branch, Division of Training and Facilities, Bureau of Higher and Continuing Education, U.S. Office of Education, (Room 3053, ROB-3), 400 Maryland Avenue, S.W., Washington, D.C. 20202, (202) 245-2146.	Final regulations December 19, 1979.
ASE-34—Basic Skills and Educational Proficiency Programs (Final).	A. *Description:* The regulations implement statutory amendments expanding the National Reading Improvement Act Program. The new basic educational programs affect all States, LEAs, and many nonpublic schools. B. *Why Significant:* Substantial public interest because many parents and others are encouraging a back-to-basic-skills movement. C. *Regulatory Analysis.* Not required. D. *Need:* The law is stated in general terms; implementing provisions are needed. E. *Legal Authority:* Title II and Part B of Title IX of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95-561). F. *Chronology:* NPRM published April 27, 1979. Comment period closed June 26, 1979.	Tom Keyes, Program Officer, Office of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202, (202) 245-2710.	Final regulations December 30, 1979.
ASE-35—Gifted and Talented Children's Education Program (Final).	A. *Description:* The regulations implement statutory changes in funding procedures. This was fomerly a discretionary grants program. Now 75 percent of the funds are to be chaneled through a State-administered program. B. *Why Significant:* Substantial public interest in and increased demand for services to meet the needs of gifted and talented students. C. *Regulatory Analysis:* Not required. D. *Need:* Regulations are required in order to incorporate changes resulting from the Education Amendments of 1978. E. *Legal Authority:* Part A of Title IX of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95-561). F. *Chronology:* NPRM published June 25, 1979. Comment period closed August 24, 1979.	Dr. Harold C. Lyon, Director, Office of Gifted and Talented, U.S. Office of Education (Room 3827, Donohoe Bldg.), 400 Maryland Avenue, S.W., Washington, D.C. 20202 (202) 245-2482.	Final regulations December 31, 1979.
ASE-36—Law-Related Education Program (Final).	A. *Description:* The regulations implement a new act designed to encourage SEAs and LEAS—and other public and non-profit private agencies, organizations, and institutions—to establish law-related education projects. B. *Why Significant:* There is considerable interest in the program among educators and people in the legal profession. C. *Regulatory Analysis.* Not required. D. *Need:* Regulations are needed to implement the law and award grants and contracts to support law-related education projects. E. *Legal Authority:* Part G of Title III of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95-561). F. *Chronology:* NPRM published June 29, 1979. Comment period closed August 28, 1979.	Mr. Steven Winnick, Office of Education, 400 Maryland Avenue, S.W., Room 4091, Washington, D.C. 20202, (202) 245-8953.	Final regulations December 31, 1979.
ASE-37—Commissioner's Discretionary Project Program (NPRM).	A. *Description:* The regulations would provide a framework for awarding grants with funds that the Commissioner may set aside from specific Special Projects programs. B. *Why Significant:* Substantial public interest is expected in special purpose discretionary programs. C. *Regulatory Analysis.* Not required. D. *Need:* The regulations are needed to establish a framework for funding of projects. E. *Legal Authority:* Section 303(a) and (d)(2) of Part A, Title III of the Elementary and Secondary Education Act, as amended by the Education Amendments of 1978, (PUb. L. 95-561). F. *Chronology:* None.	Jan Solomon, Division of Planning and Budgeting, U.S. Office of Education, (Room 4057, FOB-6), 400 Maryland Avenue, S.W., Washington, D.C. 20202, (202) 245-3363.	NPRM December 19, 1979.
ASE-38—Instructional Media for the Handicapped Program (NPRM).	A. *Description:* The regulations would govern the adminstration of programs that (1) provide a free loan service of captioned films for the deaf and (2) promote the educational and cultural advancement of handicapped persons through research and the use of media and technology. B. *Why Significant:* Public interest is expected in changes eliminating obsolete provisions from existing regulations. In addition, proposed regulations implement statutory provision expanding number of media centers. C. *Regulatory Analysis.* Not required. D. *Need:* Regulations are needed to implement an amendment to the statute and to clarify existing regulations. E. *Legal Authority:* Part F of the Education of the Handicapped Act (Pub. L. 91-230), as amended by the Education for All Handicapped Children Act (Pub. L. 94-142). F. *Chronology:* (Original regulations published February 20, 1975.	Barry E. Katz, U.S. Office of Education, Room 4819, Donohoe Building, 400 Maryland Avenue, S.W., Washington, D.C. 20202, (202) 472-4840.	NPRM November 21, 1979.
ASE-39—Debt Collection Procedures for the Education Division (NPRM).	A. *Description:* The regulations would encourage debtors to make prompt and full payment voluntarily. They describe alternative collection methods that the Education Division may use if a debtor fails to pay voluntarily. B. *Why Significant:* Describes the voluntary and involuntary offset methods of payment, and procedures for the collection of interest by the Education Division. C. *Regulatory Analysis:* Not required. D. *Need:* Regulations are needed to provide debt collection procedures that are more adequate and detailed than those currently in effect. E. *Legal Authority:* Pub. L. 90-247, as amended by the Education Amendment of 1978 (Pub. L. 95-561), and Pub. L. 89-508. F. *Chronology:* None.	William Ward, Division of Finance, U.S. Office of Education, Room 3105, FOB-6, 400 Maryland Avenue, S.W., Washington, D.C. 20202, (202) 245-8560.	NPRM December 31, 1979.

Office of Education Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
ASE-40—Women's Educational Equity Act Program (Final).	A. *Description:* The regulations establish criteria and priorities for financial assistance to projects designed to provide educational equity for women in the U.S. B. *Why Significant:* Substantial public interest in selection criteria and national priorities. C. *Regulatory Analysis:* Not required. D. *Need:* Regulations are needed to implement the statutory requirement for the establishment of criteria and priorities. E. *Legal Authority:* Women's Educational Equity Act of 1978 (Part C of Title IX of Pub. L. 95-561). F. *Chronology:* NPRM published May 25, 1979. Comment period closed July 24, 1979.	Dr. Leslie Wolfe, Women's Program Staff, U.S. Office of Education, Room 2147, FOB-6, 400 Maryland Avenue, S.W., Washington, D.C. 20202, (202) 245-2181.	Final regulations December 31, 1979.
ASE-41—Arts in Education Program (Final).	A. *Description:* The regulations establish eligibility requirements and specify the criteria governing selection of all grantees and some contractors. B. *Why Significant:* Eligibility has been expanded to include—in addition to SEAs and LEAs—public and private organizations, institutions, and agencies. C. *Regulatory Analysis:* Not required. D. *Need:* Regulations are required by law in order to broaden eligibility for participation in the program. E. *Legal Authority:* Arts Education Act of 1978 (Part C of Title III of Pub. L. 95-561). F. *Chronology:* NPRM published June 18, 1979. Comment period closed July 24, 1979.	Dr. Harold Arberg, U.S. Office of Education (Room 3728, Donohoe Bldg.), 400 Maryland Avenue, S.W., Washington, D.C. 20202, (202) 472-7793.	Final regulations December 21, 1979.
ASE-42—Indian Education Program (NPRM).	A. *Description:* The regulations implement amendments to the Act and revise existing regulations. B. *Why Significant:* Substantial public interest. C. *Regulatory Analysis:* Not required. D. *Need:* Regulations are needed to implement the statute. E. *Legal Authority:* The Indian Education Act, as amended by the Education Amendment of 1978 (Pub. L. 95-561). F. *Chronology:* NPRM published June 29, 1979. Comment period closed August 28, 1979.	Dr. John Tippeconic, U.S. Office of Education (Room 2177, FOB-6), 400 Maryland Avenue SW., Washington, D.C. 20202, (202) 245-8020.	Final regulations December 31, 1979.
ASE-43—School Assistance in Federally Affected Areas (SAFA) (Final).	A. *Description:* The regulations implement statutory amendments covering preliminary payments, hearing employment conditions of certain school personnel, nonpublic education of handicapped children, education of children who live on Indian lands, elective school boards and payments in States that equalize expenditures among local educational agencies. B. *Why Significant:* These programs provided Federal assistance of $800 million annually to local educational agencies. The regulations are required to provide and administer this assistance. C. *Regulatory Analysis:* Not required. D. *Need:* Regulations are needed to implement amendments to the law and to clarify existing requirements. E. *Legal Authority:* Pub. L. 81-815 and 81-874, as amended most recently by the Education Amendments of 1978 (Pub. L. 95-561). F. *Chronology:* NPRM published on 6/29/79. Comment period closed 8/28/79.	Mr. William L. Stormer, Director, Division of School Assistance in Federally Affected Areas, U.S. Office of Education (Room 2107, FOB-6), 400 Maryland Avenue SW., Washington, D.C. 20202, (202) 245-8427.	Final regulations December 31, 1979.
ASE-44—Financial Assistance for Construction, Reconstruction, or Renovation of Higher Education Facilities (Final).	A. *Description:* The regulations establish grant and loan procedures for construction, reconstruction and renovation projects. B. *Why Significant:* Technical changes. C. *Regulatory Analysis:* Not required. D. *Need:* Regulations are needed to implement the requirements of the Education Amendments of 1976 (Pub. L. 94-482). E. *Legal Authority:* Title VII of the Higher Education Act of 1965, as amended by the Education Amendments of 1976 (Pub. L. 94-482). F. *Chronology:* NPRM published 8/12/77. Comment period closed 9/26/77.	Thomas McAnallen, Bureau of Higher and Continuing Education, Division of Training and Facilities, U.S. Office of Education (Room 3716, ROB-3), 400 Maryland Avenue, S.W., Washington, D.C. 20202, (202) 245-3253.	Final regulations December 28, 1979.
ASE-45—National Direct Student Loan Program College Work-Study Program, and Supplemental Educational Opportunity Grant Program—Funding Process (NPRM).	A. *Description:* The regulations would amend provisions governing the administration of three programs of assistance to students. They would implement minor changes in the criteria for funding institutions that apply to participate in these Federal student aid programs. B. *Why Significant:* Institutions have an interest in the rules governing funding. C. *Regulatory Analysis:* Not required. D. *Need:* Regulations are required to fund institutions of higher education. E. *Legal Authority:* Title IV of the Higher Education Act of 1965 (Pub. L. 94-482) as amended by the Education Amendments of 1976 (Pub. L. 94-482). F. *Chronology:* Final regulations published 8/13/79.	Norman Brooks, Acting Chief, Policy Section, Campus-Based Branch, BSFA, U.S. Office of Education (Room 4018, ROB-3), 7th & D Streets, S.W., Washington, D.C. 20202, (202) 245-9720.	NPRM November 23, 1979.
ASE-46—Territorial Teacher Training Assistance Program (NPRM).	A. *Description:* The regulations would govern a program designed to upgrade the level of educational instruction in the territories through funding of teacher training programs. B. *Why Significant:* The regulations would establish means for determining the need for teacher training and alloting funds among the territorial jurisdictions; set priorities to be considered in assessing this need; set standards for determining which organizations can best provide the training; provide for targeting of funds to certain schools or certain types of teachers; and impose some restrictions on types and locations of training. C. *Regulatory Analysis:* Not required. D. *Need:* Regulations must be developed to implement the statute, particularly with regard to allocation of funds and establishing the need for teacher training assistance. E. *Legal Authority:* The Education Amendments of 1978 (Pub. L. 95-561; Section 1525). F. *Chronology:* None.	Dr. Thomas W. Fagan, Bureau of School Improvement, U.S. Office of Education (Room 3700, Donohoe Bldg.), 400 Maryland Avenue, S.W., Washington, D.C. 20202, (202) 472-4594.	NPRM January 15, 1980.
ASE-47—Consolidated Grant Applications for Insular Areas (Final Regulations).	A. *Description:* The regulations implement statutory provisions enabling an Insular Area to submit a consolidated application for assistance under formula grant education programs. B. *Why Significant:* the regulations lessen the administrative burdens on an In-	Mr. Stephen Thom, U.S. Office of Education (Room 1274, HEW-N), 400 Maryland Avenue, S.W., Washington,	Final regulations December 28, 1979.

Office of Education Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
	sular Area and provide it with greater flexibility in making decisions regarding educational programs. C. *Regulatory Analysis:* Not required. D. *Need:* Regulations are required in order for the statute to be implemented. E. *Legal Authority:* Title V of Pub. L. 95-134. F. *Chronology:* NPRM published on May 14, 1979. Comment period closed July 13, 1979.	D.C. 20202, (202) 472-3730.	

Office of Education Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
ASE-48—Health Education Assistance Loan Program (HEAL) (NPRM).	A. *Description:* The regulations would establish requirements for (1) non-student borrowers and (2) loan repayment through services in either the National Health Service Corps or private practice in a health manpower shortage area. B. *Why Significant:* Provides guidelines for lenders and borrowers. C. *Regulatory Analysis:* Not required. D. *Need:* Major provisions of the law lack regulations. E. *Legal Authority:* Subpart 1, Part C of Title VII of the Public Health Service Act, as amended (Pub. L. 94-482, Pub. L. 95-83, Pub. L. 95-215). F. *Chronology:* Interim final regulations published August 3, 1978.	David Bayer, Acting Chief, GSL Branch, BSFA, U.S. Office of Education (Room 4002, ROB-3), 7th & D Streets, S.W., Washington, D.C. 20202, (202) 245-9717.	NPRM March 1, 1980.

Office of the Secretary

Title	Summary	Contact	Decision
OS-1—HEW's Age Discrimination Regulations.	A. *Description:* These regulations prohibit age discrimination in programs and activities receiving financial assistance from HEW. B. *Why Significant:* Protects individuals from age discrimination in HEW-assisted programs and activities. C. *Regulatory Analysis:* Not required. D. *Need:* To implement requirements of the Age Discrimination Act and government-wide age discrimination regulations (45 CFR Part 90) which require agency specific age discrimination regulations. E. *Legal Basis:* Pub. L. 94-135; 42 U.S.C. 6101 *et seq.* 45 CFR Part 90. F. *Chronology:* Government-wide age discrimination regulations published by HEW on June 12, 1979 (45 CFR 33768); HEW's agency specific NPRM published September 24, 1979 (44 FR 55107). Comment period ended November 23, 1979. G. *Citation:* 45 CFR Part 91.	Bayla White, Director, Age Discrimination Task Force, (202) 245-6284, Room 716E, 200 Independence Ave. SW., Washington, D.C. 20201.	Final Rule: January 1979.
OS-2—Day Care Requirements	A. *Description:* These regulations set requirements for day care which is funded under title XX of the Social Security Act and several other HEW programs. B. *Why Significant:* State agencies, day care providers, parents and child advocates are keenly interested in establishment of minimum requirements for quality day care. C. *Regulatory Analysis:* A proposed Regulatory Analysis has been developed and is being revised along with the final regulations. D. *Need:* To implement statutory requirement of title XX and to comply with Operation Common Sense. E. *Legal Basis:* 42 U.S.C. 1397 a(a)(9)(B) and 2932(d). F. *Chronology:* Notice of Intent (April 26, 1978; 43 FR 81). Proposed Rules (June 15, 1979; 44 FR 34753. G. *Citation:* 45 CFR Part 71.	Sylvester Ligsukis, (202) 245-6735; Director, Day Care Task Force, Office of the General Counsel, HEW, Room 716E, 200 Independence Avenue SW., Washington, D.C. 20201.	Final Rule: January-March 1980.
OS-3—Privacy Act Regulation	A. *Description:* These regulation implements the Privacy Act of 1974 in HEW by establishing agency policies and procedures for the maintenance of systems of individually indentifiable personal records. B. *Why Significant:* The revised regulation will improve HEW's service to the public by making it easier for citizens to understand the procedures for exercising their rights under the Privacy Act. C. *Need:* The proposed revision is necessary to comply with the Department's Operation Common Sense and the President's Executive Order No. 12044. Both of these initiatives require the Department to revise its regulations to be easier for the public to read and understand. E. *Legal Basis:* 5 U.S.C. 552a; 5 U.S.C. 301. F. *Chronology:* The Department published its original regulation in the FEDERAL REGISTER on October 8, 1975. G. *Citation:* 45 CFR Part 5b.	Hugh V. O'Neill, (202) 245-7588, HEW Privacy Act Coordinator, Department of Health, Education, and Welfare, Room 526F, 200 Independence Ave. SW., Washington, D.C. 20201.	Proposed Rule: Jan.-Mar. 1980.
HDS-12—Joint Recodification Project—Social Service.	A. *Description:* These regulations will revise the procedural requirements that States must follow in taking applications, making eligibility determinations, and providing fair hearings. These regulations are being revised jointly with AFDC and Medicaid regulations which have common requirements. B. *Why Significant:* These regulations cover important issues, including requirements for bilingual program material, the complexity of the application process, rules for verifying information submitted on an application, agency actions that give rise to a hearing and time limits for holding a hearing and implementing the hearing decision. C. *Regulatory Analysis:* A threshold study is in preparation. D. *Need:* To clarify requirements for this and the AFDC and Medicaid programs which were former administered by the Social and Rehabilitation Service. E. *Legal Basis:* Titles I, IV-A, X, XIV, XVI (AABD), and XX of the Social Security Act.	Johnnie Brooks, (202) 245-9415, Room 2225, 300 C Street SW., Washington, D.C. 20201.	NPRM: 11/30/79.

Office of the Secretary—Continued

Title	Summary	Contact	Decision
	F. *Chronology:* Notice of Decision to Develop Regulations March 19, 1979 (44 FR 16449) Disclosure Draft Notice (Application) April 9, 1979 (44 FR 21044) Disclosure Draft Notice (Fair Hearing.) June 13, 1979 (44 FR 33913). G. *Citation:* Fair hearing—Subpart C of 45 CFR Part 1395 and Parts 1392, 1393, 1396, 1391.		
OS—Department Staff Manual—Information Security Program; General Requirements: Handling, marking, transmitting; storing; and safeguarding of national security information.	A. *Description:* This manual would implement Executive Order 12065, National Security Information, by requiring each agency of the Department to comply with the provisions of the Order relating to the classification, downgrading, declassification and safeguarding of national security information. B. *Why Significant:* The manual would outline general responsibilities for Department officials and employees who would be concerned with national security information, and it further outlines procedures whereby, a member of the public, a government employee or agency can request the declassification and release of information originally classified by the Department. C. *Regulatory Analysis:* "Yes, being conducted." D. *Need:* To implement the provisions of Executive Order 12065 by providing general policies and procedures for the protection of national security information that is under the control of the Department. E. *Legal Basis:* Executive Order 12065, published on July 3, 1978 (43 FR 28949). F. *Chronology:* Notice was published June 4, 1979, (44 FR 31981) Deletion of obsolete regulation; notice on availability of interim Department Security Manual. "Final Rule" currently under review.	Kenneth E. Lopez, Director, Division of Security and Protection, Office of Investigations, Office of the Inspector, General, Department of Health, Education, and Welfare, Room 5455, North Building, 330 Independence Avenue SW., Washington, D.C. 20201, telephone: 202-245-6566.	Final Rule—January-March, 1980.
OS-1—Availability of Information to the Public.	A. *Description:* This proposal would revise our rules for handling requests for information under the Freedom of Information Act. It tells how to make a Freedom of Information request; who can release information and who can decide not to release it; how much time it should take; how much we charge, and what can be done if we do not release information. B. *Why Significant:* Substantial interest is anticipated because the proposal amplifies and clarifies out procedures for responding to public requests for information. C. *Regulatory Analysis:* Not required. D. *Need:* Recent court decisions and our experience since the last revision in 1974 require modifying our rules to implement the Freedom of Information Act. E. *Legal Basis:* 5 U.S.C. 552, U.S.C. 301, 42 U.S.C. 1306, and 31 U.S.C. 483a. F. *Chronology:* Notice of intent to revise this regulation was published on November 18, 1976 (41 FR 50846). The comment period closed on January 17, 1977. The NPRM will have a comment period.	Russell M. Roberts, Freedom of Information Officer, Office of Public Affairs, HEW, Room 118F, Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20201 472-7453.	October-January 1979.
OS-2—Publicizing "Adverse" Information.....	A. *Description:* Theis regulation has been re-written and simplified to make it easier for people to understand how they can obtain a retraction or correction when HEW has issued an incorrect statement about them that adversely affects them. B. *Why Significant:* This proposed regulation would clarify and simplify our policy and implement a recommendation of the Administrative Conference of the United States. C. *Regulatory Analysis:* Not required. D. *Need:* The proposed rule would implement a recommendation of the Administrative Conference of the United States and set out the rights of persons asking HEW to correct erroneous information and the limits on HEW employees in releasing "adverse" information. E. *Legal Basis:* 5 U.S.C. 301. F. *Chronology:* Following reivew within the Department, the proposed regulation will be published in the FEDERAL REGISTER and will have a 30-day comment period.	Russell M. Roberts, Office of Public Affairs, Room 118F, Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20201, (202) 472-7453.	January-March 1980.

[FR Doc. 79-37939 Filed 12-13-79; 8:45 am]
BILLING CODE 4110-12-M

Federal Register

Friday
December 14, 1979

Part III

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages For Federal and Federally Assisted Construction General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage & Hour Division, Office of Government Contract Wage Standards, Division of Construction Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

New General Wage Determination Decisions

Kentucky.—KY79-1162, KY79-1163, KY79-1164, KY79-1165, KY79-1166, KY79-1167, KY79-1168, KY79-1169.

Utah.—UT 79-5138.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the Federal Register are listed with each State.

Alabama:	
AL79-1066	Apr. 13, 1979.
Florida:	
FL79-1017	Jan. 26, 1979.
FL-1068	Apr. 13, 1979.
Illinois:	
IL79-2027; IL79-2028; IL79-2029; IL79-2030; IL79-2031; IL79-2032; IL79-2033	May 4, 1979.
IL79-2036; IL79-2037; IL79-2038	May 11, 1979.
IL79-2051	June 15, 1979.
IL79-2052; IL79-2053	Aug. 24, 1979.
IL79-2054	June 15, 1979.
IL79-2067; IL79-2068	Aug. 24, 1979.
IL79-2070	Sept. 7, 1979.
Mississippi:	
MS79-1119	Aug. 17, 1979.
New Jersey:	
NJ78-3047	June 16, 1979.
Pennsylvania:	
PA78-3054	Aug. 11, 1979.
PA78-3067	Sept. 25, 1979.
PA79-3000	Jan. 9, 1979.
PA79-3003	Mar. 4, 1979.
PA79-3009	May 4, 1979.
Texas:	
TX79-4032; TX79-4033	Mar. 16, 1979.
TX79-4035	Sept. 28, 1979.
TX79-4036	Aug. 17, 1979.
TX79-4037	June 1, 1979.
TX79-4039	March 16, 1979.
TX79-4041; TX79-4043	Sept. 28, 1979.
TX79-4046	Aug. 17, 1979.
TX79-4048	Mar. 16, 1979.
TX79-4084	Oct. 5, 1979.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the Federal Register are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Alabama:	
AL77-1075 (AL79-1157)	June 3, 1977.
Kansas:	
KS77-4161 (KS79-4107)	July 8, 1977.
Kansas:	
MO78-4048 (MO79-4099)	May 5, 1979.
Missouri:	
MO78-4048 (MO79-4099)	May 5, 1979.
North Carolina:	
NC-1056 (NC79-1161)	Mar. 30, 1979.

CANCELLATION OF GENERAL WAGE DETERMINATION DECISIONS

The general wage decisions listed below are cancelled. New decisions for the Counties that have been covered by the cancelled decisions are published in this edition of the Federal Register. Contracts for which bids have been opened shall not be affected by this notice. Also, consistent with 29 CFR 1.7(b)(2), the incorporation of one of the cancelled decisions in contract specifications, the opening of bids for which is within ten (10) days of this notice, need not be affected.

KY75-1105, Bath, Madison and Motgomery Cos., Kentucky—Residential Construction

KY76-1080, Breckinridge, Bullitt, Hardin, Marion, Meade, Nelson, Shelby, Spencer and Washington Cos., Kentucky—Residential Construction

KY-1092, Bracken and Grant Cos., Kentucky—Residential Construction

KY76-1093, Adair, Cumberland, Green, Larue, Metcalfe, Monroe, and Taylor Cos., Kentucky—Residential Construction

KY76-1096, Casey, Clinton, Garrard, Lincoln, Pulaski, Russell, Rockcastle, and Wayne Cos., Kentucky—Residential Construction

KY76-1097, Clay, Estill, Jackson, Lee, Owsley, Powell, and Wolfe Cos., Kentucky—Residential Construction

KY76-1101, Breathitt, Harlan, Knott, Leslie, Letcher, and Perry Cos., Kentucky—Residential Construction

KY76-1111, Mason, Nicholas, Robertson, and Rowan Cos., Kentucky—Residential Construction

KY77-1002, Bell, Knox, Laurel, McCreary, and Whitley Cos., Kentucky—Residential Construction

Signed at Washington, D.C. this 7th day of December 1979.

Dorothy P. Come, Assistant Administrator, Wage and Hour Division.

[FR Doc.79-38120 Filed 12-13-79; 8:45 am]

BILLING CODE 4510-27-M

NEW DECISION

STATE: KENTUCKY
COUNTIES: ADAIR, CLINTON, CUMBERLAND, GREEN, METCALFE, MONROE, & TAYLOR
DECISION NUMBER: KY79-1162 DATE: DATE OF PUBLICATION
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS - includes single family homes and apartments up to and including four stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING & HEATING MECHANICS	$ 4.66				
BRICK & BLOCK LAYERS	6.00				
CARPENTERS	4.86				
CEMENT MASONS	4.45				
DRYWALL FINISHERS	5.80				
DRYWALL HANGERS	6.00				
ELECTRICIANS	5.97				
INSULATION INSTALLERS	3.88				
LABORERS	3.33				
PAINTERS	4.78				
PLUMBERS & PIPEFITTERS	4.64				
ROOFERS	4.60				
SHEET METAL WORKERS	4.84				
TILE SETTERS	5.00				
TRUCK DRIVERS	3.33				
WELDERS - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
Backhoe	5.00				
Front end loader	4.00				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

NEW DECISION

STATE: KENTUCKY
COUNTIES: FRANKLIN, GRANT, HENRY, OWEN, & SHELBY
DECISION NUMBER: KY79-1163 DATE: DATE OF PUBLICATION
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS - includes single family homes and apartments up to and including four stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING & HEATING MECHANICS	$ 6.63				
BRICK & BLOCK LAYERS	6.73				
CARPENTERS	5.57				
CEMENT MASONS	5.00				
DRYWALL FINISHERS	6.38				
DRYWALL HANGERS	5.71				
ELECTRICIANS	6.00				
INSULATION INSTALLERS	5.07				
IRONWORKERS	5.50				
LABORERS:					
Unskilled	3.50				
Mason tenders	4.00				
PAINTERS	5.00				
PLUMBERS & PIPEFITTERS	5.50				
ROOFERS	5.50				
SHEET METAL WORKERS	5.27				
SOFT FLOOR LAYERS	8.00				
TILE SETTERS	5.00				
TRUCK DRIVERS	5.00				
WELDERS - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
Backhoe	6.00				
Bulldozer	7.00				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

NEW DECISION

STATE: KENTUCKY
COUNTIES: ANDERSON, BRECKINRIDGE, BULLITT, GRAYSON, HARDIN, LARUE, MARION MEADE, NELSON, SPENCER, & WASHINGTON
DECISION NUMBER: KY79-1164 DATE: DATE OF PUBLICATION
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS - includes single family homes and apartments up to and including four stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING & HEATING MECHANICS	$ 4.79				
BRICK & BLOCK LAYERS	7.18				
CARPENTERS	5.60				
CEMENT MASONS	5.00				
DRYWALL FINISHERS	6.31				
DRYWALL HANGERS	7.00				
ELECTRICIANS	5.78				
INSULATION INSTALLERS	4.44				
LABORERS:					
Unskilled	3.72				
Mason tenders	4.00				
PAINTERS	5.20				
PLUMBERS & PIPEFITTERS	7.43				
ROOFERS	5.00				
SHEET METAL WORKERS	5.25				
SOFT FLOOR LAYERS	5.60				
TILE SETTERS	6.50				
TRUCK DRIVERS	5.22				
WELDERS - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
Backhoe	5.67				
Bulldozer	6.00				
Front end loader	5.00				
Motor grader	7.00				
Paver	5.50				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

NEW DECISION

STATE: KENTUCKY
COUNTIES: ESTILL, GARRARD, JACKSON, LEE, LINCOLN, MADISON, & OWSLEY
DECISION NUMBER: KY79-1165 DATE: DATE OF PUBLICATION
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS - includes single family homes and apartments up to and including four stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING & HEATING MECHANICS	$ 5.50				
BRICK & BLOCK LAYERS	6.00				
CARPENTERS	4.00				
CEMENT MASONS	5.39				
DRYWALL FINISHERS	4.00				
DRYWALL HANGERS	4.75				
ELECTRICIANS	5.50				
INSULATION INSTALLERS	4.00				
LABORERS:					
Unskilled	3.17				
Mason tenders	3.50				
PAINTERS	4.73				
PLUMBERS & PIPEFITTERS	6.16				
ROOFERS	4.00				
SHEET METAL WORKERS	5.50				
SOFT FLOOR LAYERS	4.75				
TILE SETTERS	4.00				
TRUCK DRIVERS	3.50				
WELDERS - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
Backhoe	4.25				
Bulldozer	5.50				
Front end loader	6.00				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

NEW DECISION

STATE: KENTUCKY
COUNTIES: BELL, CASEY, CLAY, HARLAN, KNOX, LAUREL, LESLIE, McCREARY, PULASKI, ROCKCASTLE, RUSSELL, WAYNE, & WHITLEY
DECISION NUMBER: KY79-1166 DATE: DATE OF PUBLICATION
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS - includes single family homes and apartment up to and including four stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING & HEATING MECHANICS	$ 5.00				
BRICKLAYERS	7.57				
CARPENTERS	5.78				
CEMENT MASONS	6.00				
DRYWALL FINISHERS	5.00				
DRYWALL HANGERS	5.00				
ELECTRICIANS	7.33				
INSULATION INSTALLERS	4.10				
LABORERS:					
Unskilled	3.76				
Mason tenders	4.38				
Asphalt rakers	5.00				
PAINTERS	6.50				
PLUMBERS & PIPEFITTERS	7.57				
ROOFERS	5.31				
SHEET METAL WORKERS	5.71				
SOFT FLOOR LAYERS	4.50				
TILE SETTERS	4.80				
TRUCK DRIVERS	4.00				
WELDERS - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
Backhoe	5.50				
Bulldozer	6.03				
Front end loader	6.00				
Paver	6.37				
Roller	5.00				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

NEW DECISION

STATE: KENTUCKY COUNTIES: BRACKEN, MASON, NICHOLAS, & ROBERTSON
DECISION NUMBER: KY79-1167 DATE: DATE OF PUBLICATION
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS - includes single family homes and apartments up to and including four stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING & HEATING MECHANICS	$ 4.73				
BRICKLAYERS	5.00				
CARPENTERS	5.04				
CEMENT MASONS	4.50				
DRYWALL FINISHERS	5.25				
DRYWALL HANGERS	4.50				
ELECTRICIANS	5.00				
INSULATION INSTALLERS	4.70				
LABORERS:					
Unskilled	3.10				
Mason tenders	3.50				
PAINTERS	4.75				
PLUMBERS & PIPEFITTERS	4.75				
ROOFERS	4.75				
SHEET METAL WORKERS	4.73				
TILE SETTERS	5.00				
TRUCK DRIVERS	4.75				
WELDERS - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
Backhoe	5.00				
Bulldozer	5.00				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

NEW DECISION

STATE: KENTUCKY
COUNTIES: BATH, MENIFEE, MONTGOMERY, POWELL, & WOLFE
DECISION NUMBER: KY79-1168 DATE: DATE OF PUBLICATION
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS - includes single family homes and apartments up to and including four stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING & HEATING MECHANICS	$ 4.31				
BRICKLAYERS	6.00				
CARPENTERS	4.56				
CEMENT MASONS	5.00				
DRYWALL FINISHERS	4.75				
DRYWALL HANGERS	4.75				
ELECTRICIANS	5.12				
INSULATION INSTALLERS	4.82				
LABORERS:					
Unskilled	3.10				
Mason tenders	3.25				
PAINTERS	4.56				
PLUMBERS & PIPEFITTERS	4.63				
ROOFERS	4.57				
SHEET METAL WORKERS	4.68				
SOFT FLOOR LAYERS	4.80				
TILE SETTERS	5.00				
TRUCK DRIVERS	4.50				
WELDERS - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
Backhoe	4.50				
Bulldozer	5.50				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

NEW DECISION

STATE: KENTUCKY
COUNTIES: BREATHITT, FLOYD, KNOTT, LETCHER, MAGOFFIN, PERRY, & PIKE
DECISION NUMBER: KY79-1169 DATE: DATE OF PUBLICATION
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS - includes single family homes and apartments up to and including four stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING & HEATING MECHANICS	$ 5.00				
BRICKLAYERS	9.00				
CARPENTERS	7.14				
CEMENT MASONS	7.03				
DRYWALL FINISHERS	5.00				
DRYWALL HANGERS	5.00				
ELECTRICIANS	6.00				
INSULATION INSTALLERS	5.00				
IRONWORKERS	6.00				
LABORERS	4.33				
PAINTERS	5.75				
PLUMBERS & PIPEFITTERS	6.00				
ROOFERS	6.17				
SHEET METAL WORKERS	5.00				
SOFT FLOOR LAYERS	6.00				
TILE SETTERS	6.00				
TRUCK DRIVERS	4.33				
WELDERS - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
Backhoe	6.00				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

NEW DECISION

STATE: UTAH COUNTIES: Davis and Weber
DECISION NUMBER: UT79-5138 DATE: Date of Publication
DESCRIPTION OF WORK: Residential Projects consisting of single family homes and apartments up to and including 4 stories

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters	$6.50				
Cement Masons	5.70				
Drywall Installer	5.00				
Electricians	5.90				
Laborers	5.00				
Painters	5.58				
Plumbers	6.91				
Roofers	8.00				
Sheet Metal Workers	6.00				
Truck Drivers	6.65	.37	.30		
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.					

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

MODIFICATION PAGE 1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision #AL79-1066 - Mod. #4 (44-FR-22307-April 13, 1979) Madison County, Alabama					
CHANGE:					
Electricians and Linemen	$11.80	.55	3% + .60		1%
DECISION #FL79-1017 - Mod. #7 (44 FR 5604 - January 26, 1979) Duval County, Florida					
Change:					
Mod. #5 published in the Federal Register of November 30, 1979 to read Mod. #6					
Carpenters, Acoustical Ceiling & Drywall Installers	$ 9.52	.62	.60		.05
Sprinkler Fitters	11.06	.75	1.05		.10

MODIFICATION PAGE 2

DECISION #FL79-1068 - Mod. #6 (44 FR 22309 - April 13, 1979) Cape Canaveral Air Force Station, Patrick Air Force Base, Kennedy Space Flight Center and Malabar Radar Site) Florida	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Ironworkers	$10.28	.65	.90	.65	.05
Laborers:					
Air tool operators; Concrete laborers; Hod Carriers; Mason Tenders; Mortar Mixers; Kettlemen (excl. roofing & waterproofing); Pipelayers; Powderman; Form Setters (paving & curbing & gutter); Well point & dewatering	6.85	.60	.30		
Millwrights	11.27	.60	.70		.10
Plumbers; Pipefitters; Steamfitters:					
Commercial	11.45	.60	.60		.05
Industrial (Power Houses, Chemical Plants, Missile Sites, Oil Refineries, Bulk Plants, etc., & such other work which is related to & considered a part thereof)	13.40	.74	.69		.05
Sprinkler Fitters	11.06	.75	1.05		.10

MODIFICATION PAGE 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. IL79-2027- MOD. #3 (44 FR 26413 - May 4, 1979) Adams, Brown & Pike Counties, Illinois					
Change:					
Laborers:					
Adams County:					
Unskilled	$ 10.04	.55	.60		.035
Semi-Skilled	10.24	.55	.60		.035
Skilled	10.39	.55	.60		.035
Brown & Pike Counties:					
Unskilled	10.09	.65	.45		.035
Semi-skilled	10.29	.65	.45		.035
Skilled	10.44	.65	.45		.035
DECISION NO. IL79-2028 - MOD. #3 (44 FR 26415 - May 4, 1979) Champaign and Vermillion Counties, Illinois					
Change:					
Electricians:					
Champaign County	$ 13.65	.70	3%+.40		3/10%
Vermillion County	13.12	.55	3%+.50		
Plumbers & Steamfitters:					
Champaign County	13.50	.50	1.35		.12
Vermillion County	12.87	.50	1.05		.25
Roofers:					
Champaign County	13.49	.70	.45		.05

MODIFICATION Page 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. IL79-2029 - MOD. #3 (44 FR 26419 - May 4, 1979) Fulton, Hancock, McDonough & Schuyler Counties, Illinois					
Change:					
Carpenters:					
Fulton, E. 1/3 of Hancock & McDonough Cos.:					
Carpenters & Soft Floor Layers	$ 12.17	.60	1.00		
Millwrights & Pile-drivermen	12.67	.60	1.00		
Remainder of Hancock Co.					
Carpenters & Soft Floor Layers	11.65	.75	.90		.04
Millwrights & Pile-drivermen	12.35	.75	.90		.04
Electricians:					
Hancock & Schuyler Cos., (Twps. of Lamoine, Bethel, Industry, & Eldorado in McDonough County	11.77	.50	3%+1.00		1%
Ironworkers:					
Hancock & McDonough Cos.:					
The W. ½ of Schulyer Co.	12.40	.55	.90		.06
The Southern Tip of Fulton Co., (Incl. Marbletown, Astoria, Summun)	12.25	.55	1.05		.08
Remainder of Fulton Co.	12.825	.65	.925		

MODIFICATION PAGE 5

DECISION NO. IL79-2029 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers:					
Hancock & McDonough Cos.					
Unskilled	$ 10.87	.55	.60		.035
Semi-Skilled	11.07	.55	.60		.035
Skilled	11.27	.55	.60		.035
Schulyer County:					
Unskilled	10.09	.65	.45		.035
Semi-Skilled	10.29	.65	.45		.035
Skilled	10.44	.65	.45		.035
Painters:					
Fulton & Schulyer Cos.:					
Brush	12.11	.60	.30		.03
Structural Steel & Spray	12.96	.60	.30		.03
Hancock & McDonough Cos.					
Brush	11.50				
Structural Steel & Spray	12.00				
Plumbers & Steamfitters:					
Fulton & McDonough Cos.	13.22	.35	.35	48	
Hancock & Schuyler Cos.	12.85	.35	.60		.05
DECISION NO. IL79-2030 - MOD. #2 (44 FR 26421 - May 4, 1979) Ford & Iroquois Counties, Illinois					
Change:					
Asbestos Workers	14.10	1.01	1.19		.05

MODIFICATION PAGE 6

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. IL79-2031 - MOD. #3 (44 FR 26424 - May 4, 1979) Bureau, LaSalle, Livingston, Marshall, Putnam & Woodford Counties, Illinois					
Change:					
Asbestos Workers	$ 14.01	1.01	1.19		.05
Bricklayers & Stonemasons:					
LaSalle County:					
Peru & Vicinity	12.30	.85	1.20		
Streator & Vicinity	12.50	.85	.60		
Ottawa & Vicinity	12.50	.85	1.20		
Bureau & Putnam Cos.	12.90	.70	.75		
Livingston County	12.30	.85	.75		
Woodford & Marshall Cos.	12.40	.70	1.16		.01
Plumbers & Steamfitters:					
Bureau, LaSalle and Putnam Cos. and N. of Pontiac in Livingston Co.	13.58	.50	.60		.09
Roofers:					
LaSalle, Bureau, Livingston, Putnam & N.E. half of Marshall County	12.48	.40	.70		
DECISION NO. IL79-2032 - MOD. #2 (44 FR 26429 - May 4, 1979) Logan, Mason and Menard Counties, Illinois					
Change:					
Asbestos Workers	$ 13.26	.90	1.04		
Sprinkler Fitters	13.08	.75	1.05		.08

MODIFICATION PAGE 7

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. IL79-2033 - MOD. #3 (44 FR 26432 - May 4, 1979) McLean County, Illinois					
Change:					
Asbestos Workers	$ 14.10	1.01	1.19		.05
Electricians:					
Cropsey, Anchor, Cheney Grove, and Bell Flower Twps.	13.65	.70	3%+.40		3/10%
Remainder of County	12.70	.55	3%+.65		2/10%
Plasterers	13.91				.01
Plumbers and Steamfitters	13.30	.75	1.20		.15
Roofers:					
Composition	11.85				
Slate & Tile	11.90		.45		
DECISION NO. IL79-2036 - MOD. #4 (44 FR 27864 - May 11, 1979) Peoria & Tazewell Counties Illinois					
Change:					
Asbestos Workers	$14.10	1.01	1.19		.05
Carpenters & Stonemasons:					
Carpenters:					
Residential					
Peoria County:					
Chillicothe & Vicinity	11.13	.90	.85		.03
Tazewell County & Remainder of Peoria County	12.17	.60	1.00		

MODIFICATION PAGE 8

DECISION NO. IL79-2036 (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters & Stonemasons Cont'd					
Commercial:					
Peoria County:					
Chillicothe & Vicinity:					
Carpenters, Piledrivermen and Soft Floor Layers	$12.28	.90	.85		.05
Millwrights	12.53	.90	.85		.05
Tazewell County and Remainder of Peoria County:					
Carpenters & Soft Floor Layers	12.17	.60	1.00		
Millwrights and Piledrivermen	12.67	.60	1.00		
Electricians:					
Residential:					
All Units primarily for Family Residence not requiring Passenger Elevator, & Farm Work	7.75	.55	3%+1.00		3/4%
Commercial	12.87	.55	3%+1.00		3/4%
Painters:					
Brush	12.11	.60	.30		.03
Structural Steel & Srpay	12.96	.60	.30		.03

MODIFICATION PAGE 9

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. IL79-2037 - MOD. #3 (44 FR 27867 - May 11, 1979) Alexander, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Saline, Union, White, Williamson Counties, Illinois					
Change:					
Asbestos Workers:					
Alexander, Jackson, Jefferson, Perry & Union Counties	$13.26	.90	1.04		
Bricklayers & Stonemasons:					
Remainder of Counties:					
Bricklayers, Stonemasons, Marble-Tile-Terrazzo Workers, Cement Block Layers, Pointers, Caulkers, & Cleaners	11.65	.70	.50		
Carpenters:					
Marion County:					
Carpenters, Piledrivermont & Soft Floor Layers	10.76	.65	.50		.03
Millwrights	11.11	.65	.50		.03
Hamilton, Jefferson & White Cos.:					
Carpenters, Piledrivermen & Soft Floor Layers	10.86	.45	.50		.03
Millwrights	11.21	.45	.50		.03

MODIFICATION PAGE 10

DECISION NO. IL79-2037 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters (Cont'd)					
Remainder of Counties:					
Carpenters, Piledrivermen, Millwrights & Soft Floor Layers	$10.90	.50	.60		.05
Electricians	13.63	.55	13%		1%
Ironworkers:					
Marion & Perry Counties:					
Jefferson (Mt. Vernon and all Area West thereof) County	12.95	.55	1.05		
Roofers:					
Hardin County:					
Composition	10.63	.60	.50		
Slate & Tile	10.88	.60	.50		
Remainder of Counties	9.40	.60	.20		
DECISION NO. IL79-2038 - MOD. #3 (44 FR 27871 - May 11, 1979) Sangamon County, Illinois					
Change:					
Bricklayers, Stonemasons, Marble-Tile-Terrazzo Workers, Pointers, Caulkers & Cleaners	11.40	.50	1.00		.02
Electricians:					
Building	13.12	.55	3%+.70		1/10%
Residential	8.45	.50	3%+.40		5/10%

MODIFICATION PAGE 11

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. IL79-2051 - MOD. #2 (44 FR 34737 - June 15, 1979) Cook County, Illinois					
Change:					
Asbestos Workers	$ 14.10	1.01	1.19		.05
Bricklayers & Stonemasons	13.00	.90	.85		.07
Cement Masons:					
Building, Heavy & Highway	12.35	1.35	1.25		.05
Electricians	13.15	7.20%	13.28%	.80	.76%
Ironworkers	13.65	1.24	1.22		.10
Black Book Fence Erection	13.00	.75	1.105		.10
Red Book Fence Erection	9.72	.75	1.105		.10
Lathers	12.62	.605	.645		.04
Marble Setters	13.95	.90			
Plumbers	13.80	.80	.90		.07
Sprinkler Fitters	13.75	.95	1.05		.15
Tile Setters	12.65	.67	.71		
DECISION NO. IL79-2052 - MOD. #1 (44 FR 49829 - August 24, 1979) Dupage, Grundy, Kane, Kendall, Lake, McHenry & Will Counties, Illinois					
Change:					
Asbestos Workers	$ 14.10	1.01	1.19		.05
Bricklayers & Stonemasons:					
Dupage County:					
North of Butterfield Rd; Argonne Vicinity (National Accl. Lab.) AEC Plant	13.00	.90	.85		.05
South of Butterfield Rd; From East to West	13.00	.90	.85		.05
Lake County	13.00	.90	.85		.05
Will & Grundy Counties	13.22	.90	.65		

MODIFICATION PAGE 12

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. IL79-2052 - MOD. #1 (Cont'd)					
Carpenters:					
Will County:					
Building	$14.13	.85	1.00		
Cement Masons:					
Dupage County	12.80	1.13	1.00		.07
Ironworkers:					
Kane County; Kendall (Northern ½ Cook, Including Bristol & Yorkville) Co.; McHenry (S.E. ½ of Co., Including Huntley) Co. & the Remainder of Dupage Co.	15.00	.75	.525		.08
Will & Grundy Cos.; Dupage (Argonne) Co.; & Southern Half of Kendall County	13.00	.75	.725		.02
Plasterers:					
Dupage County	12.16	.90	.85		
Plumbers & Pipefitters & Steamfitters:					
Dupage County: (Argonne - AEC Plant) Plumbers	13.80	.80	.90		.07
Dupage County: (Remainder of County) Plumbers & Pipefitters:					
Wheaton & N. Dupage Counties	13.65	.75	1.10		.10
Naperville & South Dupage Counties	13.68	.90	.97		.05
Kane County:					
Plumbers; Steamfitters & Pipefitters:					
Elgin & Vicinity	13.01	.90	.60	1.00	.08
Aurora & Vicinity	14.41	.65	.50		.04
Lake & McHenry Counties:					
Plumbers	13.30	1.00	1.05		.25
Sprinkler Fitters:					
Dupage County	13.75	.90	1.05		.15
Ironworkers:					
Lake, McHenry, (Heborn, Woodstock & East thereof) Co.	13.65	1.24	1.22		.10

MODIFICATION PAGE 13
MODIFICATION PAGE 14

DECISION NO. IL79-5052 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Sprinkler Fitters:					
Lake County:					
Within 20 miles Radius of Chicago City Hall	$ 13.95	.90	1.05		.15
DECISION NO. IL79-2053 - MOD. #1 (44 FR 48833 - August 24, 1979) Madison & St. Clair Counties, Illinois					
Change:					
Asbestos Workers	13.26	.90	1.04		
Bricklayers:					
Madison County:					
Alton, Granite City & Vicinities					
Bricklayers; Stonemasons; Pointers-Caulkers- Cleaners	12.45	.80	.75		
Carpenters:					
St. Clair County:					
Carpenters; Millwrights; Soft Floor Layers & Piledrivermen	12.685	.60	1.00		
Electricians:					
Alton & Vicinity in Madison County	$13.94	.55	3%+1.00	6%	3/10%
St. Clair Co. & the Remainder of Madison Co.	13.23	.53	3%+.93	6%	½%
Power Equipment Operators					
Group I	12.57	.87	1.51		.05
Group II	10.64	.87	1.51		.05
Group III	9.99	.87	1.51		.05
Group IV	9.89	.87	1.51		.05
Group V	9.64	.87	1.51		.05
Group VI					
a.	14.77	.87	1.51		.05
b.	15.07	.87	1.51		.05
c.	11.79	.87	1.51		.05
d.	12.29	.87	1.51		.05
Glaziers	12.58	1.02	1.78	1.66	.01

MODIFICATION PAGE 15

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. IL79-2054 - MOD. #2 (44 FR 34741 - June 15, 1979) Henderson, Henry, Knox, Mercer, Rock Island, Stark & Warren Counties, Illinois					
Change:					
Bricklayers:					
Henry County:					
Bricklayers, Stonemasons & Plasterers	$12.85		1.00		
Electricians:					
Henderson, Knox & Warren Cos., Twps. of Ohio Grove, N. Henderson & Suez in Mercer County	12.87	.55	3%+1.00		3/4%
Stark Co. (Twps. of Essex, Valley & W. Jersey)	12.87	.55	3%+1.00		3/4%
Roofers:					
Henry, Mercer & Rock Island Counties	12.15	.75	.80		
Laborers:					
Rock Island & Mercer Counties:					
Unskilled	10.52	.50	1.00		.035
Semi-Skilled	10.77	.50	1.00		.035
Skilled	11.02	.50	1.00		.035

MODIFICATION PAGE 16

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IL79-2067-Mod. #2 (44 FR 49837 - August 24, 1979) Boone, Carroll, DeKalb, JoDaviess, Lee, Ogle, Stephenson, Whitside and Winnebago Counties, Illinois					
Change:					
Carpenters:					
Boone and Winnebago Cos.					
Carpenters and Piledrivermen	$11.85	.55	$1.20		
Millwrights	12.60	.55	1.20		
Electricians:					
Boone, DeKalb, Ogle, Lee, Stephenson, Winnebago, JoDaviess (Warren, Rush, Nora, Stockton, Wards Grove, Pleasant Valley, Berronman Twps.) Co.; Carroll (Cherry Grove, Shannon, Rock Creek, Lima, Wysox, Elkhorn, Grove Twps.) County; Whitside (Genesse, Jordan, Hopkins, Sterling, Hume, Montgomery, Tampico, Hahnaman Twps.) County	12.96	.50	3%+.80		1/2%
Plumbers & Steamfitters:					
DeKalb County	13.70	.75	.95		.20

MODIFICATION PAGE 17

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. IL79-2068 - MOD. #2 (44 FR 49877 - August 24, 1979) Winnebago County, Illinois					
Change:					
Carpenters & Soft Floor Layers	$11.85	.55	1.20		
Millwrights	12.60	.55	1.40		
Ironworkers	13.25	.75	.375		.10
Lathers	12.05	.55	.85		
DECISION NO. IL79-2070 - MOD. #1 (44 FR 52540 - September 7, 1979) Clark, Clay, Coles, Crawford, Cumberland, Douglas, Edgar, Edwards, Effingham, Fayette, Jasper, Lawrence Richland, Wabash & Wayne Counties, Illinois					
Change:					
Bricklayers:					
Remainder of Counties: Bricklayers, Stonemasons, Blocklayers, Pointers, Caulkers, Cleaners, Marble-Tile-Terrazzo Workers	12.20		1.00		

MODIFICATION PAGE 18

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision #MS79-1119 - Mod. #4 (44 FR 48567 - August 17, 1979) Hancock, Harrison, Jackson and Pearl River Counties, Mississippi.					
CHANGE:					
Power Equipment Operators:					
Group 1	9.93	.50	.30		.05
Group 2	8.83	.50	.30		.05
Group 3	8.78	.50	.30		.05
Group 4	7.93	.50	.30		.05
Group 5	6.73	.50	.30		.05
Group 6	6.73	.50	.30		.05

MODIFICATION PAGE 19

DECISION NO. NJ78-3047 MOD. #9
(43 FR 26235 - June 16, 1978)

Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Monmouth, Ocean and Salem Counties, New Jersey	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
AIR CONDITIONING & REFRIGERATION MECHANICS	$9.10	.065	.31	r	.04
BOILERMAKERS	12.76	8%	20%+.25	10%	.02
BOILERMAKERS HELPERS	12.23	8%	20%+.25	10%	.02
BRICKLAYERS, STONE MASONS, MARBLE MASONS, CEMENT MASONS, PLASTERERS, TILE LAYERS, & TERRAZZO WORKERS:					
Zone 2 -Bricklayers, Stonemasons, Marble masons, Tile layers & Terrazzo workers	11.55	1.05	1.15		.01
Zone 4	11.80	.80	1.00		.03
CARPENTERS, MILLWRIGHTS & INSULATORS:					
Zone 2 - Carpenters & Insulators	12.13	8%	7%		.3%
Millwrights	12.38	8%	7%		.3%
ELECTRICIAN & CABLE SPLICER:					
Zone 1	12.90	7%	3%+2.05		.01
Zone 4	13.23	7%	3%+1.10		.04
Zone 5	13.53	7%	3%+.60		.02
IRONWORKERS:					
Structural, Ornamental & Reinforcing;					
Zone 2	13.03	1.24	1.36		
LINE CONSTRUCTION:					
Zone 1 - Lineman, Cable Splicers & Equipment operators	12.90	7%	3%+2.05		3/4%
Groundmen	10.95	7%	3%+2.05		3/4%
Zone 5 - Lineman, Equipment Operators & Lineman					
Welders	13.95	.45	3%+.60		3/4%
Truck drivers	10.13	.45	3%+.60		3/4%
Groundmen	9.47	.45	3%+.60		3/4%
PLUMBERS & PIPEFITTERS:					
Zone 3	14.41	1.04	.90		.08
SPRINKLER FITTERS:					
Zone 2	14.13	.75	1.05		.08

MODIFICATION PAGE 20

DECISION NO. PA78-3054 MOD. #5
(43 FR 35868 - August 11, 1978)

Bucks, Chester, Delaware, Montgomery and Philadelphia Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
TRUCK DRIVERS:					
Heavy and Highway including Building site preparation;					
Class 1	$8.695	.9175	.975	a+b	
Class 2	8.795	.9175	.975	a+b	
Class 3	8.995	.9175	.975	a+b	

DECISION NO. PA78-3067
Mod. NO. 7
(43 FR 43232 - September 22, 1978)

Adams & York Counties, Pennsylvania					
CHANGE:					
ASBESTOS WORKERS	$11.61	1.12	.90		.01
LINE CONSTRUCTION:					
LINEMEN, CABLE SPLICERS	12.05	.45	3%		3/8%
WINCH TRUCK OPERATOR	8.43	.45	3%		3/8%
GROUNDMAN	7.23	.45	3%		3/8%
MARBLE, TILE, TERRAZZO WORKERS	9.20	.45	.45		
MILLWRIGHTS	10.94	.75	.50		
SOFT FLOOR LAYERS:					
YORK COUNTY	10.44	.75	.50		
SPRINKLER FITTERS	13.55	.75	1.05		.08
OMIT:					
ELECTRICIANS	11.60	.45	3%+.15		.01
ADD:					
ELECTRICIANS:					
FRANKLIN, CARROL, MONOGHAN AND FAIRVIEW TOWNSHIPS IN YORK COUNTY	11.36	.65	3%+.67		1/4%
REMAINDER OF YORK COUNTY, AND ADAMS COUNTY IN ITS ENTIRETY	11.95	.45	3%+.15		.01

DECISION NO. PA79-3000 MOD. #5
(44 FR 5625 - January 25, 1979)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Butler, Cambria, Erie, Fyette, Mercer, Washington, Westmoreland, Lawrence, Somerset, Allegheny, Beaver, Armstrong, Blair, Cameron, Centre, Clarion, Clearfield, Crawford, Forest, Greene, Indiana, McKean, Venango, Warren, Bedford, Jefferson, Clinton, Elk, Franklin, Fulton, Huntingdon, Mifflin & Potter Counties, Pennsylvania					
CHANGE:					
IRONWORKERS:					
Reinforcing					
Zone 1	$9.25	.785	1.215		.01
LANDSCAPING:					
Landscape Laborer to include general landscaping work & driving of truck for distributing materials on job site but not to include dump trucks used to transport supplies to the job:					
Zone 1	7.25	12%	10%		
Zone 2	7.17	12%	10%		
Landscape Tractor Operator to operate small industrial rubber tire tractor equipped with front end loader and back hoe attachment used for the sole purpose of landscape work including soil spreading, but not for heavy and highway construction work					
Zone 1	7.71	12%	10%		
Zone 2	7.62	12%	10%		
PLUMBERS:					
(Bridge - drain pipe) Allegheny, Armstrong, Greene, Washington Counties	12,83	1.00	1.45		.07

DECISION NO. PA79-3000 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ADD:					
TRUCK DRIVERS:					
Building, Site preparation, Paving, Utilities					
CLASS 1	$9.85	9.6%	6.6%	a	
CLASS 2	9.91	9.6%	6.6%	a	
CLASS 3	9.92	9.6%	6.6%	a	
CLASS 4	10.01	9.6%	6.6%	a	
CLASS 5	10.20	9.6%	6.6%	a	
CLASS 6	10.03	9.6%	6.6%	a	
CLASS 7	10.18	9.6%	6.6%	a	

CLASSIFICATION DEFINITIONS

CLASS 1 - Warehouseman, Chauffeur, and Ambulance Drivers, Service Truck, (pick-up, jeep, buses, station wagon, panel truck, escort Vehicle, including fuel and water trucks).

CLASS 2 - Dump and flat top (including fuel and water trucks, fork lift in warehouse or job site storage area and single axle trucks with power tailgate); distributor truck over 33,000 lbs. gross weight (oil, tar asphalt products two man operation, both men).

CLASS 3 - Transit mix, single axle.

CLASS 4 - Transit mix, tandem.

CLASS 5 - Heavy duty tractor and trailer with low bed, 6 to 16 wheels and pole trailer and wide load.

CLASS 6 - Distributor truck up to 33,000 lbs. gross weight (oil, tar asphalt products) one man operation; truck with dolly and scissor truck; truck with dump trailer or tandem, including fuel and water, tandem axle truck with power tailgate and scissor truck; euclids or equivalent, tri-axle including mixer, drivers towing equipment

CLASS 7 - Winch truck and form truck

FOOTNOTE:

a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Veteran's Day and Good Friday, provided the employee is available for work the day before and the day after the holiday and has been employed by the employer a minumum of 40 hours each calendar month for two consecutive months.

MODIFICATION PAGE 23

DECISION NO. PA79-3003 MOD. #4
(44 FR 13228 - March 9,1979)
Lawrence, Mercer Counties, Pennsylvania

CHANGE:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.74	.55	1.25		.02
BRICKLAYERS & STONE MASONS:					
Lawrence County	12.00	.75	.95		.02
CARPENTERS:					
Lawrence County	11.75	6%	8%	10%	
CEMENT MASONS:					
Mercer County	12.21	.85	1.95		
Lawrence County	13.04				
LABORERS:					
Laborers, carryable pumps, west brick buggy or similar (non-self-propelled), vibrator operators, walk behind fork lift or similar stripper & mover of forms, cement finishers, footers, window cleaner, tool room man, all material conveyor (regardless of power used, including starting & stopping)	10.17	9%	9%		
West brick buggy or similar (self-propelled), power wheel-barrows and buggies, walk behind forklift or similar, (self-propelled) wagon drill runners tenders, (including drill mounted on truck, track or similar, blaster's tenders, all operators of compacting equipment, pipe layer, burner, jackhammer man concrete buster	10.28	9%	9%		
Hod Carrier, scaffold builder bell and bottom man on furnaces and stacks, mortar mixer, mortar mixing machine (regardless of power used, including starting & stopping) grout machine feeder & pump operators and concrete saw					

MODIFICATION PAGE 24

DECISION NO. PA79-3003 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D):					
operator, wagon drill operators	$10.40	9%	9%		
Gunnite nozzleman	10.63	9%	9%		
Blaster	10.82	9%	9%		
LANDSCAPING:					
Landscape Laborer to include general landscaping work and the driving of trucks for the distributing of materials on the job site but not to include dump trucks used to transport supplies to the job	7.25	12%	10%		
Landscape Tractor Operator to operate small industrial rubber tire tractor equipped with front end loader and back hoe attachment used for the sole purpose of landscape work including soil spreading, but not for heavy and highway construction work	7.71	12%	10%		
MILLWRIGHTS:					
Lawrence County	11.20	6%	6%	25%	½%
PAINTERS:					
Commercial - shall include stores, schools, warehouses not in plant showrooms, churches, apartment buildings, commercial garage, office buildings;					
Brush and Roller	11.60	.75	1.10		
Spray	12.60	.75	1.10		
Industrial - shall include sewage treatment plants, water works or authorities, and power plants, all skeleton steel, railroad and highway bridges, towers, tanks, storage tanks, furnaces, machinery, corrugated ceiling and sidewalks,					

MODIFICATION PAGF 25

DECISION NO. PA79-3003 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'D):					
sheeting steel sash and all steel surfaces, offices and hospital, both interior and exterior					
Brush and Roller	$12.10	.75	1.10		
Spray	13.10	.75	1.10		
PILEDRIVERMEN:					
Lawrence County	12.98	5.5%	10%		½%
PLASTERERS:					
Lawrence County	13.39				.01
Mercer County; Shenango, Sandy Lake and Redonia Twps.	13.39				.01
PLUMBERS & STEAMFITTERS:					
Mercer County	13.45	.50	1.05		.05
Lawrence County	13.24	1.01	.96		.05
POWER EQUIPMENT OPERATORS: (See attached schedule)					

MODIFICATION PAGE 26

DECISION NO. PA79-3003 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
CLASS I	$13.175	1.05	1.00		.09
CLASS I-A	13.425	1.05	1.00		.09
CLASS I-B	13.675	1.05	1.00		.09
CLASS I-C	13.925	1.05	1.00		.09
CLASS II	12.975	1.05	1.00		.09
CLASS III	11.53	1.05	1.00		.09
CLASS III-A	12.03	1.05	1.00		.09
CLASS IV	10.71	1.05	1.00		.09
CLASS V	10.44	1.05	1.00		.09
CLASS V-A	10.54	1.05	1.00		.09
CLASS V-B	10.69	1.05	1.00		.09
CLASS V-C	11.44	1.05	1.00		.09

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

CLASS I - Austin-Western or similar type under 25 Ton, Austin-Western or similar type 25 ton or over; auto grader (CMI or similar); backhoe; batch plant - when conveyors are used for direct feeding or discharge, batch plant - no coveyors for direct feeding or discharge; cableway; caisson drill, central mix plant; cranes (excluding overhead) (truck or crawler type); cranes - tower (mobile); cranes - tower (stationary) (climbing type); cranes - tower (climbing type); cranes - hydraulic self-contained wagon crane - over 18 ton; cranes - hydraulic self-contained wagon crane - 18 ton or less; derrick-traveler (self-propelled); derrick (all types); derrick boats; dragline; dredge; engineer-maintenance; franki or similar type pile driver; gradall (remote control or otherwise; helicopter (when used for erection purposes); helicopter hoist operators (when used for erection purposes); hi-lift 4 yds. or over; hoist-hod (2 cages up to 10 floors; hoist-single cage with Chicago boom attached; hoist (50 ft. or over) (stacks, stoves or furnaces); hoist (slipform jobs; hop-to or similar type with 180° swing; hop-to or similar type with 360° swing; kocal; koehring scooper; metro chip harvester or similar type; mix mobile or similar type (with self-loading attachment); mix mobile or similar type; mucking machine (tunnel); multiple bowl machines; pile driver (sonic or similar type); post driver - guard rail (truck mounted); post driver - guard rail (skid type); pumpkrete - mobile or similar type; quad nine; shovels (all types); slip form paver (CMI or similar); tractors - boom mounted (all types); tractors (all types with hydraulic backhoe attached); tug boat and whirley

MODIFICATION PAGE 27

DECISION NO. PA79-3003 (Cont'd)

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS CONT'D

CLASS I-A - Austin-Western or similar type under 25 ton with jib; Austin-Western or similar type 25 ton or over with jib; cranes (boom or mast 100 ft. or over to & including 150 ft. (truck or crawler type); cranes - mobile (any type 15 ton or over placed on any bldg. structure; hoist-hod (2 cages over 10 floors)

CLASS I-B - Cranes (boom or mast over 150 ft. up to & including 200 ft. truck or crawler type)

CLASS I-C - Cranes (boom or mast over 200 ft.)

CLASS II - Asphalt plant operator; athey loader; auger - truck tractor mounted; back filling machine; boat - material or personnel carrying (powered); boat - job work (inboard or outboard); bulldozer; cable layer; compactor with blade; compressor (1) and air tugger (1) (combination); compressor (1) and gunite machine (1) (combination); concrete belt placer; crane - overhead; crushing & screening plants; drill - Davey or similar type; drill - core (truck or skid mounted); drill - well & core (truck mounted); elevator (new buildings); euclid loader; excavating equipment (all other); forklift-lull or similar; grader; grader-elevating; greaser-equipment (head); hi-lift - less than 4 yds; hoist - one drum (4 floors or over); hoist - hod (buildings 4 floors or more); hoist - (2 drums or more in one unit); jumbo operator; locomotive; lift slab machine (hydraulic); mixer - paving; mucking machine; pipe cleaning machine; refrigeration plant (used for constr. jobs i.e., cooling, concrete & holding banks); ross carrier (or similar type); scoop (single bowl) (self-powered & tractor drawn); spreader - concrete, asphalt and stone; tower mobile (hoisting or lowering material); trencher; well point systems; compressors (3 within a reasonable distance); generators electric (3) (over) 5 KW up to 20 KW); pumps (1½" discharge or less) (4 to 5 within reasonable distance); pumps (3) (over 1½ discharge) (within reasonable distance); welding machines (4 to 6 within reasonable distance) (other than electrically driven); elevator (when used for alterations & remodeling all bldgs); grout pump (10 H.P. or over); paver operator - asphalt (spreader); pumpkrete or similar type (not self-propelled); pumpkrete machine operator (stationary); tire repairman (when assigned to job); welder (repairman)

MODIFICATION PAGE 28

DECISION NO. PA79-3003 (Cont'd)

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS CONT'D

CLASS III - Ballast regulator; boiler; boring machine; broom, power (except push type); compressor - single (over 65 CFM; compressor (over 125 CFM and air pump); compressor (1) and sand blasting machine (1) (combination); conveyor over 1 and up to 3 units (regarless of power used); crane (carry); curb builder (self propelled); drills - well and horizontal truck mounted; fork-lifts (ridden or self-propelled); form line machine; generator (over 5 KW); hoists (monorail) (regardless of power used); hoist one drum (regardless of power used); hoist roof (regardless of power used); huck machine or similar type; mixer concrete (regardless of power used); mixer mortar - over 10 cu. ft. (regardless of power used); pavement breaker (self-propelled or ridden); pipe dream; plant, private or industrial air or steam valve; pump (over 1½" discharge regardless of power used); roller; saw (concrete); soil stabilizer (pump type); spray cure machine (power driven); steam jenny (or similar type); stone crusher; stone spreader self-propelled; syphon (steam or air); tractors (when used for snaking and hauling); truck, (winch) truck or hydraulic boom (when hoisting & placing); tube finisher (CMI or similar type); tugger; welding machine single (300 amp or over) (other than electrically driven); compressors (2); generators (2); mortar machine over 10 cu. ft. and single unit conveyor; pumps (1½" discharge or less) (2 to 3); pumps (over 1½" discharge (2) in bank) (within reasonable distance); welding machines (2 to 3) (other than electrically driven)

CLASS III-A - Conveyors 4 units or more

CLASS IV - Compressor - 65 cubic ft. or under (regardless of power used); conveyors one (1) unit (regardless of power used); heaters - up to and including 6; jack motor hydraulic (single type) power driven; ladavator; mixer mortar (10 cubic ft. or under); mulching machine; pin puller (powered); pulverizer; pump - 1½" discharge or less; seeding machine; spreader side delivery shoulder (attachment); tie tamper (multiple heads); tractor farm (when used for landscaping); water blaster

CLASS V - Brakeman; deckhand; helicopter oiler; mechanic

CLASS V-A - Truck crane; oiler & fireman

CLASS V-B - Oiler on truck crane 50-ton up to but not incl. 100-ton

CLASS V-C - Oiler truck crane 100 ton and over

MODIFICATION PAGE 29

DECISION NO. PA79-3003 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SOFT FLOOR LAYERS:					
Lawrence County	$11.71	6%	6%	6%	.06
SPRINKLER FITTERS	13.55	.75	1.05		.08
TRUCK DRIVERS:					
Class 1	9.85	9.6%	6.6%	a	
Class 2	9.91	9.6%	6.6%	a	
Class 3	9.92	9.6%	6.6%	a	
Class 4	10.01	9.6%	6.6%	a	
Class 5	10.20	9.6%	6.6%	a	
Class 6	10.03	9.6%	6.6%	a	
Class 7	10.18	9.6%	6.6%	a	

CLASSIFICATION DEFINITIONS

CLASS 1 - Warehouseman, chauffeur & ambulance drivers, service truck (pick-up, jeep, busses, station wagon, panel truck, escort vehicle, including fuel and water trucks).

CLASS 2 - Dump and flat top (including fuel and water trucks, fork lift in warehouse or job site storage area and single axle trucks with power tailgate); distributor truck over 33,000 lbs. gross weight (oil, tar asphalt products two man operation, both men).

CLASS 3 - Transit mix, single axle.

CLASS 4 - Transit mix, tandem.

CLASS 5 - Heavy duty tractor and trailer with low bed, 6 to 16 wheels and pole trailer and wide load.

CLASS 6 - Distributor truck up to 33,000 lbs. gross weight (oil, tar asphalt products) one man operation; truck with dolly and scissor truck; truck with dump trailer or tandem, including fuel and water, tandem axle truck with power tailgate and scissor truck; euclids or equivalent, tri-axle including mixer, drivers towing equipment.

CLASS 7 - Winch truck and form truck.

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and Veterans Day and Good Friday provided the employee is available for work the day before and the day after the holiday and has has been employed by the employer a minimum of 40 hours each calendar month for two consecutive months.

MODIFICATION PAGE 30

DECISION NO. PA79-3003 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKER: Lawrence County	$12.60	1.02	1.56		.21

MODIFICATION PAGE 31

DECISION NO. PA79-3009 MOD. #4
(44 FR 26518 - May 4, 1979)
Bucks, Chester, Delaware, Montgomery & Philadelphia Counties, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
BRICKLAYERS					
All other work					
Zone 2	$10.96	1.37	1.75		.02
ELECTRICIANS					
Commercial					
Zone 2	13.58	5%	9%		1.5%
Zone 3	13.57	6%	3%+10		½ of 1%
Zone 8	14.64	7%	3%+.80		.15
ELEVATOR CONSTRUCTORS	13.015	1.045	.82	a+b	.035
ELEVATOR CONSTRUCTORS HELPERS	9.11	1.045	.82	a+b	.035
ELEVATOR CONSTRUCTORS HELPERS (PROBATIONARY)	6.51				
IRONWORKERS:					
All other work					
Zone 3					
Structural and ornamental	13.17	1.24	1.36		.04
Reinforcing	12.67	1.24	1.86		.01
Rigger, machinery mover	12.70	1.24	1.36		
LINE CONSTRUCTION:					
Zone 2					
Linemen, cable splicers, heavy equipment operator, truck driver	14.64	7%	3%+.75		3/4%
Groundman, Winch operator	11.71	7%	3%+.75		3/4%
MARBLE SETTERS	10.60	.87	1.57		
PAINTERS:					
Zone 2					
Commercial - shall not include stores, schools, warehouses not in plant showrooms, churches, apartment buildings, commercial garage, office buildings					
Brush	11.08	.90	1.00		
Spray	11.58	.90	1.00		
Pointers, Caulkers and Cleaners	12.18	1.00	.70		
STEAMFITTERS:					
All Counties	13.16	.80	1.45		.11
STONE MASONS:					
Zone 1	10.03	.87	1.57		

MODIFICATION PAGE 32

DECISION NO. PA79-3009
MOD. NO. 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
STONE MASONS (CONT'D)					
Zone 2	$11.46	1.07	1.45		.02
SOFT FLOOR LAYERS:					
All other work	9.88	2.18	1.40		.13
SPRINKLER FITTERS (ZONE I)	13.55	.75	1.05		.08
TERRAZZO WORKERS	10.25	.87	1.57		
TILE SETTERS:					
All other work	10.00	1.35	1.40		.14
PLUMBERS:					
All other work					
Zone 1	13.13	.85	1.40		.14
Zone 3	12.73	.85	1.40		.14
Area covered by Plumbers, Zone 1 to read Delaware, Chester, Montgomery, Philadelphia Counties; Remainder of Bucks County					
ROOFERS:					
Rehabilitation work to include demolition, repair, and alteration, on any existing structure or not more than (4) stories which is intended for predominantly residential use:					
Zone 1					
Composition, damp and waterproofers	10.37	.80	.70		
OMIT:					
PLUMBERS:					
All other work					
Zone 2	8.50	.485	.82		.035
Area covered by Zone 2 - Remainder of Chester and Montgomery Counties					
ADD:					
TRUCK DRIVERS:					
Building, site preparation, paving and utilities;					
Class 1	8.695	.7175	.70	a+b	
Class 2	8.795	.7175	.70	a+b	
Class 3	8.995	.7175	.70	a+b	

MODIFICATION PAGE 33

DECISION NO. PA79-3009,
MOD. NO. 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BUILDING, SITE PREPARATION, PAVING, AND UTILITIES					
CLASS 1	$8.695	.9175	.975	a+b	
CLASS 2	8.795	.9175	.975	a+b	
CLASS 3	8.995	.9175	.975	a+b	

FOOTNOTES:

a. Employee will earn one (1) vacation day every two (2) months up to a maximum of five (5) vacation days per calendar year. During each two (2) consecutive months period, employee must have worked twenty-six (26) days in that two month period. After 130 workdays the employee will be entitile to all days of vacation.

b. Paid Holidays: Memorial Day; Independence Day; Labor Day and Veterans Day and five (5) personal holidays provided such employee work the scheduled work days before and after said holiday; and employee gives employer one (1) week's notice requesting a personal holiday. The eligibility for personal holidays will be as follows: Employee will earn one (1) personal holiday every two (2) months up to a maximum of five (5) personal holidays per calendar year. During each two (2) consecutive month period, employee must have worked twenty-six (26) days in that two month period. After 130 workdays the employee will be entitled to all personal holidays.

CLASSIFICATIONS

HEAVY & HIGHWAY TRUCK DRIVERS

CLASS 1: Helpers, Stake Body Truck (single axle, Dumpster)

CLASS 2: Dump Trucks, Tandem & Batch Trucks, Semi-Trailers, Agitator Mixer Trucks, and Dumpcrete Type Vehicles, Asphalt Distributors, Farm Tractor when used for Transportation, Stake Body Truck (Tandem)

CLASS 3: Euclid Type, Off-Highway Equipment or Belly Dump Trucks and Double Hitched Equipment, Staddle (Ross) Carrier, Low-Bed Trailers

MODIFICATION PAGE 34

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. TX79-4032 - MOD. #6 (44 FR 16325 - March 16, 1979) Harrison County, Texas					
CHANGE:					
Asbestos workers	$11.36	.70	.96		.03
Power equipment operators:					
Group 2	10.02	.65	1.00		.10
Group 3	10.42	.65	1.00		.10
DECISION NO. TX79-4033 - MOD. #7 (44 FR 16326 - March 16, 1979) Jefferson & Orange Cos., Texas					
CHANGE:					
Electricians	14.40	.75	3%+.285		.08
DECISION NO. TX79-4035 - MOD. #1 (44 FR 56108 - September 28, 1979) Gregg County, Texas					
CHANGE:					
Asbestos workers	11.36	.70	.96		.03
DECISION NO. TX79-4036 - MOD. #5 (44 FR 48594 - August 17, 1979) Galveston & Harris Cos., Texas					
CHANGE:					
Electricians: Galveston County	13.39	.75	3%+1.40		.08

MODIFICATION PAGE 35

DECISION NO. TX79-4037 - MOD. #4 (44 FR 31856 - June 1, 1979) Lubbock County, Texas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Asbestos workers	$11.00	.80	1.05		.02
Electricians:					
Electricians	11.45	.60	3%		1/10%
Cable splicers	11.70	.60	3%		1/10%
Ironworkers:					
Structural; Ornamental; Reinforcing	10.00	.55	1.40		.10
All ironworkers on jobs 30 miles or more from the city of Lubbock	10.125	.55	1.40		.10
Line construction:					
Linemen	11.45	.60	3%		1/10%
Operators	80%JR	.60	3%		1/10%
Flat bed truck driver	70%JR	.60	3%		1/10%
Plumbers & steamfitters	11.05	.50	.45		.04
Sheet metal workers	11.28	.50	.55		.12
OMIT:					
Line construction:					
Groundmen (more than 1 year experience)	55%JR	.60	3%		1/10%
Groundmen (less than 1 year experience)	50%JR	.60	3%		1/10%
ADD:					
Line construction:					
Groundmen	55%JR	.60	3%		1/10%

MODIFICATION PAGE 36

DECISION NO. TX79-4039 - MOD. #4 (44 FR 16329 - March 16, 1979) Ector & Midland Cos., Texas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Asbestos workers	$11.00	.80	1.05		.02
Ironworkers:					
Structural; Ornamental; Reinforcing	10.00	.55	1.40		.10
All ironworkers on jobs 30 miles or more from Terminal (midway Odessa-Midland)	10.125	.55	1.40		.10
DECISION NO. TX79-4041 - MOD. #1 (44 FR 56108 - September 28 1979) Taylor County, Texas					
CHANGE:					
Asbestos workers	11.36	.70	.96		.03
DECISION NO. TX79-4043 - MOD. #1 (44 FR 56109 - September 28, 1979) Smith County, Texas					
CHANGE:					
Sprinkler fitters	12.79	.75	1.08		.08
DECISION NO. TX79-4046 - MOD. #2 (44 FR 48593 - August 17, 1979) Brazos County, Texas					
CHANGE:					
Plasterers	12.40	.87	.40		.02

MODIFICATION PAGE 37

DECISION NO. TX79-4048 - MOD. #8 (44 FR 16330 - March 16, 1979). Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Counties, Texas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Asbestos workers	$11.00	.80	1.05		.02
Electricians:					
Zone 1 - Electricians	11.58	.60	3%+.50		1/2%
Cable splicers	12.74	.60	3%+.50		1/2%
Ironworkers - Zone 2	10.125	.55	1.40		.10
Line construction:					
Zone 2:					
Lineman	11.58	.60	3%+.50		1/2%
Cable splicers	12.74	.60	3%+.50		1/2%
Operator-hole digger, line truck	8.91	.60	3%+.50		1/2%
Flat bed truck driver	6.72	.60	3%+.50		1/2%
OMIT:					
Line construction:					
Zone 2:					
Groundman:					
Less than 1 year experience	6.52	.60	3%+.50		1/2%
More than 1 year experience	7.44	.60	3%+.50		1/2%
ADD:					
Line construction:					
Zone 2 - Groundman	7.66	.60	3%+.50		1/2%

MODIFICATION PAGE 38

DECISION NO. TX79-4084 - MOD. #1 (44 FR 57630 - October 5, 1979) Howard County, Texas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Ironworkers, structural & ornamental	$10.00	.55	1.40		.10

SUPERSEDEAS DECISION

STATE: Alabama COUNTIES: *See below
DECISION NUMBER: AL79-1157 DATE: Date of Publication
Supersedes Decision No.: AL77-1075 dated June 3, 1977 in 42 FR-28756
DESCRIPTION OF WORK: Residential construction projects consisting of single family homes and apartments up to and including 4 stories

*Counties: Blount, Jefferson Saint Clair, Shelby, Talladega and Walker

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air conditioning and heating mechanic	6.00				
Bricklayers	8.80				
Carpenters	5.72				
Cement masons	8.53				
Drywall finisher	5.73				
Drywall hanger	6.00				
Electricians	6.03				
Ironworkers, structural & ornamental	4.25				
Insulation applicators	4.00				
Laborers	3.59				
Painters	5.60				
Plumbers & pipefitters	6.50				
Roofers	6.50				
Sheet metal workers	5.66				
Tile setters	6.50				
Truck Drivers	4.50				
POWER EQUIPMENT OPERATORS:					
Backhoe	5.85				
Bulldozers	5.00				
Front end loader	5.87				
Grader	5.00				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)

SUPERSEDEAS DECISION

STATE: Kansas

COUNTIES: Douglas, Jefferson, Leavenworth, Miami & Shawnee

DECISION NO. KS79-4107

DATE: Date of Publication

Supersedes Decision No. KS77-4161 dated July 8,1977 in 42 FR 35543

DESCRIPTION OF WORK: Highway Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS & PILEDRIVERMEN:					
Zone 1	$8.70	.40	.60		.05
Zone 2	11.00	.50	.30		.05
Zone 3	9.05	.40	.60		
AREAS COVERED BY CARPENTERS & PILEDRIVERMEN ZONES:					
Zone 1 - Douglas, Shawnee & Jefferson Counties.					
Zone 2 - Leavenworth County.					
Zone 3 - Miami County					
CEMENT MASONS:					
Zone 1 - Leavenworth & Miami Counties	10.20	.40	.50	1.25	
Zone 2 - Douglas & Shawnee Counties	9.55	.40	.35		
Zone 3 - Jefferson County	8.85	.40	.35		
ELECTRICIANS:					
Zone 1 - Leavenworth County (Delaware, High Prairie, Kickapoo & Leavenworth Twps.)	13.38	.69	3%+.70	.95	.12
Zone 2 - Douglas, Jefferson, Miami, Shawnee & the remainder of Leavenworth Counties	13.75	.50	3%+.70		.10
IRONWORKERS	11.60	.75	1.40	1.00	.05
LABORERS:					
Group 1					
Zone 1	6.30	.40	.50		.05
Zone 2	7.10	.40	.50		.05
Zone 3	7.00	.50	.50		.05
Zone 4	6.30	.40	.50		.05
Group 2					
Zone 1	6.45	.40	.50		.05
Zone 2	7.25	.40	.50		.05
Zone 3	7.15	.50	.50		.05
Zone 4	6.45	.40	.50		.05
Group 3					
Zone 1	6.55	.40	.50		.05
Zone 2	7.35	.40	.50		.05
Zone 3	7.25	.50	.50		.05
Zone 4	6.55	.40	.50		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (Cont'd)					
Group 4					
Zone 1	$6.70	.40	.50		.05
Zone 2	7.50	.40	.50		.05
Zone 3	7.40	.50	.50		.05
Zone 4	6.70	.40	.50		.05
Group 5					
Zone 1	6.80	.40	.50		.05
Zone 2	7.60	.40	.50		.05
Zone 3	7.50	.50	.50		.05
Zone 4	6.80	.40	.50		.05

CLASSIFICATION DEFINITIONS

LABORERS:

Group 1 - Board mat weavers and cable tiers; georgia buggy (manually operated); Mixerman-no skip lift; nailers; salamander tenders; track men; tractor swamper; truck dumper; wire mesh setter; water pump up to 4 inches; and all other general laborers including flagman.

Group 2 - Air tool operators; cement handlers (bulk); chain saw; georgia buggy (mechanically operated); grade man; hot mastic kettlemen; crusher feeder; joint man; jute man; mason tender; material batch hopper and scale man; mixer man; pier hole man working 10 ft. deep; pipelayer-drainage (concrete and/or corrugated metal); signal man (crane); truck dumper-dry batch; vibrator operator; wagon and churn drill operator.

Group 3 - Asphalt raker, barco tamper; concrete saw; creosote material-handling and applying; nozzle burner (cutting torch).

Group 4 - Conduit pipe; tile and duct line setter; form setter and liner on concrete paving; powderman; sandblasting and gunnite nozzleman; sanitary sewer pipe layer.

Group 5 - Leadman or pusher.

LABORERS: (Cont'd)

AREA COVERED BY LABORERS

Zone 1 - Jefferson County

Zone 2 - Douglas & Shawnee Counties

Zone 3 - Leavenworth County

Zone 4 - Miami County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Zone 1 - Remainder of Leavenworth County:					
Lineman	$14.32	.45	3%+.25		½%
Lineman operator	13.33	.45	3%+.25		½%
Groundman powderman	9.94	.45	3%+.25		½%
Groundman	9.44	.45	3%+.25		½%
Groundman (1st year)	8.08	.45	3%+.25		½%
Zone 2 - Douglas, Jefferson, Miami & Shawnee Counties & southwestern 2/3 of Leavenworth County:					
Lineman	12.56	.45	3%		½%
Cable splicers	11.96	.45	3%		½%
Groundman, over 1 year	7.44	.45	3%		½%
Groundman, 1st year	5.64	.45	3%		½%
Powderman	9.91	.45	3%		½%
Line Truck & Equipment Operators:					
1st year	7.61	.45	3%		½%
2nd year	9.10	.45	3%		½%
Over 2 years' experience	9.91	.45	3%		½%
POWER EQUIPMENT OPERATORS:					
Zone 1 - Leavenworth County					
Group 1	11.70	.75	1.00	.75	.10
Group 2	11.45	.75	1.00	.75	.10
Group 3	10.75	.75	1.00	.75	.10
Mechanics' helper	9.25	.75	1.00	.75	.10
Oiler	9.25	.75	1.00	.75	.10
Oiler Driver, all types	9.75	.75	1.00	.75	.10

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS:

Group 1 - Asphalt paver and spreader, asphalt plant console operator, auto grader, back hoe, blade operator, all types, boiler-2; booster pump on dredge, boring machine (truck or crane mounted); bulldozer operator; clamshell operator; compressor maintenance operator-2; concrete plant operator-central mix, concrete mixer paver, crane operator; derrick or derrick trucks; Ditching machine, dragline operator, dredge engineman, dredge operator, drillcat with compressor mounted on cat; drilling or boring machine, rotary, self-propelled, high loader-fork lift; locomotive operator, standard gauge, Mechanics and welders, maintenance operator, mucking machine, pile driver operator, pitman crane operator, pump-2; quad-trac;

CLASSIFICATION DEFINITIONS (CONT'D)

POWER EQIPMENT OPERATORS: Group 1 Cont'd

scoop operator-all types; scoops in tandem, self-propelled rotary drill (Leroy or equal-not air trac); shovel operator, side discharge spreader; sideboom cats, skimmer scoop operator, slip-form paver (CMI, REX, or equal); throttle man, truck crane, welding machine maintenance operator-2; hoisting engine-2 active drums.

Group 2 - "A" frame truck, asphalt hot mix silo, asphalt plant fireman, drum or boiler, asphalt plant mixer operator, asphalt plant man, asphalt roller backfiller operator; chip spreader, concrete batch plant, dry-power operated, concrete mixer operator, skip loader, concrete pump operator, crusher operator; elevating grader operator, greaser, hoisting engine-1 drum, Latourneau rooter, multiple compactor, pavement breaker, self-propelled of the hydra-hammer or similar type, power shield, pug mill operator, stump cutting machine, towboat operator, tractor operator-over 5 h.p..

Group 3 - Boilers-1; chip spreader (front man) churn drill operator, compressor maintenance operator-1; concrete saws, self-propelled, conveyor operator, distributor operator, finishing machine operator, fireman, rig, float operator, form grader operator, pump; pump maintenance operator, other than dredge; roller operator, other than high type asphalt; screening and washing plant operator; self-propelled street broom or sweeper; siphons and jets; sub-grading machine operator; tank car heater operator-combination boiler and booster; tractor-50 h.p. or less without attachments; vibrating machine operator, hot hand; welding machine maintenance operator-1.

Men working in tunnels or shafts (not air shafts or coffer dams) of twenty-five (25) feet or more in length or depth will be paid fifty (50) cents per hour above the regular classification.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Jefferson & Miami Counties					
Group 1	$8.60	.50	1.00	.75	.10
Group 2	8.35	.50	1.00	.75	.10
Group 3	8.10	.50	1.00	.75	.10
Group 4	7.85	.50	1.00	.75	.10
Group 5	7.50	.50	1.00	.75	.10
Group 6	7.60	.50	1.00	.75	.10

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS:

Group 1 - Master Mechanic.

Group 2 - Asphalt paver and spreader, backhoe, boring machine, blades, all types, clamshell, concrete mixer paver operator, concrete plant operator (automatic), crane, truck crane, pitman crane, hydro crane or any machine with power swing, derrick or derrick trucks, dragline operator, dredge operator, dozer, ditching machine, euclid loader, hoist-2 active drums; loader, all types, mechanic or welder, mixermobile, mulit-unit scraper, pile-driver operator, power shovel operator, quad track; scoop operators, all types; sideboom cat-cherry picker; skimmer scoop operator.

Group 3 - Asphalt plant operator, elevating grader operator; push-cat operator.

Group 4 - A-frame truck; asphalt roller operator; asphalt plant boiler fireman, backfiller operator, barger green loader, boiler-other than asphalt, bull float operator, churn drill operator, compressor operator (1); concrete central plant operator, concrete mixer operator, skip; concrete pump operator, crusher operator, distributor operator, finish machine operator-concrete; fireman other than asphalt, flex plane operator, fork lift, form grader operator; greaser; hoist-1 drum; jeep ditching machine; pavement breaker, self-propelled (of the hydra hammer or similar type); pump operator, 4" or over, two; pump operator, other than dredge screening and wash plant operator, small machine operator; spreader box operator, self-propelled; tractor operator over 50 h.p.; self-propelled roller operator, other than asphalt siphons and jets; subgrading machine operator, tank car heater operator, combination booster and boilers, towboat operator, vibrating machine operator, not hand.

Group 5 - Concrete gang saw, self-propelled (con-cut); conveyor operator; harrow, disc. seeder; oiler, tractor operator, 50 h.p. or less without attachments.

Group 6 - Oiler, motor crane.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (Cont'd)					
Douglas & Shawnee Counties:					
Group 1	$9.25	.75	1.00	.75	.10
Group 2	9.00	.75	1.00	.75	.10
Group 3	8.75	.75	1.00	.75	.10
Group 4	8.50	.75	1.00	.75	.10
Group 5	8.15	.75	1.00	.75	.10
Group 6	8.25	.75	1.00	.75	.10

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS:

Group 1 - Master Mechanic.

Group 2 - Asphalt paver and spreader, backhoe, boring machine, blades, all types, clamshell, concrete mixer paver operator, concrete plant operator (automatic), crane, truck crane, pitman crane, hydro crane or any machine with power swing, derrick or derrick trucks, dragline operator, dredge operator, dozer, ditching machine, euclid loader, hoist-2 active drums; loader, all types, mechanic or welder, mixermobile, mulit-unit scraper, pile-driver operator, power shovel operator, quad track; scoop operators, all types; sideboom cat-cherry picker; skimmer scoop operator.

Group 3 - Asphalt plant operator, elevating grader operator; push-cat operator.

Group 4 - A-frame truck; asphalt roller operator; asphalt plant boiler fireman, backfiller operator, barger green loader, boiler-other than asphalt, bull float operator, churn drill operator, compressor operator (1); concrete central plant operator, concrete mixer operator, skip; concrete pump operator, crusher operator, distributor operator, finish machine operator-concrete; fireman other than asphalt, flex plane operator, fork lift, form grader operator; greaser; hoist-1 drum; jeep ditching machine; pavement breaker, self-propelled (of the hydra hammer or similar type); pump operator, 4" or over, two; pump operator, other than dredge screening and wash plant operator, small machine operator; spreader box operator, self-propelled; tractor operator over 50 h.p.; self-propelled roller operator, other than asphalt siphons and jets; subgrading machine operator, tank car heater operator, combination booster and boilers, towboat operator, vibrating machine operator, not hand.

Group 5 - Concrete gang saw, self-propelled (con-cut); conveyor operator; harrow, disc. seeder; oiler, tractor operator, 50 h.p. or less without attachments.

Group 6 - Oiler, motor crane.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Zone 1 - Leavenworth County					
Group 1	$8.89	.75	1.00	.75	
Group 2	9.09	.75	1.00	.75	
Group 3	9.40	.75	1.00	.75	
Group 4	9.55	.75	1.00	.75	
Group 5	8.665	.75	1.00	.75	

DECISION NO. KS79-4107 Page 7

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS:
Group 1 - One team; station wagons; pickup trucks; material trucks, single axle; tank wagon drivers, single axle.
Group 2 - Material trucks, tandem, two teams, semi-trailers, winch trucks-fork trucks; distributor drivers and operators; agitator and transit mix tank wagon drivers, single axle; tank wagon drivers; tandem or semi-trailer; insley wagons, dump trucks, excavator 5 cu. yds. and over; dumpsters; half-tracks; speedace; euclids and other similar excavating equipment.
Group 3 - A-frame, lowboy, boom truck drivers.
Group 4 - Mechanics and welders.
Group 5 - Mechanics' helpers, oilers and greasers.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS: (Cont'd)					
Douglas & Shawnee Counties:					
Group 1	$7.75	.40	.50		
Group 2	7.85	.40	.50		
Group 3	8.00	.40	.50		

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS:
Group 1 - Pickups, panel trucks, station wagons, flat beds, dump and batch trucks single axle.
Group 2 - Tandem trucks, warehousemen or partsmen, mechanic helpers and servicemen.
Group 3 - Lowboys; semi-trailers, all transit mixer trucks, (single or tandem axle); A-frame and winch trucks when used as such; euclid, end and bottom dump; tournatockers; athoys, dumpsters and similar off-road equipment and mechanics on such equipment.

Zone 3 - Miami County	8.35	.75	1.00	.75	

SUPERSEDEAS DECISION

STATE: Missouri & Kansas COUNTIES: Cass, Clay, Jackson, Platte & Ray Missouri; Johnson & Wyandotte, Kansas

DECISION NO. MO79-4099 DATE: Date of Publication

Supersedes Decision NO. MO78-4048 dated May 5, 1978 in 43 FR 19555

DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.27	.60	1.55		.05
BOILERMAKERS	12.00	1.15	1.00		.03
BRICKLAYERS & STONEMASONS	11.025	.80	.35	1.00	
CARPENTERS, MILLWRIGHTS, PILEDRIVERMEN	10.50	.50	.30		.05
CEMENT MASONS	11.675	.65	.50		
ELECTRICIANS:					
Up to and including 3 stories:					
ZONE 1 - Johnson County, Kansas (that portion of Johnson County west of Aubry, Oxford & Shawnee Twps.)	9.30	.45	3%+.30		.05
ZONE 2 - Cass, Clay, Jackson, Platte & Ray Counties, Missouri; & Wyandotte County, Kansas; & remainder of Johnson County, Kansas	9.77	.69	3%+.70	7%	.12
ELECTRICIANS (4 stories):					
ZONE 1 - Western half of Clay & Jackson Counties, Missouri not including Blue Springs; Northern half of Platte County; Northwestern portion of Cass County, Missouri, not including Pleasant Hill	13.38	.69	3%+.70	.95	.12
ZONE 2 - Remainder of Cass, Clay, Jackson & Platte Counties, Missouri: Electricians (contracts exceeding 2000 man hours)	13.38	.69	3%+.70	.95	.12

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS (4 stories): (Cont'd)					
ZONE 2 - Electricians (contracts not exceeding 2000 man hours	$12.38	.69	3%+.70	.95	.12
ZONE 3 - Ray County, Missouri; Electricians (contracts exceeding 2000 man hours	13.38	.69	3%+.70	.95	.12
Electricians (contracts not exceeding 2000 man hours	11.78	.69	3%+.70	.95	.12
ELEVATOR CONSTRUCTORS	12.71	.745	.56	3%+a	.025
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.745	.56	3%+a	.025
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				

FOOTNOTES: - a-Employer contributes 8% of basic hourly rate for over 5 years of service and 6% of basic hourly rate for 6 months to 5 years service as Vacation Pay Credit. Also 7 paid holidays.

GLAZIERS	11.18	.61	1.04	19.7%	.04
IRONWORKERS	11.60	.75	1.40	1.00	.05
LABORERS:					
Building construction					
ZONE 1 - Cass, Clay, Jackson & Platte Counties, Missouri; Johnson & Wyandotte Counties, Kansas					
GROUP I	9.65	.45	.40	.50	.10
GROUP II	9.80	.45	.40	.50	.10
GROUP III	9.95	.45	.40	.50	.10
ZONE 2 - Ray County, Missouri					
GROUP I	9.35	.45	.40	.50	.10
GROUP II	9.50	.45	.40	.50	.10
GROUP III	9.65	.45	.40	.50	.10

CLASSIFICATION DEFINITIONS

LABORERS

GROUP I - General labor; wiremesh handlers or setters; carpenter tender; track men; flagmen; signalmen; salamander tenders; window cleaners; floor cleaners; landscape man; sod layers; wrecker (for alterations or entire projects).

GROUP II - Plumber laborers (conduit pipe, sewer work, drain tile and duck lines, digging and backfilling), power tool operators; pier hole diggers (over 10 ft.); vibrator, jackhammer, and chipping hammer operators; chain saw operators; concrete saw operators; brush feeders on pulverizers; reinforcing steel handlers; air tamp operators; ditch winch operators; swinging scaffolds cutting torch or burner men; georgie buggies (self-propelled) fork lift; hosemen; insulation man.

GROUP III - Fork lift (masonry); brick tender; plaster tender; stonemasons tender (includes all hod carriers classifications previously shown as mortar men and scaffolding) Barco, Jackson or similar tamp operators; asphalt rakers; powder men; mastic hot kettle men; sandblasting and gunnite nozzlemen; wagon and churn drill operators.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Site preparation & grading					
ZONE 3 - Johnson & Wyandotte Counties, Kansas; Site preparation, Incidental paving & utilities Clay, Jackson, Platte & Ray Counties, Missouri					
GROUP I	$9.65	.60	.60	.75	.10
GROUP II	9.80	.60	.60	.75	.10
GROUP III	9.95	.60	.60	.75	.10
GROUP IV	10.15	.60	.60	.75	.10
GROUP V	10.45	.60	.60	.75	.10

CLASSIFICATION DEFINITIONS

LABORERS:

GROUP I - Carpenter tenders; salamander tenders; dump man and ticket takers on stock piles; flagman; loading trucks under bins, hoppers and conveyors track men and all other general laborers.

GROUP II - Air tool operators; cement handler (bulk or sack); chain or concrete saw; deck hands; dump man on earth fill; grade checkers on cuts and fills; georgie buggies man; material batch hopper man; scale man; material mixer man (except on manholes, coffer dams,

CLASSIFICATION DEFINITIONS

LABORERS (CONT'D)

GROUP II (cont'd) - abutments and pier hole men working below ground); riprap pavers rock, block or brick; signalman; scaffolds over 10 ft. not self-supported from ground up; skipman on concrete paving; vibrator man; wire mesh setters on concrete paving; all work in connection with sewer, water, gasoline, oil, drainage pipe, conduit pipe, tile and duct lines and all other pipe lines; power tool operator; all work in connection with hydraulic or general dredging operations; form setter helpers; puddlers (paving only).

GROUP III - Crusher feeder; men handling creosote ties or creosote materials; men working with and handling epoxy material or materials (where special protection is required); head pipe layer on sewer work; topper of standing trees; batter board man on pipe and ditch work; feeder man on wood pulverizers; board and willow mat weavers and cable tiers on river work; all laborers working underground tunnels where compressed air is not used.

GROUP IV - Spreader or screed man on asphalt machine; asphalt raker; laser beam man; barco tamper; jackson or any similar tamp wagon driller; churn drills; air track drills and all other similar drills; form setters; cutting torch man; liners and stringline man on concrete paving, curbs, gutters and etc.; hot mastic kettleman; hot-tar applicator; hand blade operator; manhole builders helpers and mortar men on brick or block manholes; sandblasting and gunnite nozzlemen; rubbing concrete; air tool operator in tunnels.

GROUP V - Manhole builder (brick or block); dynamite and powder man.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	$12.55	.40			
MARBLE & TILE SETTERS	12.65	5%	4.25%		
MARBLE & TILE SETTERS' HELPERS	10.85				
PAINTERS:					
Brush & roller	11.53	.55	.70		.08
Spray	12.53	.55	.70		.08
PLASTERERS	13.10				
PIPEFITTERS	12.89	.67	1.50		.10
PLUMBERS	13.82	.97	1.15		.12

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Building Construction (Zone 1)					
GROUP I	$12.20	.75	1.00	.75	.10
GROUP II	11.85	.75	1.00	.75	.10
GROUP III	9.45	.75	1.00	.75	.10
GROUP IV	9.95	.75	1.00	.75	.10
GROUP V	10.20	.75	1.00	.75	.10
GROUP VI	12.45	.75	1.00	.75	.10
GROUP VII	12.70	.75	1.00	.75	.10
GROUP VIII	12.10	.75	1.00	.75	.10
GROUP IX	13.20	.75	1.00	.75	.10
GROUP X	12.70	.75	1.00	.75	.10
GROUP XI:					
(a)	11.95	.75	1.00	.75	.10
(b)	11.70	.75	1.00	.75	.10
(c)	9.70	.75	1.00	.75	.10

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS-Zone 1

GROUP I - Asphalt paver and spreader; asphalt plant mixer operator; asphalt plant operator; back fillers; backhoe, all types; barber-greene loader (similar type); blade-power, all types; boats-power; boilers (2); boring machines (all types); cableways; cherry pickers (all types); chip spreader; concrete ready-mixed plant, portable (job site); concrete mixer paver; crane-overhead; crusher, rock; derricks and derricks cars (power operated); ditching machines; dozers; dredges - any type power; grade-all-similar type; hoist, endless chain-power operated with power travel; loaders-all types; mechanic and welder; mucking machine; orange peels; pumps-material all types; push cats; scoops all types; self-propelled rotary drill; shovel, power side boom; skimmer scoop; testhole machine; throttle man.

GROUP II - Boilers (1); brooms-power operated (all types); chip spreader (front man); clef plane operator; compressors (1) 150' or over; concrete saws, self-propelled); crab-power operated; curb finishing machine; firemen on rigs; flex plane; floating machine; form grader; greaser hoist; hoist, endless chain-power operated; hopper-power operated; hydra hammer (all types); lad-a-vator-similar type; rollers-all types; siphons, jets, and jennies, sub-grader; tractors over 50 h.p.; compressors (2) 105 ft. or over not more than 20' apart; compressors-tandem (any sizes); compressors single, truck mounted; elevator; finishing machine.

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS-Zone 1 Cont'd

GROUP III - Oiler

GROUP IV - Fork lift-masonry; oiler drivers-all types

GROUP V - Tractors (except when hauling material) less than 50 h.p.; "A" frame trucks; fork lift-all types & sizes (except masonry); mixers (with side loaders); pumps (with well points) dewatering systems, test or pressure pumps

GROUP VI - Clamshells, 80 ft. of boom or over, (including jib); crane or rigs 80 ft. of boom or over (including jib); draglines, 80 ft. of boom or over (including jib); piledrivers, 80 ft. of boom or over (including jib)

GROUP VII - Crane or rigs, over 200 ft. of boom.

GROUP VIII - Hoists each additional drum over 1 drum

GROUP IX - Master mechanic

GROUP X - Crane-tower or climbing

GROUP XI - Ready mixed concrete plants:

(a) - Crane operator

(b) - Loader operator & plant man

(c) - Conveyor operator

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Site preparation & grading Johnson & Wyandotte Counties, Kansas; Site preparation, Incidental paving & utilities Clay, Jackson, Platte & Ray Counties, Missouri					
Zone 2					
GROUP I	$11.90	.75	1.00	.75	.10
GROUP II	11.65	.75	1.00	.75	.10
GROUP III	10.95	.75	1.00	.75	.10
GROUP IV	9.45	.75	1.00	.75	.10
GROUP V	9.95	.75	1.00	.75	.10
GROUP VI	12.15	.75	1.00	.75	.10
GROUP VII	11.90	.75	1.00	.75	.10

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS:

GROUP I - Asphalt paver and spreader; asphalt plant console operator; auto grader; backhoe; blade operator, all types; boilers-2; booster pump on dredge; boring machine (truck or crane mounted); bulldozer operator; clamshell operator; compressor maintenance operator-2; concrete plant operator, central mix; concrete mixer paver; crane operator; derrick or derrick trucks; ditching machine; dragline operator; dredge engineman; dredge operator; drill-cat with compressor mounted on cat; drilling or boring machine, rotary, self-propelled; high loader-fork lift; hoistline engine-2 active drums; locomotive operator, standard gauge; mechanics and welders, field or shop; maintenance operator; mucking machine; pile driver operator; pitman crane operator; pump-2; push cat operator; quad-track; scoop operator-all types; scoops in tandem; self-propelled rotary drill (leroy or equal-not air trac); shovel operator; side discharge spreader; sideboom cats; skimmer scoop operater; slip-form paver (CMI, REX, or equal); throttle man; truck crane; welding machine maintenance operator-2.

GROUP II - A-frame truck; asphalt hot mix silo; asphalt plant fireman, drum or boiler; asphalt plant mixer operator; asphalt plant man; asphalt roller operator; back filler operator; chip spreader; concrete batch plant, dry-power operated; concrete mixer operator, skip loader; concrete pump operator; crusher operator elevating grader; greaser; hoisting engine-1 drum; latourneau rooter; multiple compactor; pavement breaker, self-propelled, of the hydra-hammer or similar type; power shield; pug mill operator; stump cutting machine; towboat operator tractor operator over 50 h.p..

GROUP III - Boilers-1; chip spreader (front man); churn drill operator; compressor maintenance operator-1; concrete saws, self-propelled; conveyor operator; distributor operator; finishing machine operator; fireman, rig; float operator; form grader operator; pump; pump maintenance operator, other than dredge; roller operator, other than high type asphalt; roller operator, other than dredge; screening and washing plant operator; self-propelled street broom or sweeper; siphons and jets; sub-grading machine operator; tank car heater operator-combination boiler and booster; tractor, 50 h.p. or less, without attachments; vibrating machine operator, not hand; welding machine maintenance operator-1.

GROUP IV - Mechanic's helpers; oilers.

GROUP V - Oiler driver, all types.

GROUP VI - Clamshells, 3 yds. capacity or over; crane or rigs, 80 ft. of boom or over (including jib); draglines, 3 yds. capacity or over; piledrivers, 80 ft. of boom or over (including jib); shovels and backhoes, 3 yds. capacity or over.

GROUP VII - Hoists (each additional drum over 1 drum).

Men working in tunnels or shafts (not air shafts or coffer dams) of twenty-five (25) ft. or more in length or depth will be paid fifty cents (50¢) per hour above the regular classification.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W.	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Roofers	$11.60	.75	.75		.14
SHEET METAL WORKERS	12.83	.75	1.10		.08
SOFT FLOOR LAYERS	9.81	.50	.85	1.00	1%
SPRINKLER FITTERS	13.28	.75	1.05		.06
TERRAZZO WORKERS	12.31	5%	4.25%		
TRUCK DRIVERS:					
Building Construction:					
Zone 1					
GROUP I	10.925	.75	1.00		
GROUP II	10.975	.75	1.00		
GROUP III	11.05	.75	1.00		
GROUP IV	11.175	.75	1.00		
GROUP V	11.075	.75	1.00		
GROUP VI	11.275	.75	1.00		
GROUP VII	11.125	.75	1.00		
GROUP VIII	11.025	.75	1.00		

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS - Zone 1

GROUP I - Warehousemen and stock man.

GROUP II - Flat beds; pick-ups; dump trucks, under 10 yds..

GROUP III - Dump trucks, 10 yds. and over; steel trucks; semi truck drivers.

GROUP IV - Straddle trucks, steel tractors (when used for towing); hydro lift trucks, hydraulically operated serial lifts; heavy hauling, A-frame winch and fork lifts; heavy excavating (dumpster, euclid, etc.); double bottom units (20 tons capacity and over).

GROUP V - Distributor truck drivers and operators; oilers, greasers and mechanics' helpers.

GROUP VI - Mechanics.

GROUP VII - Transit mix, 5 yds. and over.

GROUP VIII - Transit mix, under 5 yds..

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS: Site preparation & grading Johnson & Wyandotte Counties, Kansas; Site preparation, Incidental paving & utilities Clay, Jackson, Platte & Ray Counties, Missouri					
Zone 2					
GROUP I	$9.99	.75	1.25	.75	
GROUP II	10.19	.75	1.25	.75	
GROUP III	10.50	.75	1.25	.75	
GROUP IV	10.65	.75	1.25	.75	
GROUP V	9.765	.75	1.25	.75	

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS - Zone 2

GROUP I - One team; station wagons; pickup trucks; material trucks, single axle; tank wagon drivers, single axle.

GROUP II - Material trucks, tandem; two teams; semi-trailers; winch trucks-fork trucks; distributor drivers and operators; agitator and transit mix; tank wagon drivers; single axle; tank wagon drivers tandem or semi-trailers; inaley wagons; dump trucks, excavating, 5 cu. yds. and over; dumpsters; half-tracks; speedace; euclids and other similar excavating equipment.

GROUP III - A-frame, lowboy, and boom truck driver.

GROUP IV - Mechanics and welders.

GROUP V - Mechanics' helpers, oilers and greasers.

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(ii)."

SUPERSEDEAS DECISION

STATE: North Carolina
COUNTIES: See below*
DECISION NUMBER: NC79-1161
DATE: Date of Publication
SUPERSEDES DECISION NO.: NC79-1056 dated March 30, 1979 in 44 FR 19124.
DESCRIPTION OF WORK: Building Construction Projects (does not include single family homes and garden type apartments up to and including 4 stories).

*Buncombe, Haywood, Henderson, McDowell, Madison, Transylvania, and Yancey	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING MECHANIC	$5.50				
ASBESTOS WORKERS	6.11				
BRICKLAYERS	6.00				
CARPENTERS	5.11				
CARPET LAYERS	5.50				
CEMENT MASONS	5.51				
ELECTRICIANS	8.20	.55	3% + .25		½ of 1%
GLAZIERS	4.50				
INSULATORS	5.13				
IRONWORKERS	4.64				
LABORERS:					
Laborers, unskilled	3.35				
Asphalt raker	3.89				
Mason tenders	3.37				
Mortar mixers	3.50				
Plasterers' tenders	4.00				
LATHERS	4.50				
PAINTERS:					
Brush	5.00				
Spray	6.00				
PLASTERERS	6.75				
PLUMBERS & PIPEFITTERS	6.35				
ROOFERS	3.86				
SHEET METAL WORKERS	5.29				
SOFT FLOOR LAYERS	5.00				
SPRINKLER FITTERS	5.00				
TERRAZZO WORKERS	6.00				
TILE SETTERS	6.00				
TRUCK DRIVERS	3.35				
WELDERS - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
Asphalt pavers	5.13				
Backhoes	5.31				
Bulldozers	4.06				
Cranes, derricks, draglines	$5.25				
Distributors	4.05				
Loaders, front end	4.15				
Motor graders	5.51				
Rollers	4.36				
Scrapers & Pans	3.75				
Screeds	4.11				

BILLING CODE 4510-27-C

federal register

Friday
December 14, 1979

Part IV

Department of the Treasury

Fiscal Service, Bureau of Public Debt

Offering of United States Savings Bonds, Series EE

Dept. Circular, Public Debt Series No. 2-80

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

31 CFR Part 351

Offering of United States Savings Bonds, Series EE

AGENCY: Fiscal Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This part, which contains the terms and conditions of the offering of United States Savings Bonds of Series EE, is being published in final form. These bonds will be offered for sale as of January 1, 1980. United States Savings Bonds of Series E are being withdrawn from sale. Their over-the-counter sale will be terminated as of December 31, 1979, and issues under payroll savings plans will be terminated as of June 30, 1980.

EFFECTIVE DATE: January 1, 1980

FOR FURTHER INFORMATION CONTACT: Mr. Charles A. Guerin, Assistant Chief Counsel, Bureau of the Public Debt, 202-376-0243.

SUPPLEMENTARY INFORMATION: For the most part, Series EE bonds resemble and are patterned after bonds of Series E. There are, however, several significant differences between the two series.

Series EE bonds will be identified as Energy Savings Bonds. An energy bonus of one-half of one percent is being offered on each Series EE bond that is held until maturity. This bonus becomes fixed as a part of the maturity value and is payable upon redemption at or after maturity. It increases the effective yield on bonds held to maturity to 7 percent.

The issue price of a Series EE bond is 50 percent of the face amount, whereas the Series E bond sold at 75 percent of face amount.

The term of the Series EE bond is 11 years, in contrast to the 5-year term of Series E bonds. However, the yield on both series is 6½ percent, compounded semiannually, if the bonds are held for a minimum of 5 years. The energy bonus raises the yield on bonds held for 11 years.

The Series EE bond denominations do not include a $25 bond. The smallest denomination is $50, for which the issue price is $25.

Series EE bonds are eligible for redemption after six months, whereas Series E bonds are eligible after two months. This change will improve the cost effectiveness of the Savings Bond Program.

Series EE bonds may be exchanged for Series HH bonds at any time after six months from issue.

The annual limitation on purchases of Series EE bonds is $30,000 (face amount), an increase over the annual limitation for Series E bonds.

The regulations (Department of the Treasury Circular, Public Debt Series No. 3-80 (31 CFR, Part 353)) provide that the consent of the beneficiary is not required for the reissue of Series EE bonds in beneficiary form.

The Secretary of the Treasury hereby makes the following offering of the United States Savings Bonds of Series EE, which is Part 351 of Title 31, Code of Federal Regulations.

Since this offering involves the fiscal policy of the United States and does not meet the Department's criteria for significant regulations, it has been determined that notice and public procedures are unnecessary.

Dated: December 7, 1979.

Paul H. Taylor,

Fiscal Assistant Secretary.

A new Part 351 is added to read as set forth below:

PART 351—OFFERING OF UNITED STATES SAVINGS BONDS, SERIES EE

Sec.
351.0 Offering of bonds.
351.1 Governing regulations.
351.2 Description of bonds.
351.3 Registration and issue.
351.4 Limitation on purchases.
351.5 Purchase of bonds.
351.6 Delivery of bonds.
351.7 Payment or redemption.
351.8 Taxation.
351.9 Reservation as to issue of bonds.
351.10 Waiver.
351.11 Fiscal agents.
351.12 Reservation as to terms of offer.

Authority: Sec. 22, Second Liberty Bond Act, as amended, 49 Stat. 21, as amended (31 U.S.C. 757c); (5 U.S.C. 301.)

Source: Department of the Treasury Circular, Public Debt Series No. 1-80.

PART 351—OFFERING OF UNITED STATES SAVINGS BONDS, SERIES EE

§ 351.0 Offering of bonds.

The Secretary of the Treasury offers for sale to the people of the United States, United States Savings Bonds of Series EE, hereinafter referred to as "Series EE bonds" or "bonds." This offer, effective as of January 1, 1980, will continue until terminated by the Secretary of the Treasury.

§ 351.1 Governing regulations.

Series EE bonds are subject to the regulations of the Department of the Treasury, now or hereafter prescribed, governing United States Savings Bonds of Series EE and HH, contained in Department of the Treasury Circular, Public Debt Series No. 3-80 (31 CFR Part 353), hereinafter referred to as Circular No. 3-80.

§ 351.2 Description of bonds.

(a) *General.* Series EE bonds are issued only in registered form and are nontransferable.

(b) *Denominations and prices.* Series EE bonds are issued on a discount basis. The denominations and issue prices are:

Denomination:	*Issue price*
$50	$25.00
$75	$37.50
$100	$50.00
$200	$100.00
$500	$250.00
$1,000	$500.00
$5,000	$2,500.00
$10,000	$5,000.00

(c) *Term.* The issue date of a Series EE bond is the first day of the month in which payment of the issue price is received by an authorized issuing agent. The bond matures 11 years from its issue date.

(d) *Redemption.* A Series EE bond may be redeemed after six months from issue date at fixed redemption values. See Table 1. The Secretary of the Treasury may not call Series EE bonds for redemption prior to maturity.

(e) *Interest (investment yield).*—(1) *Rate of interest.* The investment yield (interest) is approximately 6½ percent per annum, compounded semiannually, if the bond is held for a minimum of five years. The yield is less if the bond is redeemed earlier.

(2) *Energy bonus.* An energy bonus of one-half of one percent will be added to the redemption value of any Series EE bond held to maturity. With the bonus, the overall investment yield will be approximately 7 percent per annum, compounded semiannually.

(3) *Accrual and payment of interest.* Interest accrues on a Series EE bond and becomes a part of the redemption value which is paid when the bond is cashed. The redemption value of a bond increases on the first day of each month from the third through the thirtieth month after issue, and thereafter on the first day of each successive six-month period. The interest on outstanding bonds ceases to accrue after final maturity.

§ 351.3 Registration and issue.

(a) *Registration.* Bonds may be registered in the names of natural persons in single ownership, co-ownership, or beneficiary form. Bonds may also be registered in the names of organizations and fiduciaries. Specific

rules and examples are contained in Subpart B of Circular No. 3–80.

(b) *Validity of issue.* A bond is validly issued when it (1) is registered as provided in Circular No. 3–80; and (2) bears an issue date and the validation indicia of an authorized issuing agent.

(c) *Taxpayer identifying number.* The inscription of a bond must include the taxpayer identifying number of the owner or first-named co-owner. The taxpayer identifying number of the second-named co-owner or beneficiary is not required but its inclusion is desirable. If the bond is being purchased as a gift or award and the owner's taxpayer identifying number is not known, the taxpayer identifying number of the purchaser and the word "GIFT" must be included in the inscription.

(d) *Restrictions on chain letters.* The issuance of bonds in the furtherance of a chain letter or pyramid scheme is considered to be against the public interest and is prohibited. An issuing agent is authorized to refuse to issue a bond if there is reason to believe that the purchase is in connection with a chain letter and its decision is final.

§ 351.4 Limitation on purchases.

The amount of Series EE bonds which may be purchased and held in the name of any one person in any one calendar year is limited to $30,000 (face amount). Subpart C of Circular No. 3–80 contains the rules governing the computation of amounts and the special limitation for employee plans.

§ 351.5 Purchase of bonds.

(a) *Payroll plans.* Bonds may be purchased through deductions from the pay of employees of organizations which maintain payroll savings plans. The bonds must be issued by an authorized issuing agent, which may be the employer organization or a financial institution or the Federal Reserve Bank or Branch servicing that organization.

(b) *Over-the-counter/mail.*—(1) *At financial institutions.* Bonds registered in the names of individuals in their own right may be purchased over-the-counter or by mail from any financial institution, i.e., bank, savings and loan association, etc., qualified as an issuing agent.

(2) *At Federal Reserve Banks or Branches and the Bureau of the Public Debt.*—(i) *General.* Bonds registered in any authorized form may be purchased over-the-counter or by mail from a Federal Reserve Bank or Branch, and from the Bureau of the Public Debt, Washington, D.C. 20226.

(ii) *Remittance.* The application for purchase of a bond from a Federal Reserve Bank or Branch or from the Bureau of the Public Debt, Washington, D.C. 20226, must be accompanied by the remittance to cover the issue price. Checks or other forms of exchange, which will be accepted subject to collection, should be drawn to the order of the Federal Reserve Bank or the Bureau of the Public Debt, as the case may be. Checks payable by endorement are not acceptable.

(3) *Payment with savings stamps.* Savings stamps will be accepted in payment for Series EE bonds purchased over-the-counter or by mail.

(c) *Bond-a-month plan.* A depositor of a financial institution qualifed as an issuing agent may purchase bonds through a system of regular monthly withdrawals from the depositor's account.

(d) *Employee thrift, savings, vacation, and similar plans.* Bonds registered in the names of trustees of employee plans may be purchased either (1) from a Federal Reserve Bank or Branch, or (2) from a financial institution which:

(i) Is a qualifed issuing agent;

(ii) Has been designated trustee of an approved employee plan eligible for the special limitation under § 353.13 of Circular No. 3–80; and

(iii) Has obtained prior approval to issue the bonds from the Federal Reserve Bank of the agent's district.

§ 351.6 Delivery of bonds.

Issuing agents are authorized to deliver Series EE bonds either over-the-counter or by mail. Mail deliveries are made at the risk and expense of the United States to the address given by the purchaser, if it is within the United States, its territories or possessions, or the Commonwealth of Puerto Rico. No mail deliveries elsewhere will be made, except to residents of Mexico and Canada who participate in payroll savings plans and to residents of what was formerly the Panama Canal Zone. Bonds purchased by a citizen of the United States residing abroad will be delivered only to such address in the United States as the purchaser directs.

§ 351.7 Payment or redemption.

(a) *Incorporated banks, savings and loan associations, and other financial institutions.* A financial institution qualified as a paying agent under the provisions of Department of the Treasury Circular No. 750 (31 CFR Part 321), will pay the current redemption value of a Series EE bond presented for payment by an individual whose name is inscribed on the bond as owner or co-owner, provided: (1) The bond is in order for payment and (2) the presenter establishes his or her identity to the satisfaction of the agent, in accordance with Treasury instructions and identification guidelines, and signs and completes the request for payment.

(b) *Federal Reserve Bank and Branches and the Bureau of the Public Debt.* A Federal Reserve Bank or Branch or the Bureau of the Public Debt will pay the current redemption value of a Series EE bond presented for payment, provided the bond is in order for payment and the request for payment is properly signed and certified in accordance with Circular No. 3–80.

§ 351.8 Taxation.

(a) *General.* The increment in value, represented by the difference between the price paid for a Series EE bond and the redemption value received for it, is interest. This interest is subject to all taxes imposed under the Internal Revenue Code of 1954, as amended. The bonds are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all other taxation now or hereafter imposed on the principal or interest by any State, any possession of the United States or any local taxing authority.

(b) *Federal income tax on bonds.* The owner of a Series EE bond may use either of the following two methods for reporting the increase in the redemption value of the bond for Federal income tax purposes:

(1) *Cash basis.* Defer reporting the increase to the year of final maturity, redemption, or other disposition, whichever is earlier; or

(2) *Accrual basis.* Elect to report the increase each year as it accrues, in which case the election applies to all Series EE bonds then owned by the taxpayer and those subsequently acquired, as well as to any other obligations purchased on a discount basis, such as those of Series E.

If the method in paragraph (b)(1) of this section is used, the taxpayer may change to the method in paragraph (b)(2) of this section without obtaining permission from the Internal Revenue Service. However, once the election to use the method in paragraph (b)(2) of this section is made, the taxpayer may not change the method of reporting unless he or she obtains permission from the Internal Revenue Service. For further information, the District Director of the taxpayer's district, or the Internal Revenue Service, Washington, D.C. 20224, should be consulted.

(c) *Tax-deferred exchanges.* Department of the Treasury Circular, Public Debt Series No. 2–80 (31 CFR Part 352), authorizes the exchange of Series EE bonds for Series HH bonds with a continuation of the tax-deferral privilege. The rules governing tax-

deferred exchanges are contained in that Circular.

(d) *Reissue.* A reissue that affects the rights of any of the persons named on a Series EE bond may have a tax consequence.

§ 351.9 Reservation as to issue of bonds.

The Commissioner of the Public Debt, as delegate of the Secretary of the Treasury, is authorized to reject any application for Series EE bonds, in whole or in part, and to refuse to issue or permit to be issued any bonds in any case or class of cases, if he deems the action to be in the public interest, and his action in any such respect is final.

§ 351.10 Waiver.

The Commissioner of the Public Debt, as delegate of the Secretary of the Treasury, may waive or modify any provision of this circular in any particular case or class of cases for the convenience of the United States or in order to relieve any person or persons of unnecessary hardship (a) if such action would not be inconsistent with law or equity, (b) if it does not impair any existing rights, and (c) if he is satisfied that such action would not subject the United States to any substantial expense or liability.

§ 351.11 Fiscal agents.

Federal Reserve Banks and Branches, as fiscal agents of the United States, are authorized to perform such services as may be requested of them by the Secretary of the Treasury, or his delegate, in connection with the issue, servicing and redemption of Series EE bonds.

§ 351.12 Reservation as to terms of offer.

The Secretary of the Treasury may at any time or from time to time supplement or amend the terms of this offering of bonds.

[FR Doc. 79-38211 Filed 12-13-79; 8:45 am]
BILLING CODE 4810-40-M

BE BONDS BEARING ISSUE DATES BEGINNING JANUARY 1, 1980

ISSUE PRICE / MATURITY VALUE	$25.00 / 53.28	$37.50 / 79.92	$50.00 / 106.56	$100.00 / 213.12	$250.00 / 532.80	$500.00 / 1065.60	$2500.00 / 5328.00	$5000.00 / 10656.00	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
PERIOD (YEARS AND MONTHS AFTER ISSUE)	(1) REDEMPTION VALUES DURING EACH PERIOD (VALUES INCREASE IN FIRST DAY OF PERIOD)								(2) FROM ISSUE DATE TO START OF PERIOD	(3) DURING EACH PERIOD	(4) FROM START OF PERIOD TO MATURITY
									PERCENT	PERCENT	PERCENT
0- 0 TO 0- 2	$25.00	$37.50	$50.00	$100.00	$250.00	$500.00	$2500.00	$5000.00	----	4.35	7.00
0- 2 TO 0- 3	25.13	37.77	50.36	100.72	251.80	503.60	2518.00	5036.00	4.35	3.84	7.04
0- 3 TO 0- 4	25.26	37.92	50.52	101.04	252.60	505.20	2526.00	5052.00	4.18	3.83	7.06
0- 4 TO 0- 5	25.34	38.01	50.68	101.36	253.40	506.80	2534.00	5068.00	4.09	3.82	7.09
0- 5 TO 0- 6	25.42	38.13	50.84	101.68	254.20	508.40	2542.00	5084.00	4.04	3.81	7.12
0- 6 TO 0- 7	25.50	38.25	51.00	102.00	255.00	510.00	2550.00	5100.00	4.00	4.75	7.14
0- 7 TO 0- 8	25.60	38.40	51.20	102.40	256.00	512.00	2560.00	5120.00	4.11	4.73	7.16
0- 8 TO 0- 9	25.70	38.55	51.40	102.80	257.00	514.00	2570.00	5140.00	4.19	5.67	7.18
0- 9 TO 0-10	25.82	38.73	51.64	103.28	258.20	516.40	2582.00	5164.00	4.35	5.64	7.19
0-10 TO 0-11	25.94	38.91	51.88	103.76	259.40	518.80	2594.00	5188.00	4.48	4.67	7.21
0-11 TO 1- 0	26.04	39.06	52.08	104.16	260.40	520.80	2604.00	5208.00	4.50	4.65	7.23
1- 0 TO 1- 1	26.14	39.21	52.28	104.56	261.40	522.80	2614.00	5228.00	4.51	5.57	7.25
1- 1 TO 1- 2	26.26	39.39	52.52	105.04	262.60	525.20	2626.00	5252.00	4.59	4.61	7.26
1- 2 TO 1- 3	26.36	39.54	52.72	105.44	263.60	527.20	2636.00	5272.00	4.59	4.60	7.29
1- 3 TO 1- 4	26.46	39.69	52.92	105.84	264.60	529.20	2646.00	5292.00	4.59	5.50	7.31
1- 4 TO 1- 5	26.58	39.87	53.16	106.32	265.80	531.60	2658.00	5316.00	4.65	5.48	7.32
1- 5 TO 1- 6	26.70	40.05	53.40	106.80	267.00	534.00	2670.00	5340.00	4.70	4.54	7.34
1- 6 TO 1- 7	26.80	40.20	53.60	107.20	268.00	536.00	2680.00	5360.00	4.69	4.52	7.37
1- 7 TO 1- 8	26.90	40.35	53.80	107.60	269.00	538.00	2690.00	5380.00	4.68	5.41	7.39
1- 8 TO 1- 9	27.02	40.53	54.04	108.08	270.20	540.40	2702.00	5404.00	4.72	5.39	7.41
1- 9 TO 1-10	27.14	40.71	54.28	108.56	271.40	542.80	2714.00	5428.00	4.75	4.46	7.43
1-10 TO 1-11	27.24	40.86	54.48	108.96	272.40	544.80	2724.00	5448.00	4.74	5.34	7.45
1-11 TO 2- 0	27.36	41.04	54.72	109.44	273.60	547.20	2736.00	5472.00	4.76	4.43	7.47
2- 0 TO 2- 1	27.46	41.19	54.92	109.84	274.60	549.20	2746.00	5492.00	4.75	5.30	7.50
2- 1 TO 2- 2	27.58	41.37	55.16	110.32	275.80	551.60	2758.00	5516.00	4.77	5.28	7.52
2- 2 TO 2- 3	27.70	41.55	55.40	110.80	277.00	554.00	2770.00	5540.00	4.79	5.26	7.54
2- 3 TO 2- 4	27.82	41.73	55.64	111.28	278.20	556.40	2782.00	5564.00	4.81	5.23	7.57
2- 4 TO 2- 5	27.94	41.91	55.88	111.76	279.40	558.80	2794.00	5588.00	4.82	5.21	7.59
2- 5 TO 2- 6	28.06	42.09	56.12	112.24	280.60	561.20	2806.00	5612.00	4.84	5.19	7.61
2- 6 TO 3- 0	28.18	42.27	56.36	112.72	281.80	563.60	2818.00	5636.00	4.85	5.39	7.64
3- 0 TO 3- 6	28.94	43.41	57.88	115.76	289.40	578.80	2894.00	5788.00	4.94	5.53	7.78
3- 6 TO 4- 0	29.74	44.61	59.48	118.96	297.40	594.80	2974.00	5948.00	5.02	7.40	7.93
4- 0 TO 4- 6	30.84	46.26	61.68	123.36	308.40	616.80	3084.00	6168.00	5.32	9.73	7.97
4- 6 TO 5- 0	32.34	48.51	64.68	129.36	323.40	646.80	3234.00	6468.00	5.80	12.86	7.83
5- 0 TO 5- 6	34.42	51.63	68.84	137.68	344.20	688.40	3442.00	6884.00	6.50	6.51	7.42
5- 6 TO 6- 0	35.54	53.31	71.08	142.16	355.40	710.80	3554.00	7108.00	6.50	6.53	7.50
6- 0 TO 6- 6	36.70	55.05	73.40	146.80	367.00	734.00	3670.00	7340.00	6.50	6.43	7.60
6- 6 TO 7- 0	37.88	56.82	75.76	151.52	378.80	757.60	3788.00	7576.00	6.50	6.55	7.73
7- 0 TO 7- 6	39.12	58.68	78.24	156.48	391.20	782.40	3912.00	7824.00	6.50	6.54	7.87
7- 6 TO 8- 0	40.40	60.60	80.80	161.60	404.00	808.00	4040.00	8080.00	6.50	6.44	8.06
8- 0 TO 8- 6	41.70	62.55	83.40	166.80	417.00	834.00	4170.00	8340.00	6.50	6.52	8.34
8- 6 TO 9- 0	43.06	64.59	86.12	172.24	430.60	861.20	4306.00	8612.00	6.50	6.50	8.70
9- 0 TO 9- 6	44.46	66.69	88.92	177.84	444.60	889.20	4446.00	8892.00	6.50	6.48	9.26
9- 6 TO 10- 0	45.90	68.85	91.80	183.60	459.00	918.00	4590.00	9180.00	6.50	6.54	10.19
10- 0 TO 10- 6	47.40	71.10	94.80	189.60	474.00	948.00	4740.00	9480.00	6.50	6.50	12.04
10- 6 TO 11- 0	48.94	73.41	97.88	195.76	489.40	978.80	4894.00	9788.00	6.50	17.74	17.74
11- 0	53.28	79.92	106.56	213.12	532.80	1065.60	5328.00	10656.00	7.00		

BILLING CODE 4810-40-C

Federal Register

Friday
December 14, 1979

Part V

Department of the Treasury

Fiscal Service, Bureau of Public Debt

Offering of United States Savings Bonds, Series HH

Dept. Circular, Public Debt Series No. 2-80

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 352

Offering of U.S. Savings Bonds, Series HH

AGENCY: Fiscal Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This Part, which contains the terms and conditions of the offering of United States Savings Bonds of Series HH, is being published in final form. These bonds will be offered for sale, as of January 1, 1980. United States Savings Bonds of Series H are being withdrawn from sale as of December 31, 1979.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Charles A. Guerin, Assistant Chief Counsel, Bureau of the Public Debt, 202-376-0243.

SUPPLEMENTARY INFORMATION: For the most part, Series HH bonds resemble and are patterned after Series H bonds. There are, however, several significant differences between the two series.

As with Series H bonds, Series HH bonds can be purchased for cash and in exchange for accrual-type savings bonds and notes. Provision is also made for purchasing Series HH bonds through the reinvestment of certain matured Series H bonds. There will be two separate, distinguishable types of Series HH bonds, one to identify bonds sold for cash and the other to identify bonds issued on exchange or through reinvestment.

Under the offering, securities eligible for exchange for Series HH bonds are: Series E bonds, until one year after their final maturities; Series EE bonds, beginning six months after their issue; and United States Savings Notes (Freedom Shares). The exchange offer is made a part of the offering circular, rather than being set out in a separate document.

Semiannual interest payments on Series HH bonds are set at uniform amounts for the term to maturity, to eliminate the confusion created by the graduated scale of payments on Series H bonds.

The redemption value of Series HH bonds purchased for cash will be less than the face amount, if the bonds are redeemed within five years of issue. The difference between the face amount and redemption value represents an interest adjustment. The yield is consistent with that of the companion Series EE bonds, which must be held for at least five years to provide a return of 6½ percent.

Series HH bonds issued on exchange constitute a continuation of long-term holdings of savings bonds and notes; they are not subject to any interest adjustment.

The registration requirements for a tax-deferred exchange will be the same for Series HH bonds as for Series H bonds. The rules are designed to prevent the shifting of tax liability incident to an exchange. The same requirements apply to non-tax-deferred exchanges for Series HH bonds, even though no tax liability is involved, since the new bonds are not subject to an interest adjustment for early redemption.

As Series H bonds purchased for cash reach final maturity, their proceeds may be reinvested in Series HH bonds. Final maturity dates have been announced for the Series H bonds issued from June 1952 through May 1959, which will become eligible for reinvestment as they mature. All of these bonds were purchased for cash. The reinvestment option will not be available for any Series H bond issued on exchange. The Series HH bonds acquired through reinvestment will not be subject to an interest adjustment.

The annual limitation on cash purchases of Series HH bonds is $20,000 (face amount), an increase over the $10,000 limitation for Series H bonds. Bonds issued on exchange or reinvestment are not subject to the annual limitation.

The regulations (Department of the Treasury Circular, Public Debt series No. 3-80 (31 CFR Part 353)) provide that the consent of the beneficiary is not required for the reissue of Series HH bonds in beneficiary form.

The Secretary of the Treasury hereby makes the following offering of United States Savings Bonds of Series HH, which is Part 352 of Title 31, Code of Federal Regulations.

Since this offering involves the fiscal policy of the United States and does not meet the Department's criteria for significant regulations, it has been determined that notice and public procedures are unnecessary.

Dated: December 7, 1979.

Paul H. Taylor,

Fiscal Assistant Secretary.

A new part 352 is added to read as follows:

PART 352—OFFERING OF UNITED STATES SAVINGS BONDS, SERIES HH

Sec.
352.0 Offering of bonds.
352.1 Governing regulations.
352.2 Description of bonds.
352.3 Registration and issue.
352.4 Limitation on purchases.
352.5 Authorized issuing and paying agents.
352.6 Cash purchases.
352.7 Issues on exchange.
352.8 Reinvestment of matured Series H bonds.
352.9 Delivery of bonds.
352.10 Taxation.
352.11 Reservation as to issue of bonds.
352.12 Waiver.
352.13 Fiscal agents.
352.14 Reservation as to terms of offer.

Authority: Sec. 22, Second Liberty Bond Act, as amended, 49 Stat. 21, as amended (31 U.S.C. 757c); sec. 18, 40 Stat. 1309, as amended; sec. 20, 48 Stat. 343, as amended (31 U.S.C. 753, 754b); (5 U.S.C. 301).

Source: Department of the Treasury Circular, Public Debt Series No. 2-80.

PART 352—OFFERING OF UNITED STATES SAVINGS BONDS, SERIES HH

§ 352.0 Offering of bonds.

(a) *Cash offering.* The Secretary of the Treasury offers for sale to the people of the United States, United States Savings Bonds of Series HH, hereinafter referred to as "Series HH bonds" or "bonds." This offer will continue until terminated by the Secretary of the Treasury.

(b) *Exchange offering.* The Secretary of the Treasury also offers to the people of the United States, United States Savings Bonds of Series HH in exchange for outstanding United States Savings Bonds of Series E and EE and United States Savings Notes (Freedom Shares). This offer will continue until terminated by the Secretary of the Treasury.

(c) *Effective date.* These offers are effective as of January 1, 1980. They supersede previous offers of United States Savings Bonds of Series H, contained in Department of the Treasury Circular No. 905 (31 CFR Part 332) and Department of the Treasury Circular No. 1036 (31 CFR Part 339).

§ 352.1 Governing regulations.

Series HH bonds are subject to the regulations of the Department of the Treasury, now or hereafter prescribed, governing United States Savings Bonds of Series EE and HH, contained in Department of the Treasury Circular, Public Debt Series No. 3-80 (31 CFR Part 353), hereinafter referred to as Circular No. 3-80.

§ 352.2 Description of bonds.

(a) *General.* Series HH bonds are issued only in registered form and are nontransferable. Bonds sold for cash and bonds issued on exchange are distinguishable by: (1) The portraits, color and border design; (2) the tax-deferral legend on the bonds issued on exchange; (3) the word "CASH" or "EXCHANGE," as appropriate, on the back of the bond; and (4) the text material.

(b) *Denominations and prices.* Series HH bonds are issued at face amount

and are in denominations of $500, $1,000, $5,000 and $10,000.

(c) *Term.* Each bond bears an issue date, which is the date from which interest is earned. The date is established, as provided in § 352.7(d) for cash purchases and in § 352.8(e) for exchange issues. The bond matures 10 years from its issue date.

(d) *Redemption*—(1) *General.* A Series HH bond may be redeemed after six months from its issue date. The Secretary of the Treasury may not call Series HH bonds for redemption prior to maturity. A bond received for redemption by an agent during the calendar month preceding any interest payment date will not ordinarily be paid until that date.

(2) *Bonds purchased for cash.* During the first five years from issue, the redemption value of a bond purchased for cash is less than its face amount. See Table 1. The difference between the face amount and redemption value represents an adjustment of interest. After five years, the bond will be paid at face amount.

(3) *Bonds issued on exchange.* Bonds issued on exchange, including authorized reinvestment, are not subject to an interest adjustment and will be redeemed at face amount at any time after six months from their issue dates.

(e) *Interest (investment yield).* The interest on a Series HH bond is paid semiannually by check drawn to the order of the registered owner or co-owners, beginning six months from the the issue date. The level interest payments will produce a yield of 6½ percent per annum, compounded semiannually, on all bonds issued on exchange and on bonds sold for cash that are held for at least five years from their issue. Interest ceases at final maturity or, if the bond is redeemed before final maturity, as of the end of the interest period next preceding the date of redemption. However, if the date of redemption falls on an interest payment date, interest ceases on that date.

§ 352.3 Registration and issue.

(a) *Registration.* Bonds may be registered in the names of natural persons in single ownership, coownership or beneficiary forms. Bonds may also be registered in the names of organizations and fiduciaries. Specific rules and examples are contained in Subpart B of Circular No. 3–80.

(b) *Validity of issue.* A bond is validly issued when it (1) is registered as provided in Circular No. 3–80 and in this circular; and (2) bears an issue date and the validation indicia of an authorized issuing agent.

(c) *Taxpayer identifying number.* The inscription of a bond must include the taxpayer identifying number of the owner or first-named co-owner. The taxpayer identifying number of the second-named co-owner or beneficiary is not required but its inclusion is desirable.

§ 352.4 Limitation on purchases.

The amount of Series HH bonds that may be purchased for cash and held in the name of any one person in any one calendar year is limited to $20,000 (face amount). Bonds issued on authorized exchange or reinvestment are not subject to this limitation. Subpart C of Circular No. 3–80 contains the rules governing the computation of amounts and the special limitation for exempt organizations.

§ 352.5 Authorized issuing and paying agents.

Series HH bonds may be issued or redeemed only by (a) a Federal Reserve Bank or Branch, (b) the Bureau of the Public Debt, Washington, D.C. 20226, or (c) the Bureau of the Public Debt, 200 Third Street, Parkersburg, West Virginia 26101.

§ 352.6 Cash purchases.

(a) *Basis for issue.* Series HH bonds will be issued by an authorized issuing agent upon receipt of a properly executed application and payment in the form of (1) cash; (2) a check drawn to the order of the Federal Reserve Bank or Branch or the Bureau of the Public Debt; or (3) savings stamps.

(b) *Role of financial institutions.* Financial institutions may submit purchase applications and payment to a Federal Reserve Bank or Branch on behalf of customers.

(c) *Registration.* Bonds may be registered in any authorized form in accordance with Subpart B of Circular No. 3–80.

(d) *Dating.* Bonds will be dated as of the first day of the month in which an authorized issuing agent receives a properly executed purchase application and payment in immediately available funds, or, if payment is made by a financial institution through the Treasury tax and loan account, the first day of the month in which that account is credited.

§ 352.7 Issues on exchange.

(a) *Securities eligible for exchange.* Owners may exchange United States Savings Bonds of Series E and EE and United States Savings Notes (Freedom Shares) at their current redemption values for Series HH bonds. Series E bonds are eligible for exchange until one year after their final maturity dates. Series EE bonds become eligible for exchange six months after their issue dates.

(b) *Basis for issue.* Series HH bonds will be issued on exchange by an authorized issuing agent upon receipt of a properly executed exchange subscription with eligible securities and additional cash, if any, and any supporting evidence that may be required under the regulations. If eligible securities are submitted directly to a Federal Reserve Bank or Branch or the Bureau of the Public Debt, each must bear a properly signed and certified request for payment. Checks in payment of any cash difference (see paragraph (d) of this section) must be drawn to the order of the Federal Reserve Bank or Branch or Bureau of the Public Debt.

(c) *Role of financial institutions.* Department of the Treasury Circular No. 750, current revision (31 CFR Part 321), authorizes financial institutions qualified as paying agents for savings bonds and notes to redeem eligible securities presented for exchange and to forward an exchange subscription and full payment to a Federal Reserve Bank or Branch for the issue of Series HH bonds. The securities redeemed on exchange by such an institution must be securities which it is authorized to redeem for cash.

(d) *Computation of issue price.* The total current redemption value of the eligible securities submitted in exchange in any one transaction must be $500 or more. If the current redemption value is an even multiple of $500, Series HH bonds must be requested in that exact amount. If the total current redemption value exceeds, but is not an even multiple of, $500, the owner has the option either of furnishing the cash necessary to obtain Series HH bonds at the next highest $500 multiple, or of receiving payment of the difference between the total current redemption value and the next lower $500 multiple. For example, if the eligible securities presented for exchange in one transaction have a total current redemption value of $4,253.33, the owner may elect to:

(1) Receive $4,000 in Series HH bonds and the amount of the difference, $253.33; or

(2) Pay the difference, $246.67, necessary to obtain $4,500 in Series HH bonds.

(e) *Registration.* A Series HH bond issued on exchange may be registered in any authorized form (see Subpart B of Circular No. 3–80), subject to the following restrictions:

(1) If the securities submitted in exchange are in single ownership form, the owner must be named as owner or first-named co-owner on the Series HH bonds. A co-owner or beneficiary may be named.

(2) If the securities submitted in exchange are in coownership form, and one coowner is the "principal coowner," the "principal coowner" must be named as owner or first-named coowner. A beneficiary or coowner may also be named. The "principal coowner" is a coowner who (i) purchased the securities submitted for exchange with his or her own funds, or (ii) received them as a gift, inheritance or legacy, or as a result of judicial proceedings, and had them reissued in coownership form, provided he or she has received no contribution in money or money's worth for designating the other coowner on the securities.

(3) If the securities submitted in exchange are in coownership form and both coowners shared in the purchase of the securities or received them jointly as a gift, inheritance or legacy, or as a result of judicial proceedings, both persons must be named as coowners on the Series HH bonds.

(4) If the securities submitted in exchange are in beneficiary form, the owner must be named on the Series HH bonds as owner or first-named coowner. If the owner is deceased, a surviving beneficiary must be named as owner or first-named coowner. In either case, a coowner or beneficiary may be named.

A reissue that affects the rights of any of the persons required to be named on the Series HH bond may have a tax consequence.

(f) *Dating.* Series HH bonds issued on exchange will be dated as of the first day of the month in which the eligible securities presented for exchange are redeemed by a Federal Reserve Bank, the Bureau of the Public Debt, or a qualified paying agent, as evidenced by the payment stamp on the bonds and subscription form.

(g) *Tax-deferred exchanges.*—(1) *Continuation of tax-deferral.* Pursuant to the provisions of Section 1037(a) of the Internal Revenue Code of 1954, as amended, an owner who has not been reporting the interest on his or her Series E or EE savings bonds and savings notes on an accrual basis, for Federal income tax purposes, and who exchanges those securities for Series HH bonds, may continue to defer reporting the interest on the securities exchanged until the taxable year in which the Series HH bonds received in the exchange reach final maturity, are redeemed, or are otherwise disposed of, whichever is earlier.

(2) *Tax-deferral legend.* Each bond issued on a tax-deferred exchange shall bear a legend showing how much of its issue price represents interest on the securities exchanged. This interest must be treated as income for Federal income tax purposes and reported in accordance with paragraph(g)(1) of this section.

(3) *Reporting of interest for any difference paid on exchange.* The amount of any difference paid to the owner (see paragraph (d)(1) of this section) must be treated as income for Federal income tax reporting purposes for the year in which it is received, up to the amount of the total interest on the securities exchanged.

(h) *Exchanges without tax-deferral.* The rules prescribed for exchanges under paragraphs (a) through (f) of this section also apply to exchanges by owners who (1) report the interest on their bonds of Series E and EE and savings notes annually for Federal income tax purposes; (2) elect to report all such interest in the year of the exchange, regardless of whether or not it exceeds the amount of any cash difference received (see paragraph (d)(1) of this section); or (3) are tax-exempt under the provisions of the Internal Revenue Code of 1954, as amended. However, no amount will appear in the tax-deferral legend printed on the bond, and any part of the cash difference received (see paragraph (d)(1) of this section) which represents interest previously reported for Federal income tax purposes need not be treated as income.

§ 352.8 Reinvestment of matured Series H bonds.

(a) *General.* The face amount of Series H bonds purchased for cash that have reached final maturity may be reinvested in Series HH bonds. The Series H bonds, bearing properly signed and certified requests for payment, must be submitted to a Federal Reserve Bank or Branch or the Bureau of the Public Debt with a reinvestment application.

(b) *Rules.* The reinvestment transaction will be subject to the rules governing exchanges, as set forth in § 352.7, and the Series HH bonds issued on reinvestment will be identical in all respects with those issued on a non-tax-deferred exchange.

§ 352.9 Delivery of bonds.

Authorized issuing agents will deliver Series HH bonds either (a) over-the-counter, or (b) by mail. Mail deliveries are made at the risk and expense of the United States to the address given by the purchaser, if it is within the United States, one of its territories or possessions, or the Commonwealth of Puerto Rico. No mail deliveries elsewhere will be made. Bonds purchased by a citizen of the United States residing abroad will be delivered only to such address in the United States as the purchaser directs.

§ 352.10 Taxation.

The interest paid on Series HH bonds is subject to all taxes imposed under the Internal Revenue Code of 1954, as amended. The bonds 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 by any State, any of the possessions of the United States, or any local taxing authority.

§ 352.11 Reservation as to issue of bonds.

The Commissioner of the Public Debt, as delegate of the Secretary of the Treasury, is authorized to reject any application for Series HH bonds, in whole or in part, and to refuse to issue or permit to be issued any bonds in any case or class of cases, if he deems the action to be in the public interest, and his action in such respect is final.

§ 352.12 Waiver.

The Commissioner of the Public Debt, as delegate of the Secretary of the Treasury, may waive or modify any provision of this circular in any particular case or class of cases for the convenience of the United States or in order to relieve any person or persons of unnecessary hardship (a) if such action would not be inconsistent with law or equity, (b) if it does not impair any existing rights, and (c) if he is satisfied that such action would not subject the United States to any substantial expense or liability.

§ 352.13 Fiscal agents.

Federal Reserve Banks and Branches, as fiscal agents of the United States, are authorized to perform such services as may be requested of them by the Secretary of the Treasury, or his delegate, in connection with the issue, servicing and redemption of Series HH bonds.

§ 352.14 Reservation as to terms of offer.

The Secretary of the Treasury may at any time or from time to time supplement or amend the terms of this offering of bonds.

BILLING CODE 4810-40-M

H BONDS BEARING ISSUE DATES BEGINNING JANUARY 1, 1980 ISSUE) IN EXCHANGE FOR ACCRUAL-TYPE BONDS/NOTES

ISSUE PRICE	$500.00	$1,000.00	$5,000.00	$10,000.00	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE ASSUMING EARLY REDEMPTION)*
MATURITY VALUE	500.00	1,000.00	5,000.00	10,000.00	
AMOUNT OF EACH INTEREST CHECK	16.25	32.50	162.50	325.00	

PERIOD OF TIME BOND IS HELD AFTER ISSUE DATE (YEARS AND MONTHS)	(1) REDEMPTION VALUE OF BOND				(2) FROM ISSUE TO EACH INTEREST PAYMENT DATE	(3) FOR HALF-YEAR PERIOD PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PAYMENT DATE TO MATURITY
					PERCENT	PERCENT	PERCENT
0-6 TO 1-0	500.00	1000.00	5000.00	10000.00	6.50	6.50	6.50
1-0 TO 1-6	500.00	1000.00	5000.00	10000.00	6.50	6.50	6.50
1-6 TO 2-0	500.00	1000.00	5000.00	10000.00	6.50	6.50	6.50
2-0 TO 2-6	500.00	1000.00	5000.00	10000.00	6.50	6.50	6.50
2-6 TO 3-0	500.00	1000.00	5000.00	10000.00	6.50	6.50	6.50
3-0 TO 3-6	500.00	1000.00	5000.00	10000.00	6.50	6.50	6.50
3-6 TO 4-0	500.00	1000.00	5000.00	10000.00	6.50	6.50	6.50
4-0 TO 4-6	500.00	1000.00	5000.00	10000.00	6.50	6.50	6.50
4-6 TO 5-0	500.00	1000.00	5000.00	10000.00	6.50	6.50	6.50
5-0 TO 5-6	500.00	1000.00	5000.00	10000.00	6.50	6.50	6.50
5-6 TO 6-0	500.00	1000.00	5000.00	10000.00	6.50	6.50	6.50
6-0 TO 6-6	500.00	1000.00	5000.00	10000.00	6.50	6.50	6.50
6-6 TO 7-0	500.00	1000.00	5000.00	10000.00	6.50	6.50	6.50
7-0 TO 7-6	500.00	1000.00	5000.00	10000.00	6.50	6.50	6.50
7-6 TO 8-0	500.00	1000.00	5000.00	10000.00	6.50	6.50	6.50
8-0 TO 8-6	500.00	1000.00	5000.00	10000.00	6.50	6.50	6.50
8-6 TO 9-0	500.00	1000.00	5000.00	10000.00	6.50	6.50	6.50
9-0 TO 9-6	500.00	1000.00	5000.00	10000.00	6.50	6.50	6.50
9-6 TO 10-0	500.00	1000.00	5000.00	10000.00	6.50	6.50	6.50
10-0	500.00	1000.00	5000.00	10000.00	6.50	6.50	----

*THE YIELD FROM ISSUE TO MATURITY IS 6.5%.

HH BONDS BEARING ISSUE DATES BEGINNING JANUARY 1, 1980 PURCHASED BY CASH

ISSUE PRICE	$500.00	$1,000.00	$5,000.00	$10,000.00	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE ASSUMING EARLY REDEMPTION)*
MATURITY VALUE	500.00	1,000.00	5,000.00	10,000.00	
AMOUNT OF EACH INTEREST CHECK	16.25	32.50	162.50	325.00	

PERIOD OF TIME BOND IS HELD AFTER ISSUE DATE (YEARS AND MONTHS)	(1) REDEMPTION VALUE OF BOND				(2) FROM ISSUE TO EACH INTEREST PAYMENT DATE	(3) FOR HALF-YEAR PERIOD PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PAYMENT DATE TO MATURITY
					PERCENT	PERCENT	PERCENT
0-6 TO 1-0	493.75	987.50	4937.50	9875.00	4.00	4.00	6.68
1-0 TO 1-6	489.94	979.88	4899.40	9798.80	4.51	5.04	6.80
1-6 TO 2-0	486.10	972.20	4861.00	9722.00	4.69	5.07	6.94
2-0 TO 2-6	481.87	963.74	4818.70	9637.40	4.75	4.95	7.10
2-6 TO 3-0	478.35	956.70	4783.50	9567.00	4.85	5.28	7.26
3-0 TO 3-6	475.11	950.22	4751.10	9502.20	4.94	5.44	7.42
3-6 TO 4-0	472.07	944.14	4720.70	9441.40	5.02	5.56	7.61
4-0 TO 4-6	474.08	948.16	4740.80	9481.60	5.32	7.74	7.59
4-6 TO 5-0	482.29	964.58	4822.90	9645.80	5.80	10.32	7.29
5-0 TO 5-6	500.00	1000.00	5000.00	10000.00	6.50	14.08	6.50
5-6 TO 6-0	500.00	1000.00	5000.00	10000.00	6.50	6.50	6.50
6-0 TO 6-6	500.00	1000.00	5000.00	10000.00	6.50	6.50	6.50
6-6 TO 7-0	500.00	1000.00	5000.00	10000.00	6.50	6.50	6.50
7-0 TO 7-6	500.00	1000.00	5000.00	10000.00	6.50	6.50	6.50
7-6 TO 8-0	500.00	1000.00	5000.00	10000.00	6.50	6.50	6.50
8-0 TO 8-6	500.00	1000.00	5000.00	10000.00	6.50	6.50	6.50
8-6 TO 9-0	500.00	1000.00	5000.00	10000.00	6.50	6.50	6.50
9-0 TO 9-6	500.00	1000.00	5000.00	10000.00	6.50	6.50	6.50
9-6 TO 10-0	500.00	1000.00	5000.00	10000.00	6.50	6.50	6.50
10-0	500.00	1000.00	5000.00	10000.00	6.50	6.50	----

*THE YIELD FROM ISSUE TO MATURITY IS 6.5%.

[FR Doc. 79-38212 Filed 12-13-79; 8:45 am]
BILLING CODE 4810-40-C

federal register

Friday
December 14, 1979

Part VI

Department of Agriculture

Agricultural Marketing Service

Agricultural Stabilization and Conservation Service

Beef Research and Information; Cattle Producers Referendum and Establishment of Program

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1260

[Docket No. BRIA-2]

Beef Research and Information Order; Establishment of Program

AGENCY: Agricultural Marketing Service.
ACTION: Decision and order.

SUMMARY: This document announces a decision to issue an Order, subject to approval in a producer referendum, to establish a nationally coordinated program of research and information to develop and improve markets for cattle, beef, and beef products as authorized by the amended Beef Research and Information Act.

The Order, if approved in a producer referendum, would authorize a program financed by assessments of up to five-tenths of one percent of the value of cattle sold based on a value-added concept. The Order limits the assessment to not more than two-tenths of one percent (20 cents per $100 value) during the first two years of the program's operation. Any producer could request a refund of the assessment paid. The program would be administered by a Beef Board composed of up to 68 producer members reflecting to the extent practicable, the proportion of cattle produced in defined geographic areas. The Board members would be appointed by the Secretary of Agriculture from nominations submitted by certified organizations representing producers.

DATE: The Order would become effective if aproved in a referendum of beef producers; results of the referendum and the effective date, if the measure is passed, will be announced later.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Livestock, Poultry, Grain, and Seed Division, AMS, USDA, Washington, D.C. 20250, Phone: 202-447-2068.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Pre-Hearing Investigation—Available from Ralph L. Tapp; Notice of Hearing—Issued April 17, 1979 and published April 23, 1979 (44 FR 23858) with corrections published May 1, 1979 (44 FR 25464); and Recommended Decision and Order—Issued September 18, 1979 and published September 21, 1979 (44 FR 54926).

PRELIMINARY STATEMENT: A recommended decision including a recommended Order to establish a Beef Research and Information program was published in the Federal Register on September 21, 1979. Interested persons were given until November 5, 1979 to file exceptions to the recommended decision. Twenty-four persons submitted comments. The bulk of the comments questioned the need for and concept of the Order rather than suggesting exceptions or modifications to the recommended Order. However, some of the comments contained a number of exceptions or recommendations. No significant changes have been made in the recommended Order, but minor clarifying and conforming changes have been incorporated into this Decision and Order.

The Recommended Decision was formulated based on evidence received at a public hearing on a proposed Order and on briefs submitted based on the hearing record. The public hearing was held at Dallas, Texas; Pittsburgh, Pennsylvania; Atlanta, Georgia; Reno, Nevada; and Des Moines, Iowa, during June 1979, and briefs were received until August 15, 1979. The hearing was held pursuant to notice which was published in the Federal Register [April 23, 1979, 44 FR 23858]. The notice set forth a proposed Order which was submitted to the Department of Agriculture by the Beeferendum Advisory Group (a coalition of a number of national beef and farm organizations) pursuant to rules of practice and procedure for formulating an Order. These rules were published in the Federal Register [June 23, 1976: vol. 41; No. 122] and amended February 27, 1979 (vol. 44; No. 44): In response to a news release issued March 8, 1979 announcing that a proposed Order had been submitted and inviting additional proposals or changes in the Order submitted by the industry group, one suggested change was received. The change was proposed by the Community Nutrition Institute and was incorporated into the Notice of Hearing as Proposal Number 2. A prehearing investigation analyzed the primary proposal submitted by the beef industry group and indicated that the Secretary had reason to believe that the issuance of an Order would tend to effectuate the declared policy of the act. These actions were taken pursuant to authority contained in the amended Beef Research and Information Act (7 U.S.C. 2901 *et seq.*).

On the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Agricultural Marketing Sevice, filed with the Hearing Clerk, U.S. Department of Agriculture, a recommended decision containing notice of the opportunity for interested persons to file exceptions to the decision. Upon review of the entire hearing record, including comments on the recommended decision; the material issues, findings and conclusions, rulings, and the general findings of the recommended decision which were published in the Federal Register with certain minor clarifying and conforming changes are hereby approved and adopted and are set forth in full herein.

Decision

Decision Basis.—The amended Beef Research and Information Act, under the Legislative Findings and Declaration of Policy, states that the maintenance and expansion of existing markets and the development of new or improved markets and uses (of cattle, beef, and beef products) are vital to the welfare of cattle producers and those concerned with marketing, using, and processing beef as well as the general economy of the Nation. The Act further states that it is in the public interest to provide an adequate, steady supply of high quality beef and beef products readily available to the consumers of the Nation, and that maintenance of markets and the development of new markets, both domestic and foreign, are essential to the cattle industry if the consumers of beef and beef products are to be assured of an adequate, steady supply of such products at reasonable prices.

The Act provides that the Secretary shall determine, based on the hearing record, if the proposed Order tends to effectuate the declared policy of the Act. The policy of the Act is to establish a program of research, consumer information, producer information, and promotion designed to strengthen the cattle and beef industry's position in the marketplace, and maintain and expand domestic and foreign markets and uses for United States beef. The criteria used in this determination included an evaluation of: (1) the need for the program, (2) the adequacy of the proposed funding level, (3) the type of potential plans and projects for research, consumer information, producer information and promotion, (4) the likelihood that these projects will strengthen the beef industry's position in the marketplace, and (5) the specific terms and provisions of the Order. It is concluded from evidence introduced at the public hearing and the entire hearing record that the Order would tend to implement the policy of the Act. The bases for reaching this conclusion are summarized below. A more detailed evaluation may be found later in this

document in the section entitled, "Findings and Conclusions."

Need for Program.—Beef is the major source of protein in the diet of United States citizens, accounting for 15 percent of the average person's food expenditures. On January 1, 1979, there were 110.8 million cattle in the United States, produced on 1.7 million farms. Beef production is common to more farms than any other commodity. Forty-three percent of all farms produce beef. Historically, beef producers have been troubled by the 10-year cattle cycle. The cycle is marked by a period of low cattle slaughter supplies and favorable prices followed by a period of increased cattle slaughter and low cattle prices. Moderation of the extreme variations in profitability resulting from over and under-investment that underlies the cattle cycle may be accomplished through a program of research and information. Experience indicates that an imaginative approach will be needed to communicate such information before producer decisions based on this information will modify the cattle cycle. Such research and information programs could result in more stable beef supplies to the benefit of producers and consumers.

Research to maintain and enhance the marketing position of beef through the development of production, processing, and marketing efficiencies could also benefit producers and consumers through reduced cost. Some of the more promising projects would be further research in basic genetics, new feeding programs, new cattle and beef marketing systems, and new merchandising techniques.

Information is necessary to aid producers in making marketing decisions as well as to provide consumers with scientifically based nutrition information. Promotion would likely include generic beef advertising designed to inform consumers of the nutritional benefits of beef.

Foreign market development efforts could increase the amount of U.S. produced beef shipped to overseas customers. For the long term, increased beef exports would raise the amount of beef produced in the U.S., and would likely lower per unit costs to American consumers and increase net income to producers due to expanded demand.

Eighty-seven of the 94 witnesses at the public hearing testified in support of the need for a Beef Research and Infomation Order.

Funding.—The initial assessment level could be established at up to two-tenths of one percent of the value of cattle sold. An assessment of two-tenths of one percent would generate approximately $40 million annually, based on 1978 prices. Hearing testimony indicates that based upon industry needs, the funding of similar programs, and the amount spent by other industries, an initial assessment of two-tenths of one percent would be appropriate. Funds would be collected according to a value-added concept which would assess all sellers in the marketing chain. The sales of high-valued dairy and breeding animals would be exempted from assessment until the animals are sold for slaughter when their value would be equivalent to other similar slaughter cattle. After the first two years of the program's existence, the assessment level may be raised up to a maximum of five-tenths of one percent, subject to approval by the Department. An assessment of five-tenths of one percent would generate approximately $100 million annually based on 1978 prices. Any producer may request and receive a refund of his or her assessment.

Plans and Projects.—Examples of the types of activities which could be carried out under this program include:

1. Programs designed to develop improved economic data and analysis relating to current and expected supply and price levels in the beef industry could provide the foundation for improved communication to affect producer investment decisions and modify the cattle cycle and its detrimental consequences.

2. Production research projects concentrating on such areas as basic genetics, feeding programs, disease control, and waste management.

3. Marketing research directed toward improving efficiencies in slaughtering, packaging, and merchandising of beef; research to explore improved energy conservation, to search for alternative marketing systems, and to improve utilization of beef products.

4. Nutrition research to further define the proper role of beef in the diet and improve and enhance the qualities of beef.

5. Consumer information to provide nutritional information to homemakers, the food service industry, health professions, students, and the media.

6. Product promotion involving advertising, distributing recipes, providing the media with feature stories, and advising persons concerning product supplies as well as how to purchase meat to fit various family budgets.

7. Developing and maintaining foreign markets for established beef products and by-products may be accomplished through trade show participation, working with overseas customers, and finding new uses for less desirable beef by-products.

Based on hearing testimony concerning similar commodity programs, it appears that plans and projects authorized under the Order can be designed to achieve the objectives of the Act.

Possible Program Results.—While it is anticipated that the Order may strengthen the beef industry's position in the market place, problems in isolating the Order's impact and the effects of other influencing factors may make it difficult to evaluate the program's performance. Greater production efficiencies, improved marketing techniques, and increased levels of nutrition information should benefit producers and consumers. To the extent the program could modify the extreme price fluctuations in the beef market, producers and consumers would also benefit.

Specific Terms and Provisions.—To accomplish the declared policy of the Act, numerous specific terms and provisions are needed to govern the operation of a program. The terms and conditions of the Order contained in this document establish the detailed means for carrying out the provisions and policy of the Act.

2. *Procedure and Background.*—The Beef Research and Information Act was enacted in 1976 and amended in 1978. The Act authorizes a research and information program to develop and improve markets for cattle, beef, and beef products subject to approval by producers voting in a referendum. The Act is enabling legislation which authorizes any individual or organization to submit a proposed Order to the Secretary designed to implement the program authorized by the Act. The Act provides that when the Secretary has reason to believe that the issuance of an Order will appropriately implement the program authorized by the Act, the Secretary shall issue a notice and hold a hearing on the proposed Order. The applicable rules of practice and procedure provide for the Department to issue a recommended decision and Order if it is determined, based on the hearing evidence and written briefs, that such an Order will tend to implement the policy of the Act. Comments on the recommended decision and Order are then invited from the public during a specified period of time. If the Secretary finds after a review of comments on the recommended decision and Order and the entire hearing record that the Order will implement the policy of the Act, a final decision is issued, and a referendum among producers is held to

determine if they wish to put the Order into effect. If a majority of those voting favor the Order, a beef research and information Order would be established.

In 1976, a proposed Order was submitted and a public hearing held on the Order. In 1977, the Secretary issued a final decision and Order. However, the Order did not receive the two-thirds majority approval of cattle producers voting in a referendum necessary to establish a program. The Act was amended in 1978 to allow a simple majority of those voting in a referendum to approve the Order. In February, 1979, a new proposed Order was submitted to the Department. In accordance with the applicable procedures, a notice of hearing was published, and a public hearing was held on the proposed Order. A recommended decision and Order was issued based upon the hearing record and briefs submitted. A 45-day period was provided for public comment on the recommended decision and Order. This final decision and Order is based on the entire hearing record as well as comments received on the recommended decision and Order.

The Beef Board, authorized under the Order, would be responsible for preparing detailed project proposals for beef research and information. The Act requires that the proposed projects be reviewed and approved by the Secretary before project expenditures may be authorized by the Board. In addition, the Act requires that the Secretary approve the annual budget of the Board. This requirement assures that the program will be formally evaluated on an annual basis and fulfills the "sunset review" requirement under the Department's criteria for implementing Executive Order 12044. The Order would continue indefinitely unless:

1. The Act is repealed;
2. The Secretary finds that the Order or any provision(s) thereof obstructs or does not effectively carry out the policy of the Act;
3. Beef producers reject the Order in a referendum for termination; or,
4. Beef producers reject a revised Order in a referendum.

Material Issues

The material issues presented on the record of hearing are as follows:

(1) The need for the proposed Beef Research and Information Order to effectively carry out the declared policy and purpose of the Act.

(2) The adequacy of the proposed level of funding from beef producers to support the proposed program.

(3) The adequacy of the type of potential research and information plans and projects to implement the proposed program.

(4) The possible effect of the proposed program on research, consumer information, producer information, and promotion of beef.

(5) The determination of the specific terms and provisions of the proposed Order necessary to effectively carry out the declared policy of the Act, including:

(a) Definitions of terms used therein which are necessary and incidental to achieving the objectives of the Order;

(b) The establishment, maintenance, composition, powers, duties, procedures, and operation of the Board which shall be the administrative agency for the Order;

(c) The authority for establishing and financing the development and implementation of programs and projects of research, information, education, and promotion to improve, maintain, and develop domestic and foreign markets for cattle, beef, and beef products;

(d) The establishment and maintenance of a coordinated program with State beef boards, beef councils or other beef promotion entities organized to conduct programs with objectives similar to those of this Order;

(e) The procedures to levy assessments on the sales of cattle to make refunds of assessments to producers who request them, and to incur necessary expenses;

(f) The provisions concerning recordkeeping requirements and reports by slaughterers; and

(g) The need for additional terms and conditions as set forth in §§ 1260.181 through 1260.187 of the Order which are necessary to effectuate provisions of the Act.

Findings and Conclusions

Evidence presented on the record at the public hearing indicates that cattle are produced, in some quantity, in all 50 States and that beef and beef products are produced and consumed in all 50 States. Therefore, it is found that cattle, beef, and beef products move in interstate and foreign commerce and that which does not move in such channels of commerce directly burdens, or affects interstate commerce of cattle, beef, and beef products. The findings and conclusions on the material issues are based on the evidence presented at the hearing and the record thereof and are as follows:

(1) *Need for the Order.*—The hearing record establishes that beef is a major source of protein in the diet of United States citizens. Beef accounts for 12 percent of the food energy in the American diet, 23 percent of the protein consumed, and 15 percent of the average person's total food expenditures. Beef is common to more farms than any other commodity. In addition, beef is among the top five income producing commodities in 47 States, and accounts for about one-fourth of the farm value of all food produced on U.S. farms.

On January 1, 1979, there were 110.8 million cattle in the United States, produced on 1.7 million farms. Over half of the United States beef supply is produced from cattle herds of less than 100 cows. Forty-three percent of all farms produce some beef. This includes dairy animals that eventually become part of the beef supply.

Market instability resulting from the cattle cycle and other factors affect all beef producers. A cattle cycle usually runs for a period of 10 to 12 years, from one low point in cattle numbers to the next. During one phase of the cycle, the basic cow herd is increased, as individual producers react to favorable cost-price relationships by expanding their herds or getting into the cattle business. Eventually cattle numbers become too large and/or input costs rise too much. There is more beef than consumers will buy at a price allowing cattlemen to make a profit. This brings on the herd liquidation phase of the cycle. As cattlemen elect to cut back on herd sizes, the liquidation of breeding stock compounds the oversupply problem, further depressing prices and increasing financial losses. Cattle cycles have historically been a part of the beef industry. During the early part of this century, they were often 17 years in length, by 1938 to 1949, they had shortened to 13 to 14 years and since that time, they have been approximately 10 years in length. In recent years, the cattle cycle has caused extreme fluctuations in price and supply. According to records kept by Iowa State University during the period from September 1973, through May 1979, feedlot finished cattle have returned a profit in only 27 of those 69 months. Hearing testimony indicates that the average cow-calf operator lost $95 per calf in 1975; $54 per calf in 1976; $77 per calf in 1977; and $38 per calf in 1978. It has been estimated that total operating losses of the beef industry during 1974–78 were almost $15 billion. During the most recent cycle, per capita supplies of beef reached a low of 99.5 pounds per person in 1965. Per capita supplies increased to a peak of 129.3 pounds in 1976, and have declined to an estimated 107 pounds per capita for 1979. Because individual producers are free to make their own production decisions and have consistently responded to favorable

prices by increasing their cattle herds, there is little likelihood that cattle cycles can be completely eliminated. However, to the extent that this program can moderate the extremes of the cattle cycle, it will be to the benefit of both producers and consumers. With a more stabilized supply, consumer, producers, and processors would be better able to adjust to moderate supply fluctuations and there would be fewer price inequities in the marketing system.

Traditionally, the beef industry has relied upon land-grant colleges to provide research. The hearing record indicates that the emphasis and the amount of funding from traditional sources are declining and that a need exists to maintain and enhance the marketing position of beef through the development of production, processing and marketing efficiencies. Current estimates indicate that funds amounting to less than a quarter of one percent of the cash receipts from the beef industry are being reinvested in beef research. In some other industries, the level of investments range from 3–10 percent.

There is a need for further production, processing and marketing research, as well as nutrition research. The hearing record indicates a need for production research in the areas of basic genetics, feeding programs, disease control and waste management. The need for processing research was illustrated by hearing testimony which indicated that in 1977, the physical losses of fresh beef during the marketing process from the packer's shipping platform through the retail food stores amounted to 5.2 percent of all fresh beef. Marketing research is a term which can be used to encompass a broad range of needs from the merchandising of beef, to the marketing of cattle and beef, to the studies of effective use of advertising. While food merchandising in recent years has become highly sophisticated for many food commodities, meat products, including beef, have not shared fully in these advances. The risk of innovation has been too great for an individual retailer because significant innovations tend to be quickly adopted by competitors. Short-term benefits have not justified the cost of development on the part of any one firm. Cattle and beef marketing research is needed to study possible methods to more accurately reflect value and to provide equity in the marketplace for all participants in the production and marketing chain. An additional area for study would be to develop improved market analysis and information systems to reduce price variability and minimize the cyclical economic stress on the industry.

The hearing record indicates a need for a program of foreign market development. The United States is the world's largest producer and importer of beef. Total U.S. imports approach 10 percent of domestic production while U.S. exports are less than one percent of domestic production. Although the United States exports a large share of its feed grain production to foreign countries for their use in beef production, the hearing record indicates that exporting beef instead of grain could reduce transportation costs and save fuel, could provide more economic activity and jobs in the United States, and could be a positive factor in improving the United States' balance of trade.

An exception was filed stating the proposed beef program would have an adverse effect on the United States balance of payments and the consumer price index since the United States already is a net importer of six percent of its beef supply. The exceptor concluded that promotion of additional consumption would require additional imports and result in a larger trade deficit. First, there is no record evidence to suggest that a significant short-term response to promotional efforts would occur. In addition, based on past experience, the exceptor's scenario of events cannot be substantiated, since world supplies of beef available to be imported into the United States are limited and thus, no substantial increase in imports would occur. The overwhelming bulk of any increase in consumption would be the result of increased domestic production.

A related exception opposed the Order on the basis that beef production for export or any other purpose is a very inefficient use of natural resources, energy and grain. Claiming that the ratio for the conversion of grain to animal protein is somewhere between 30:1 and 80:1, the exceptor contended that available grain supplies should be used to feed humans rather than cattle. A review of the record reveals a dearth of evidence in support of this contention. Further, the exception does not recommend any particular change in the proposed language of the Order but, instead, is in general opposition to any Order at all. Accordingly, since the record does support the need for additional financing for research into the production and marketing of cattle, as well as for other purposes, which could have a beneficial, rather than an adverse impact on world food supplies, it has been determined that providing for such a program would tend to effectuate the purposes of the Act.

There is a need to establish an improved information system to serve producers and consumers. The hearing record indicates that consumers are presented with varying information which may not be sufficiently researched. It is important to provide consumers with accurate, scientifically based information on the cholesterol issue. There is also a need to provide nutritional information to consumers concerning the benefits of beef to homemakers, the food service industry, the health professions, students, and the media. To maintain and enhance the position of beef in the marketplace, it is also determined that there is a need for the generic promotion of beef. The promotion of beef could include advertising, distributing recipes, providing the media with feature stories and advising persons concerning product supplies, as well as how to purchase meat to fit various family budgets.

Opponents of the Order contended that the proposed program would not alleviate the impact of the cattle cycle, and that the research and promotion costs for such a program should be borne by all segments of the beef industry and the Government, not by beef producers alone. Opponents stated that the per capita consumption of beef has increased sharply during the past 30 years and that the consumption of beef is an inelastic economic function among the middle class and wealthy, but is elastic among the poor and unemployed. Opponents also state that the uptrend in consumption in recent decades is due to rising disposable income levels among the poor and unemployed. Based on the hearing record as a whole, however, the evidence supports the finding that issuance of the Order will tend to effectuate the policy of the Act.

Proponents of the Order testified that present beef research and information programs are underfinanced and fragmented. Currently, the beef industry spends approximately $5 million for research and information through 28 State beef councils and a national organization. Of the eighty-seven witnesses who testified in support of the proposed Order:

1. Thirteen represented national beef and farm organizations, including the Beeferendum Advisory Group composed of a number of national organizations which developed and submitted the proposed Order.

2. Forty-three represented State beef and farm organizations, including State cattlemen's associations, cattle feeders associations, beef councils, and State farm bureaus.

3. Nine represented dairy organizations.

4. Two represented national farm magazines.

5. Twenty represented organizations which are presently conducting research, including the National Livestock and Meat Board, State universities and other commodity organizations conducting programs similar to the program which could be created under the Order.

Seven witnesses testified in opposition to the Order including the National Farmers Union, several of its affiliated State organizations, and two State farm bureau organizations.

Several exceptions to the recommended decision and Order were filed which questioned the concept and need for a beef research and information program. Among the issues raised in the exceptions by the respondents were: that the Department should not be promoting the increased consumption of meat; that with the existing debate on the role of beef in the diet, beef consumption should not be promoted due to various studies associating beef consumption with various diseases; that the estimated amount of funds to be raised by this program would exceed the $40 million figure which was the annual estimated figure provided by the Department; and that due to the inelastic nature of the beef supply, beef promotion which results in increased consumption could substantially increase beef prices.

These exceptions are discussed individually below. However, it should be noted as stated elsewhere in this document, that the amended Beef Research and Information Act authorizes a program of beef research and information. The Act provides that after notice and opportunity for hearing, the Secretary of Agriculture shall issue an Order if he finds, upon the evidence introduced at such hearing, that the issuance of such Order and all the terms and conditions thereof will tend to effectuate the declared policy of this Act.

An exceptor stated that it was inconsistent for the Department to seek to implement such a program while other government entities, such as the Surgeon General, were recommending that Americans should eat less beef. The initiative and underlying policy for a beef research and information program was created by Congress through passage of the Act. The Department conducted the hearing sessions, evaluated the testimony, rendered decisions based on that testimony, and will conduct a producer referendum regarding the Beef Research and Information Order. Thus, the Department is fulfilling its duly constituted responsibilities under the Act. Furthermore, this Order does not solely provide for the promotion of beef. As delineated elsewhere in this document, funds would be used for research, producer information, consumer information, and foreign market development. A description of the types of projects which could be conducted is contained in this document.

Several exceptions stated that beef consumption should not be promoted since some studies have associated beef consumption with various chronic diseases such as coronary occlusions, stroke, cancer, diabetes and kidney failure. It is recognized that controversy and debate currently surround the role of beef in the diet; however, the hearing record is replete with testimony and evidence regarding the need for further research on the beef-diet issue. Accordingly, based on the hearing evidence, it is expected that nutrition research will be given a high priority in expending assessment funds. One exceptor charged that research undertaken by the Board will be biased and, accordingly, that the Board's authority to publicize or otherwise distribute research results should be limited by the Order. The evidence in the record, however, fails to support the premise upon which this exception is based. Further, testimony throughout the record suggests that much of the research funded under this Order will not be conducted directly by the Board, but rather will be contracted out to existing organizations with recognized research capabilities, such as universities. Since there is no reason to question the objectiveness of established research institutions irrespective of the source of funding, this exception is denied.

An exception was filed to the statement in the recommended decision that the impact of this program would be $40 million annually, based on 1978 prices, The Order limits the assessment rate to two-tenths of one percent of the value of cattle sold for the first two years of the program's existence. Based on 1978 cattle prices and slaughter supplies, the Beef Board would collect approximately $40 million annually with an assessment of two-tenths of one percent. In projecting collections based on 1979 cattle prices and slaughter supplies, the total amount collected could approximate $45 million annually at the two-tenths of one percent level. The only statistically supported cost impact which can be made is the direct effect of the assessment which could amount to $40 to $45 million annually. As authorized in the Act, the Order provides that after the first two years of the program's existence, the assessment level could be increased to five-tenths of one percent of the value of cattle sold. Based on 1978 prices, an assessment of five-tenths of one percent would result in collections of approximately $100 million annually. In projecting collections based on the 1979 level of cattle prices and slaughter supplies, the total amount collected could approximate $110 to $115 million annually. However, these projections do not include an allowance for refunds. In similar programs for other commodities, refunds are in excess of 10 percent of collections.

An exception stated that the estimated $40 million figure does not recognize basic economic theory, because beef promotion would probably increase demand without increasing the supply of the commodity, thereby driving up prices. The effect of increased pressure on beef prices due to promotion efforts is speculative at best. There is no sound statistical basis for making hard quantitative forecasts. If such efforts are intensified during the high inventory/low price phase of the cattle cycle, it seems reasonable to conclude that advertising could have a countercyclical effect. The benefits of research on production, marketing, and processing are difficult to estimate, since there is little statistical basis for quantitative forecasts on how much these expenditures will reduce per unit costs of beef. However, the record is replete with testimony regarding researchable areas because of the need to achieve greater productivity. The record indicates that based on past experience beef producers will increase production when receiving profits either from high prices or reduced costs. If supplies are unduly short and profits high, they will ultimately produce more beef than consumers will buy at a price which is profitable to cattle producers. This situation is commonly referred to as the cattle cycle and is described in additional detail elsewhere in this document. Further, the concern expressed by the exceptor has not materialized as a problem in similar programs.

After reviewing the entire hearing record, including the hearing evidence, legal briefs, and exceptions to the recommended decision and Order, it is concluded that a need exists for a beef research and information program and that the Order would effectuate the declared policy of the Act.

(2) *Level of Funding:*

(i) *General.* The research and information activities which could be conducted under the program would be

funded by an assessment on the sales of cattle. During the first two years, the Order calls for an assessment of up to two-tenths of one percent of the value of cattle sold. It is estimated that initial collections at the two-tenths of one percent level would be about $40 million annually. At the maximum assessment level of five-tenths of one percent, collections would be about $100 million annually.

Under the value-added system of assessment, all producer-sellers in the marketing chain will be assessed. The initial purchaser in the marketing chain would deduct the amount of assessment from the payment to the original owner. Each succeeding purchaser would deduct an assessment based on the animal's value at the time of sale. The amount collected from the seller would include the assessment paid by the previous owner(s) plus an amount reflecting the value added by the seller. The purchaser at the point of slaughter would deduct the total assessment due and pay it to the Beef Board.

The sales of dairy and breeding animals with a value significantly above the commercial market value in the slaughter market chain, would be exempted from assessment until the animals are sold for slaughter. Any producer may request and receive a refund of the assessment paid. It is determined from hearing testimony that the aniticipated initial funding level will adequately implement the plans and projects authorized by the Order. Many witnesses stated that funding at the two-tenths of one percent level would be adequate, but not excessive, for the implementation of the Order.

The implementation of the Act would directly affect all cattle producers. There are 1.7 million farms with cattle in the United States. All cattle slaughterers would also be directly affected because slaughterers would deduct the assessment and remit it to the Beef Board. Other groups directly affected would include the recipients of the funds expended by the Beef Board, such as universities and other research organizations, product promotion firms, advertisers and the media. Any impact on wholesalers, retailers, and domestic consumers of beef would be small.

Exporters of live cattle, beef, and beef products would be affected to the extent funds used in export development affected entry into the export market. Any impact on the domestic feed industry due to adjustments in beef production levels would be small.

(ii) *Cost Impacts.*—The cost impact on producers could vary from up to two-tenths of one percent of the value of cattle sold during the first two years to the maximum of five-tenths of one percent permitted by the Order in later years.

If the total cost of the program were passed on to consumers with no offsetting benefits, it is estimated that the initial assessment level would result in an increase of less than one-third of a cent per pound in the price of retail beef. At the maximum assessment level, the comparable impact on price would be about eight-tenths of a cent per pound of retail beef.

(iii) *USDA and Other Federal Costs.*—The direct costs of conducting the hearing and the referendum, excluding salaries, will be reimbursed by the proponents of the Order. Should the Order fail to be approved by the majority of those voting, the Department will be reimbursed from an irrevocable letter of credit which has been posted with the Department for non-salary costs incurred. Should the Order by approved in referendum, the Department will be reimbursed from assessments collected by the Beef Board. Also, the Act provides for the Department to be reimbursed from assessments for all expenses, including salaries, incurred relating to this program, when an Order becomes effective following approval in a producer referendum. In addition, the expenses incurred in connection with any subsequent rulemaking involving amendments to the Order and referendums on such amendments under the Act would also be reimbursed from Order funds.

(3) *Plans and Projects.*—Below is a description of the type of impacts that may result from a research and information program based on experience in other commodity programs. Also included is a brief discussion of the types of programs which could be conducted by the Beef Board.

In 1975, egg producers voted to assess themselves to conduct a program of research and promotion. In 1978, after a downtrend in per capita egg consumption lasting more than three decades, egg use increased by 6 eggs per person compared to a year earlier. Hearing testimony reveals that in June of 1979, according to Urner-Barry, a private egg price reporting service, egg prices were 8–10 cents above a year earlier. This price level allowed producers to make a modest profit. USDA statistics on April 1, 1979 showed a 3 percent increase in laying hens over 1978, indicating a strengthening in consumer demand for eggs and a countinued uptrend in egg production and consumption. Although some of the increase in per capita consumption of eggs may be attributed to the research and promotion efforts of the egg industry, rising prices of other protein foods have also been contributing factors.

Cotton producers began a research and promotion program about 12 years ago to alleviate the declining use of cotton resulting from the increased popularity of synthetic fibers. Hearing evidence indicates that the annual decline in cotton's share of total fiber consumption has been moderated. While the research and promotion program may be partially responsible for slowing down the annual rate of decline, it is also recognized that other factors, such as price increases of synthetic fibers associated with higher prices of petroleum products, affected consumption levels.

The true impact of any ongoing research and promotion program is difficult to measure because assumptions must be made to isolate the effect of this variable from other influencing factors. Measuring the possible impacts of a potential program is even more difficult.

The results of the various programs under the Beef Research and Information Order will be a function of the priority given to the research and information programs by the Beef Board. It is anticipated that the Beef Board will become involved in programs of promotion, basic research, consumer and producer information, and foreign market development.

Basic research could include nutrition research as well as production, processing, and marketing research. Nutrition research could further investigate the proper role of beef in the diet.

Production research could study such areas as basic genetics, feeding programs, disease control, and waste management. Research efforts could focus on increasing the incidence of twinning, identifying the key characteristics for future breeds or lines such as size and adaptability, seeking new information relative to factors that limit the rate of protein synthesis which could improve the growth process, improving the utilization of forage by-products such as crop residue and fibrous feed materials for ruminants, reducing death losses, improving methods of utilizing nutrients in animal waste and utilizing animal waste to produce methane fuel, and reducing or eliminating the undesirable odor level associated with some systems of beef production.

Research designed to improve beef processing efficiencies could study product loss in the marketing chain, improved product safety, increased

energy conservation, and improved productivity in transportation, handling, fabrication and packaging. Research could also investigate improved product utilization through such means as further development of tenderizing techniques and further development of flaked and formed products for optimum utilization of less tender cuts of beef.

Marketing research could investigate improved methods of merchandising beef, alternative marketing systems for cattle, and improved market analysis and information systems for long term decision making.

An information system for producers and consumers could aid producers in making production and marketing decisions, based on research to alleviate the impact of the cattle cycle through better informed producers, while consumer information could provide consumers with scientifically based nutrition information concerning beef. Consumer information could also provide information to assist people in buying, meal planning, preparing, serving, and storing beef.

A foreign market development program could endeavor to increase the exports of beef produced in the United States. The export of beef may be increased through participation in foreign trade shows, development and maintenance of markets for established beef products, and finding new uses for less desirable beef products.

Obviously, for all of these possible opportunities, there is always a risk of failure. The rate of return for various potential projects could undoubtedly vary significantly. Thus, the Beef Board should attempt to choose those projects with the highest probability of successfully achieving a high rate of return.

(4) *Possible Results.*

(i) *General.*—To the extent the program successfully addresses the needs of the beef industry through the possible plans and projects, the Order will result in strengthening the cattle and beef industry's position in the marketplace. Should the extreme price fluctuations associated with the cattle cycle be moderated, consumers would be benefited by more stable supplies of beef at a more constant price level, while beef producers would receive a more stable price for their cattle. If research can improve efficiencies in production, processing, and marketing, consumers would benefit through lower per unit beef costs while producers net income may be increased. Increased exports of beef would lead to increased domestic beef production and also provide for lower per unit cost of domestically consumed beef. Consumer information may increase the level of nutrition awareness among consumers and may lead to increased per capita consumption.

(ii) *Competitive Impact.*—It is anticipated that the Order may increase the demand for cattle, beef, and beef products. The impact of the program on different types of beef producers will depend on the specific research and information projects undertaken by the Beef Board. However, it is the intent of the Order that the Beef Board represent and act in the best interest of the entire beef industry, including all types of beef producers.

(iii) *Distribution of Effects by Income Classes.*—To the extent the program successfully increases demand for beef, either directly or by increasing exports, it will benefit cattle producers, cattle feeders, and feed producers by strengthening markets and prices. To the extent it improves nutritional information, all income groups should receive some benefits from the program. However, the poor, elderly, and teenage groups could benefit more from nutritional information and information which assists them in the selection and preparation of less expensive cuts of meat. To the extent it stabilizes production and prices, it would benefit both beef producers and consumers.

(5) *Terms and Provisions of the Order.*

(a) *Definitions.*—"Secretary" means the Secretary of Agriculture or any other employee of the Department who may be authorized to act in his stead.

"Department" means the United States Department of Agriculture, the Secretary, or any other authorized employee of the Department. Since the terms "Department" and "Secretary" both include all authorized individuals within the Department, the terms could be used interchangeably. However, since many of the functions to be performed will be delegated, the term "Secretary" is used in the Order only for those functions which the Secretary would normally perform, and the term "Department" is used in all other instances.

"Act" is defined to provide the correct legal citation for the statute pursuant to which the Order may be put into effect and operated. The inclusion of this definition makes it unnecessary to refer to such law and statutory citation each time reference is made to the Act in the provisions of the Order. "Act" also is defined to include any amendments that have been, or may be, made to the Beef Research and Information Act (7 U.S.C. 2901 *et seq.*).

"Fiscal Period" is defined as the 12-month period corresponding with the USDA's fiscal year. The Beef Board is required by the Act to submit budgets to the Department on a fiscal period basis for approval of the anticipated expenses and disbursements in the various areas expenditures are authorized. A clearly defined and predetermined fiscal period of 12 months can facilitate auditing, budgeting, accounting, and making expenditures on an orderly basis. The period corresponds with USDA's fiscal period for convenience in administration. Should conditions change or if it may be more convenient for the Board, the Beef Board, with the approval of the Department, may select some other 12-month period as its fiscal year.

"Beef Board" or "Board" is defined as the adminstrative agency or body charged by the Act with the duty to administer the Order. The definition is made to insure that when used in the Order, the terms "Beef Board" or "Board" refer to the entity established by the Order. The Act requires that a Beef Board of up to 68 producer members be appointed by the Secretary from nominations submitted by organizations representing producers.

"Executive Committee" is defined to mean those 11 members of the Beef Board, elected by the Board to administer the Order under Board supervision and within Board policies. The Act requires the establishment of a seven to eleven member Executive Committee. The hearing record indicates that an 11-member committee would be more representative of the cattle industry. The Act states that such a committee shall be broadly representative of the beef industry. As provided in § 1260.146(b), the Beef Board will initially divide the United States into eight geographic regions. The members of the Board from each region will select one member for the Executive Committee from among themselves. The remaining three members of the Executive Committee will be selected by the board on an at-large basis.

"Producer" is defined in the Order to identify the persons responsible for payment of assessments under the Order. It is essential to the value-added concept of assessment that all producers in the marketing chain who add value to an animal be assessed based on that value added. Therefore, any person who takes title to an animal, other than for the purpose of immediate slaughter, is a producer regardless of the period of ownership. In addition to being subject to the assessment, producers have the right to vote in any referendum on the Order and are eligible to serve on the Board and to nominate, primarily

through eligible organizations, others to serve on the Board.

"Producer" is defined by the Act to mean any person who owns or acquires ownership of cattle, unless his or her only share in the proceeds of a sale is commission, handling fee, or other service fee. It was not the intent of Congress to include slaughterers in the definition of producers since slaughterers usually do not perform the function of producing cattle, therefore, persons acquiring cattle solely for the purpose of slaughter shall not be included in the definition of a producer. A cattle slaughterer or packer may be a producer and subject to assessment, if that entity has cattle on feed or buys cattle for purposes other than immediate slaughter. The term "immediate slaughter" includes those cattle purchased for the sole purpose of slaughter which are not held on feed for an extended period of time prior to slaughter. It is recognized, however, that under normal trade practices, cattle purchased for "immediate slaughter" may not actually be slaughtered for several days.

"Producer-buyer" is defined to mean a producer who purchases cattle. The producer-buyer is required to collect or deduct the assessment authorized under the Order from the seller or from the amount paid to the seller for the animal.

"Producer-seller" is defined to mean a producer who sells cattle. The producer-seller is required to pay to the buyer the assessment authorized under the Order.

"Slaughterer" is defined to mean any person who slaughters cattle. Since the intent of the Act is to only assess producers, slaughterers are exempted from assessment unless they purchase cattle for other than immediate slaughter. A slaughterer is the entity required by the Act to collect or deduct the total assessment on an animal and to forward such assessment to the Beef Board.

"Producer organization" or "eligible organization" means any organization, association, general farm organization, or cooperative representing cattle producers in a geographic area which has been certified eligible to make nominations to the Secretary for consideration in appointing members to the Beef Board. The Act lists criteria for use by the Secretary in certifying eligible organizations. As specified by the Act, the final determination of whether an organization is an eligible organization rests with the Secretary.

"Promotion" is defined in the Act to mean any action to advance the image or desirability of beef or beef products. This definition could include advertising, advertising services, education, exhibits, seminars, publications or any other means to advance the image or desirability of beef and beef products. It is anticipated that promotion would be substantially devoted to presenting nutritional and other educational information.

"Research" is defined to mean any type of systematic study or investigation, and/or the evaluation of any study or investigation, to advance the desirability, marketability, production, or quality of cattle, beef, and beef products. This definition does not require the evaluation of all studies or investigations undertaken pursuant to this Order, but provides that such evaluations may be made on any or all studies and investigations undertaken by the Board. The evaluation of such studies is appropriate to aid the Beef Board in determining the most effective use of funds collected under the Order.

An exception was filed to the definition of research. The exceptor stated that "this definition eliminates the need for any pretense that the research being conducted is objective in any way." Further, the exceptor opposes the use of Beef Board funds to disseminate information on the links between beef and disease or beef and health. The exceptor recommended that the Order be modified to prohibit the Board from using its authority to conduct information campaigns based on unobjective research.

The recommendation in this exception is not adopted. First, the definition of research in the Order is essentially the same as the definition of research approved by Congress and set forth in the Act. Second, the record evidence does not support the exceptor's speculation regarding the potential misuse by the Board of unobjective research data. Finally, the Department is required to monitor the program established under the Order through the review and approval of plans, projects, and the budget. Thus, should the Department ascertain that projects proposed or undertaken by the Board are not appropriate, it has the authority to deny approval of such projects. In addition, should it be determined that the Board is disseminating information which is not based on objective research, the Department would curtail such activities.

The Board may enter into contracts, with the approval of the Department for the purpose of carrying out authorized activities. The term "Contracting Party" is defined to include any person, public or private, with which the Beef Board may enter into a contract or agreement in the manner provided in the Order.

"Marketing year" means the calendar year ending on December 31 unless some other consecutive 12-month period is designated by the Board with Department approval. The hearing record reflects that the calendar year is the most appropriate period to be designated as the marketing year since most marketing statistics applicable to the Order are maintained on a calendar basis. If conditions or circumstances should change, some other 12-month period could be designated as the marketing year by the Board with the approval of the Department.

"Part" refers to 7 CFR Part 1260, containing rules, regulations, orders, supplemental orders, amendments, and similar matters concerning the amended Beef Research and Information Act. The term "subpart" is used when referring to a portion or segment of Part 1260.

(b) *Beef Board.*—A "Beef Board" is established to act as the administrative body for the Order as required in Section 8 of the Act. It is composed of producers appointed by the Secretary from nominations submitted by eligible organizations in specified geographic areas. Each member has an alternate to serve in his or her stead as necessary.

Membership.—Members of the Beef Board shall be selected to reflect the varied character of the cattle and beef industry. The Act specifies that the Beef Board shall consist of not more than 68 members. Section 8 of the Act requires that Board members and alternates be named from specified geographic areas designated to reflect, to the extent practicable, the proportion of cattle in each such geographic area. Organizations representing cattle producers normally are organized and operate on a statewide basis, although there are also regional and national organizations, often formed by an affiliation of similar State organizations. Statistics measuring cattle production are available on a State by State basis. Accordingly, to the extent practicable, a State is the geographic area used for determining representation on the Board, with each major cattle producing State entitled to at least one Board member and one alternate. The geographic areas for the initial Board and the number of Board members for each are listed in § 1260.138(e) of the Order.

January 1 inventory numbers of cattle and calves on farms, published annually by the Department of Agriculture, are generally considered the best available measure of the proportion of cattle in the various States. In determining this initial distribution of membership, a geographic area is defined as a State or combination of States with 500,000 head

of cattle or more. Each such geographic area is entitled to one Board member and alternate plus an additional member and alternate for each additional 2.5 million head of cattle. Such a formula will provide for an initial Board of 60 members. The use of this formula provides for broad, equitable representation of producers, flexibility in adjusting to possible future shifts in cattle production, and accommodation of future reapportionments without exceeding the maximum of 68 Board members. Use of this definition accomplishes the objective of providing separate representation on the Board for most States, recognizing the usual boundaries of producer organizations and the similarity of interests of producers within many States.

Important considerations in combining States which have too few cattle to qualify as a geographic area are geographic location and similarity of interests, among other factors. To the extent possible, a geographic area containing several States includes those which are contiguous and which have similar interests. The practical problems of caucusing and reaching agreement on nominations are then simplified.

An exception was received suggesting that the Beef Board be limited to 18 members. This suggestion is not adopted since the record evidence indicates that an initial Board of 60 members is necessary to provide adequate representation for producers.

It was suggested in hearing testimony that Board representation should be based on the number of producers in a geographic area rather than based on the number of cattle. This suggestion is not adopted as it conflicts with the Act.

It was proposed that only individuals who are producers would be eligible for nomination and appointment to membership on the Beef Board which would preclude some producers, such as corporate producers from serving on the Board. All producers, whether they be an individual, group of individuals, partnership, corporation, association, cooperative, or any other entity are regulated by the Order for the purpose of determining who is required to pay assessments and who is eligible to vote in any referendum held pursuant to the Act. Since all producers regardless of their form of business organization are required to pay the assessment and are eligible to vote in a referendum, it would be inconsistent to preclude any producer from membership on the Beef Board. Further, the record fails to establish any sound basis for excluding from service on the Board those producers who are not individual producers. In support of their proposal, the proponents testified that individual producers would be more responsive to the needs of other producers and would probably be more closely associated with beef producers generally. This position, however, lacks support in fact and logic. In addition, the caucus mechanism is specifically designed and included in the Order, to insure that those producers nominated to the Board are persons judged by their peers to be capable of effectively representing the interests of the other producers from their respective geographic areas. Accordingly, it has been determined that the Order should provide that the Beef Board shall be composed of producers, without regard to whether or not they are individual producers. Thus, if nominated and appointed by the Secretary, a corporate producer could serve on the Board through a duly authorized officer or other appropriate representative of the corporation. An exception was filed to the finding that corporate entities may be nominated and appointed to the Board. However, for the reasons listed above, this objection is not affirmed.

Testimony was received at the public hearing stating that the Board membership should be set at 68 members rather than up to 68 members. Establishing an initial Board of 68 members would provide no flexibility to accommodate shifts in cattle production without, for example, removing a Board member from one State in order to add a Board member to a State whose cattle production had increased. Although this could be accomplished and would likely occur in some form under any formula or method established, it could be disruptive to the functioning of the Board. It has been determined that shifts in cattle production could be more easily accommodated through the formula method which provides for an initial Board of 60 members. Finally, there is no evidence to suggest that producer representation would be enhanced by requiring 68 members. Accordingly, the proposal to establish an initial Board of 68 members has not been adopted.

An exception was filed stating that the Beef Board, as constituted in this Order, fails to represent the entire industry, and ignores the beef processors and retailers. The exceptor further states that processors and retailers should be included on the Board and required to pay their fair share for the programs from which they will benefit. Adoption of this exception would place the Order in conflict with the Act. Accordingly, it is not adopted.

Following consideration of the Act, the Congressional committee of conference submitted a conference report (Number 94–1044) which recommended that the Secretary appoint five consumer advisors to the Beef Board. In addition, several witnesses testified to the importance of consumer input. Accordingly, it is determined that the Order should provide that the Secretary shall appoint to the Board up to five non-voting consumer advisors deemed to be knowledgeable in nutrition and food. The Order further specifies that the Board may recommend to the Secretary qualified individuals to serve as consumer advisors. Although it is intended that there shall be five consumer advisors, a lesser number could serve at times if for any reason five could not be appointed. Thus, it is anticipated that the initial Board will recommend to the Secretary 10 qualified individuals to serve as consumer advisors and that the Secretary will appoint up to five advisors to the Board from the candidates submitted. However, should the Board fail to make these recommendations or in the event that the persons nominated are not qualified to serve as consumer advisors, the Secretary shall appoint up to five qualified consumer advisors from persons of his own choosing. Thus, consumer input into the actions of the Board would not be denied if the Board fails to nominate appropriate persons to serve as consumer advisors. In making recommendations to the Secretary, it is intended that the consumer representatives suggested by the Board will not be individuals affiliated with cattle producing or farm organizations. After the initial appointment of the consumer advisors, the Board shall have the opportunity to recommend to the Secretary at least two nominations for each consumer advisor vacancy which occurs.

A number of exceptions pertaining to consumer advisors were received from the Community Nutrition Institute (CNI), the organization which submitted Proposal Number 2 set forth in the proposed Order and the Notice of Hearing Location (published in the Federal Register April 23, 1979). Proposal Number 2 provided that consumer advisors be appointed to the Board, that the advisors be reimbursed for expenses, and that the advisors be paid for actual work performed. However, CNI failed to appear at any of the five public hearing sessions to testify with regard to its proposal or any provisions of the proposed Order. Thus, the record evidence that relates to the consumer advisor provision in the Order was supplied by witnesses other than the proponent of Proposal Number 2.

The exceptions filed by CNI relating to consumer advisors can be summarized as follows: that consumers ought to be voting members of the Board, and if this is not possible, that consumer advisors should have all the powers and authority to participate in Board activities and votes, except that their (the advisors) votes will be recorded but not counted; that five consumer advisors be appointed, rather than up to five; that such advisors have no direct or indirect interest in the commercial production, sale, promotion or distribution of beef, or in any food industry corporation; that the Order be modified to require that the consumer advisors be paid for actual work performed (addressed later in this decision); and that the provision authorizing consumer advisors not be included in the membership section. These points are addressed in the following paragraphs.

First, Board membership is specifically provided for in Section 8 of the Act, and although the legislative history of the Act recommends appointment of consumer advisors, there is no authority in the Act or in its legislative history for consumer representatives to be included on the Board as voting members whether their votes are counted or not. Accordingly, the Order has been drafted to provide for non-voting consumer advisors. The intent of the Order language, however, is to allow the consumer advisors to attend Board meetings as advisors to the Board and that they should be provided with sufficient information to allow them to carry out their responsibilities to consumers as well as to the Board. Further, it has been determined that details regarding the conduct of Board meetings, such as what information should be placed in the minutes thereof, could be more appropriately addressed in the Board by-laws or regulations.

Second, the purpose for allowing "up to five" advisors as opposed to requiring "five" advisors is to provide the Secretary flexibility in selecting and replacing such advisors to assure that the persons selected are qualified to exercise their responsibilities. While it is intended that there shall be five consumer advisors, the language providing for up to five advisors provides necessary flexibility.

Third, while it is important that individuals selected as consumer advisors be objective and represent consumers in a manner unaffected by bias or outside interests, the conflict of interest restrictions proposed by CNI seem to be unduly broad and might prohibit otherwise well-qualified candidates from serving as advisors.

Finally, CNI excepted to the inclusion of the provision for consumer advisors in the Membership section of the Order, because inclusion of this provision therein may be used by the Board to deny compensation to advisors. The limitation on compensation, however, is limited to Board members and alternates and is provided for in another section of the Order.

For the reasons set forth in the preceding paragraphs, CNI's exceptions concerning the makeup of the Board and the selection of consumer advisors are not adopted.

Apart from the CNI exceptions, several exceptions were filed recommending that no provision for consumer advisors be made in the Order. For the reasons previously outlined, the recommendation to eliminate the provision for consumer advisors is not adopted.

An exception was filed recommending that at least five advisors representing slaughterers be appointed to the Beef Board in as much as the Order provides for up to five consumer advisors to the Board. However, the hearing evidence fails to establish a basis for such a provision in the Order Further, the Order already contains authority for the Beef Board to establish advisory groups. Accordingly, due to the important role of slaughterers in this program, the appointment of an advisory group composed of slaughterers seems likely.

It was stated at the public hearing by some witnesses that elected Board members would be more representative of producers than appointed members. However, Section 8(b) of the Act provides that the Beef Board and its alternates shall be composed of cattle producers appointed by the Secretary. Accordingly, there is no authority to include in the Order provisions for the election of board members. The Order does provide for producer input through the caucussing of eligible organizations to nominate Board members and alternates.

Term of Office.—The term of office for Board members and their alternates is three years as provided in the Act. However, initial appointments shall be, proportionately for one, two, and three-year terms. The staggered terms for Board members will prevent the possibility of all experienced Board members leaving the Board at the same time and should help provide continuity of program efforts and program direction. The Secretary shall determine on a random basis which initial members shall serve for one, two, and three-year terms, though assuring that the terms of members from a geographic area with multiple representation expire at different times.

No person may serve more than six consecutive years as a Board member or alternate, except that members appointed to the initial Board for terms of one or two years are eligible to serve two additional consecutive terms. However, the limitation does not preclude a member or alternate from switching to the other capacity at the end of the six-year period. For example, a Board member could serve six consecutive years as a Board member, then serve as an alternate, and then serve again as a Board member for an additional six consecutive years.

Although an alternate member may serve at Board meetings in the absence of the Board member, to allow producers the greatest opportunity to designate who will represent them on the Board, the Order provides that alterenates do not automatically move from being an alternate to a Board member when a vacancy occurs.

Certification of Organizations.—Record evidence shows that there are many organizations representing cattle producers throughout the country. Although, the Department is charged with the responsibility of setting the criteria to be used in determining the eligibility of organizations to nominate members of the Board, as required by the Act, the Order includes specific criteria that must be considered in evaluating all organizations requesting certification. As required by the Act, the primary consideration in determining the eligibility of an organization is whether it represents a substantial number of producers who produce a substantial number of cattle. The Department has the final authority to make the determination if a organization is or is not eligible.

Record testimony supports the position that the bulk of the organizations which should be certified should be Statewide organizations. Statewide and regional organizations which meet the specified criteria would be eligible for certification. Organizations which represent a significant area within a State and meet the specified criteria would also be eligible for certification. It is not anticipated that county organizations would be certified since membership in a county organization generally duplicates the membership of State and regional organizations. Further, in the context of a national program, county organizations, normally, would not represent a substantial number of producers with a substantial volume of cattle production. The certification

process will be initiated by the Department through media announcements that organizations may apply for certification during a specified period. Organizations subsequently certified will be notified and asked to caucus within specific geographic areas for the purpose of submitting nominations for the Board.

The proposed Order required that following the original certification of an organization, recertification would be required at any time the organization wished to make nominations. Because this could require organizations within a geographic area with multiple representation on the Board to request recertification each year, this requirement is found to be burdensome and unnecessary. Under normal conditions, an organization's membership and purpose does not change significantly within five years, however, if the Department should have reason to suspect that an organization's status has changed it can request recertification. It is possible that organizations whose status had changed could be identified through the caucus process. Also, five years would seem to be adequate to require recertification and will not create an unnecessary burden on organizations or the Department. Accordingly, the Order provides that after the original certification of organizations, the Department will require recertification at least once every five years, and may request recertification at any time.

It was suggested in the hearing testimony that the certification section may allow the certification of an excessive number of localized organizations which would diffuse the nomination process making the selection of the best qualified candidates for Board membership difficult. It was also suggested that the criteria listed in the section did not restrict certification to those producers groups that are truly representative of producers in an entire geographic area, or to those groups whose basic policies and funding come from cattle producers. The Department is not limited to the criteria specified in the Order, and has the flexibility to establish standards to eliminate such problems if they should develop. The record does not support the conclusion that these problems will actually occur, particularly in light of the fact that the criteria for certification necessitate the evaluation of organizations against national standards to determine whether each applicant represents a substantial number of producers who produce a substantial volume of cattle.

Nominations.—Orderly procedures, determind by the Department, are established for producer organizations, associations, general farm organizations, and cooperatives within a geographic area, to submit nominations for Board members and alternates to the Department. It is essential that the nominations and appointments be completed in a timely fashion, but adequate time must be provided for producers to consider and select their nominees and for the Secretary to make the appointments. Following the certification of organizations and the caucussing of such organizations nominations shall be submitted to the Department within a time period specified by the Department.

The Order provides that at least two nominations will be provided to the Secretary for each member and each alternate member to be appointed for each geographic area. Although proponents proposed and testified that a single nomination for each position on the Board would be sufficient, it has been determined that such a requirement would not best serve the interests of producers in having the Board promptly and efficiently constituted. The record shows that unnecessary delays and costs could be incurred if the Secretary were to reject a nomination. Organizations within the affected geographic area would be forced to hold a second caucus to arrive at a substitute nomination. This could be costly and would require additional time. The Act states that the Secretary shall appoint such members and alternates. The Act also states that such appointments shall be made from nominations submitted. In this context, the term "nominations" can be read to imply that more than one person will be nominated for each member and each alternate to be appointed.

For the above reasons the Order requires that at least two nominations be obtained by the Department for each member and each alternate member to be appointed in each geographic area.

After the initial Board has been established, the Order provides that the Department shall announce within the affected geographic area or areas when a vacancy does or will exist. This should assure that the eligible organizations are notified when a vacancy on the Board exists, and thus provide the maximum opportunity for broad participation by producers in the nomination process. The Department will establish deadlines for the submission of nominations for Board members and alternates so that they will be received sufficiently in advance to permit the Secretary to appoint the members, to inform them of their appointment, and to obtain from them acceptance of such appointments before the beginning of the term of office for which they are being appointed. The submission of these nominations to the Department will be at least 60 days prior to the expiration of the terms of members and alternates previously appointed to the Board as provided in the Order.

Hearing testimony indicates that there will likely be more than one eligible organization in each geographic area. Such eligible organizations in each geographic area shall caucus to jointly nominate at least two qualified producers for each member and each alternate member to be appointed to the Board. This requirement should achieve significant unanimity in the nomination process and thus contribute to an efficient and organized nominating procedure. However, if no agreement on a joint nomination is reached, or if any organization does not agree with the nomination, such eligible organization(s) may submit nomination(s) for each position to be filled. The language in this section of the Order is modified from the proposed Order to show that no eligible organization is to be precluded from participating in the nomination process.

In addition, if there is no eligible organization certified for a geographic area or if the Department determines that a substantial number of producers are not members of, or their interests are not represented by an eligible organization, the Department as required by the Act, will provide a method for such producers to submit nominations. The record indicates that most producers are represented by producer organizations and that most organizations would likely caucus and submit nominations on a joint basis. Thus, there is no reason to conclude that the nomination process will be unduly burdened with numerous nominations as a result of these Order provisions.

Apportionment of members to the initial Board from the various geographic areas established by the Order cannot be permanent. Representation must be reviewed periodically to take into account shifts in cattle production and thus insure, as nearly as possible, fair representation on the Board for producers from all designated areas. Accordingly, the Board is required to review the distribution of membership periodically, and at least every five years. Five years is an appropriate period of time since, although inventory numbers of cattle may vary, relative cattle populations between States do not change radically

in short periods of time. Past trends in cattle numbers show that major changes in cattle numbers or shifts in production could be adequately compensated for in requiring the review of Board member distribution every five years. In the event circumstances or conditions should change dramatically before five years have elapsed, the distribution of membership could be reviewed at an earlier date. Since the Act requires that the representation of producers on the Board shall reflect, to the extent practicable, the proportion of cattle produced in each geographic area, it has been determined that it would be inappropriate to include in the Order any other criteria such as the level of cash assessments, cash receipts for cattle, and other related factors when redefining geographic areas for Board membership. To avoid, as much as possible, the unnecessary disruption of the Board's activities, changes made when redefining the geographic areas should be made at the expiration of the terms of members. Likewise, this procedure will minimize the inconvenience to Board members from geographic areas where the number of members is being reduced and will contribute to fair representation of producers.

Appointments.—As required in the Act, the Order provides that the Secretary will appoint Board members and an alternate for each member from nominations submitted. Representation on the Board will be by geographic area. Written notice of their acceptance of the appointment should be submitted to the Department promptly by member and alternate designates so that the initial Board can be fully convened without inordinate delay. This will allow replacements to be promptly appointed if, for any reason, a designated member or alternate is unable to serve after being appointed. The Order and the Act state that the Secretary shall appoint the Board members and alternates. The proponents testified that the term "select" would be more descriptive, however, the term "appoint" is a commonly used and understood term and is used to conform with the Act.

Vacancies.—The procedures used to fill unexpired terms when vacancies occur are the same as those specified for the routine nomination and appointment of members and alternates for full terms. It is important that vacancies be filled promptly in order to maintain full membership and representation on the Board so all producers will be adequately represented to provide continuity, and so there will be a minimum of disruption in the functioning of the Board. However, should a vacancy occur within 6 months of the expiration of the term of a Board member or alternate, the Secretary need not fill the vacancy. In such a case the alternate of the member will serve in his or her stead since the cost of nominating and appointing a new member cannot be justified for such a short period of time.

Alternate Members.—As required by the Act, each Board member has an alternate designated to serve in his or her place as necessary. On occasion, a Board member may find it necessary to be absent from Board meetings and in such cases his or her alternate will serve in his or her stead. Alternate members should be available to attend meetings as necessary so that the business affairs of the Board will not be impaired. Also, in the event of a vacancy on the Board for any reason, the alternate will act until a successor is appointed. This will enable the producers from the geographic area where the vacancy occurs to continue to be represented. The Beef Board may determine and assign duties to an alternate. The same criteria and procedures are used for nominating and appointing alternates as those for Board members. In the event of a vacancy, the alternate member does not automatically accede to Board membership, but nothing precludes an alternate from replacing or succeeding a member, if nominated for membership. Further, to encourage the participation of a variety of producers on the Board and thus bring in new ideas, alternates, like members, are limited to six consecutive years of service as an alternate. In the event that an alternate is appointed to the Board as a member, that alternate is permitted to serve up to two consecutive terms in that capacity, without regard to the length of time served as an alternate.

Procedure.—To insure the proper conduct of meetings, the Board should adopt bylaws governing its organization and operation. However, the method of voting in decisions of the Board and quorum requirements are specified in the Order to assure producers that these basic requirements for the conduct of a meeting are observed.

The presence of a majority of the members and alternates acting for members constitutes a quorum. While it was suggested in hearing testimony that the presence of two-thirds of the members and alternates acting for members should constitute a quorum the record fails to show the need for such a requirement. Further, it is possible that such a requirement could unduly hamper the Board's ability to meet and conduct business, particularly in light of the fact that members will be attending from all areas of the nation. In addition, it is common practice for the presence of fifty percent of the membership of corporate boards and similar organizations to constitute a quorum. On any vote taken by the Board, a majority of those present and voting must concur before any action can be taken. Finally, to encourage maximum attendance at meetings all votes cast at an assembled meeting shall be cast in person with no proxy voting permitted.

An exception was received suggesting that subsection (a) of the Procedure section be modified by adding: "* * * At assembled meetings all votes shall be cast in person and recorded (upon the motion of any voter whose vote counts. The vote of a consumer advisor shall always be recorded)." The suggestion is not adopted as a provision in the Order, since it has been determined that specific details of the Board operation such as this should be addressed in the bylaws of the Board. This approach will allow for changes in procedures due to unforseen or changed circumstances, without requiring amendment to the Order which would necessitate a producer referendum.

It is necessary that the Board adopt procedures which will assure that it operates properly and efficiently and it should schedule regular meetings. However, there may be instances when it is necessary to transact routine, noncontroversial business or take rapid action at times when it would be expensive and unnecessary to call an assembled meeting. Therefore, the Board is authorized to vote by telephone, telegraph, or other means of communication in such instances. However, to avoid any misunderstanding and to assure an accurate record of all Board actions, any such vote by telephone shall be confirmed promptly in writing. The Board shall have the authority to determine when it will be necessary to transact business without calling an assembled meeting. It was suggested in the hearing testimony that it was extremely unlikely that a situation important enough to require this type of action would occur, and that authority to transact business in this fashion should not be provided. Although the record does not indicate that such emergency type actions will be common or frequent, it is determined that important situations requiring an immediate decision of the Board may arise and that it is prudent to provide for such an occasion, therefore the suggestion to eliminate this authority is not adopted.

Compensation.—The Act requires that Board members and alternates shall serve without compensation, and that they be reimbursed for necessary and reasonable expenses incurred when in the performance of their duties under the Order. The record indicates that consumer advisors should also be reimbursed for necessary and reasonable expenses incurred when in the performance of their duties under the Order. The Board, with the approval of the Department, shall set standard procedures governing reimbursement, including the forms to be used, receipts, or other documents required, and the limits of reasonable expenses. Proposal Number 2, which was submitted to the Department by the Community Nutrition Institute, proposed that the Order require that consumer advisors to the Board be paid for actual work performed. Although the record fails to support such a provision as a requirement, there is no statutory prohibition to the payment of compensation by the Board for services of employees and contractors in connection with work performed for the Board. Accordingly, it is determined that the Order should not prohibit the payment of such compensation, but should provide the Board flexibility to exercise its authority under the contracting provision of the Order as specified in § 1260.146(e) to compensate advisors to the Board for work performed when determined to be appropriate to obtain the services of well-qualified candidates for these positions.

Exceptions were filed stating that in no circumstance should consumer advisors to the Board receive compensation beyond reimbursement for necessary and resonable expenses incurred in the performance of their duties. In contrast, an exception was filed opposing the Order's failure to require payment to consumer advisors for work performed. For the reasons previously stated, it is determined that the flexibility should exist to compensate advisors to the Board, but that compensation should not be required in the Order. Accordingly, neither suggestion is adopted.

Powers.—The Board must have the powers specified in Section 8 of the Act in order to effectively provide administrative direction to the program. The Board has the power to administer all terms and provisions of the Order and carry out the plans and programs authorized by the Act. Further, the Board is empowered to develop rules and regulations necessary for implementing and operating the program created by the Order. Such rules and regulations will be issued by the Secretary, after review and approval thereof, under the authority of the Act, published in the Code of Federal Regulations, and will have the force and effect of law. Therefore, it would be incumbent upon the Board to draft the proposed rules and regulations and submit them to the Department for review, appropriate revision, and issuance. Such rules and regulations should specify the detailed procedures under which the program would operate. They would govern the method of collecting assessments, the refund procedures, the actions to be taken to implement specific programs, the records that must be kept by slaughterers and others, and the related provisions necessary to meet the requirements of the Order.

The Board has the power to investigate alleged violations of rules and regulations issued pursuant to the Order. Procedures established for handling such violations should assure fair and equitable treatment in all instances. The Board should take all reasonable steps to settle violations and in the event that settlement cannot be reached, report violations to the Department for appropriate action. The reported violation should include the necessary facts and details of the specific violation that will allow the Department to take corrective action.

Problems may arise or conditions may change within the industry that would necessitate amendments to the Order. The Board should maintain regular surveillance of the need for amendments to the Order and recommend such amendments of the Order to the Department when it deems that such action is necessary.

Duties. The duties of the Board as set forth in the Order are necessary for fulfilling its functions as designated in the Act. These duties are similar to those specified for administrative agencies under other programs of this nature. The record justifies that such duties are necessary. The stated duties provide authority and guidance concerning many details common to the operation of an administrative entity such as the Board. They include the duty to meet and organize, elect officers, and establish committees and subcommittees of Board members as necessary to handle the affairs of the Board. An exception was filed recommending that the publication of Board bylaws and amendments in the Federal Register for comment be required. There is no hearing evidence to support the need for such a provision. Accordingly, the recommendation is not adopted.

The Board also has authority to appoint advisory groups which should be done with the approval of the Department. Such advisory groups would include persons who are not members of the Board, in order to gain added expert advice and counsel on problems, procedures, and programs. These advisory groups can act in an advisory position only; final decisions and actions are reserved to the Board; and only the Board may take action authorizing the expenditure of the funds. The Board has the authority to reimburse advisory group members for travel and other expenses arising from their assignments. Compensation of advisors is also permitted.

Additional language was proposed in hearing testimony to require that "If an officer of the Beef Board is also an office of a private beef group engaged in programs to influence Government policy, he shall disclaim such identity when speaking for the Board." The record fails to show that such an Order provision is necessary. Accordingly, the suggestion to change the Order is not adopted. However, if it is determined to be necessary, this matter could be addressed in bylaws of the Board.

The Act provides that the Beef Board shall appoint from its members an Executive Committee, consisting of seven to eleven members. Hearing testimony indicated that an Executive Committee of 11 members is necessary to effectively represent the varied interests of producers in the various geographic regions. The Beef Board shall divide the United States into six, seven, or eight regions on the basis of cattle population with the approval of the Department. The members of the Beef Board from each of these regions shall select one nominee to serve on the Executive Committee. The remaining members of the Executive Committee will be selected by the Board on an at-large basis, but in no event shall more than two members of the Executive Committee be from one geographic area. The Order specifies that initially there shall be eight geographic regions and each region will provide one member of the Executive Committee. Three members will be chosen on an at-large basis. The Act requires the Executive Committee to be broadly representative of the beef industry and it is anticipated that through the selection process this will be accomplished.

Periodic review of the regions established is not specifically provided for in the Order although this should be done at least once every five years, preferably in concert with the

realignment of geographic areas for Board membership to assure fair representation on the Executive Committee. To enable it to function more efficiently, the Beef Board shall delegate to the Executive Committee authority to employ staff members, to specify their duties and compensation, and to administer the provisions of the Order under the direction of the Board and within policies established by the Board.

An exception was received suggesting that the Executive Committee should be limited to five members and that these members should be limited to one three-year term. The exception which would limit the Executive Committee to five members can not be adopted since the Act requires that the Executive Committee be composed of seven to eleven members. The suggestion concerning the limit of one three-year term on the Executive Committee is not adopted because there is no record evidence to support it and such detail would be more appropriately considered in the bylaws of the Board.

A major duty of the Board is the development of plans and projects to implement the Order. The Board has authority under the Act to initiate contracts or agreements with other organizations to conduct program activities. So that all producers will share evenly in the benefits derived from this assessment program, the Beef Board shall endeavor to provide wide dissemination among producers of any supply, demand, or other economic information which it develops.

The proposal provided that certain information could be kept confidential when required by a contract between the Board and the contracting party which is developing such information. This provision has not been adopted however, because the record fails to established the need for such authority and because it is not found to be consistent with the policies of the Act.

Further, including such a provision in the Order could possibly have an adverse effect on producers resulting from the withholding of information developed through projects funded in whole or in part with assessments collected from producers under authority of the Act.

As required in the Act and in the Order, to assure that assessment funds are properly spent and accounted for, contractors shall be required to develop plans and projects, to outline procedures to be followed in completing the plans and projects, and to prepare a detailed budget of the estimated costs thereof, all of which shall be submitted to the Board. Further, contractors are required to keep adequate records and submit regular reports of their activities on a project showing progress made, disbursement of funds and any other relevant information required by the Board or the Department. Contracts and agreements of the Board may become effective only upon approval of the Department. In addition to contracting with others, the Board has authority to conduct program activities on its own when approved by the Department.

The Board shall prepare a budget of its anticipated income and expenses each fiscal period and submit it to the Department for approval.

The Department should specify the date for submission of the budget for approval, allowing adequate time for review prior to the beginning of the fiscal period. In addition to income and expenses, the budget statement should show program plans, the distribution of anticipated expenses for each major program category, the estimated cost for administration, and detailed justification of the plans. The Board is required by the Act to submit copies of the budget, as approved by the Department, to the House Committee on Agriculture and the Senate Committee on Agriculture and Forestry.

An exception was filed concerning the section of the Order which provides that the Board will develop and submit plans or projects to the Department for approval. The exceptor points out that the language in the Order is more general than the corresponding language in the Act. The exceptor suggests that the Order be modified to include the specific language of the Act and appropriate elaboration thereon. Although this Order language is more general than the language in the Act, all of the specific requirements of the Act are included in the Order. Accordingly, the suggestion is not adopted.

An exception was filed suggesting that the Order should authorize the Department to withdraw approval from plans or projects, temporarily or permanently, if approval would originally have been denied under occurring circumstances. However, the Department's oversight authority already applies to ongoing projects as well as to the original approval of all plans, projects, and budgets. Accordingly, the suggestion is not adopted.

An exception was filed suggesting that the publication of Board budgets and financial statements in the Federal Register for comment be required. Since there is no hearing evidence to support the need for such a provision in the Order, the suggestion is not adopted.

Other duties of the Board which are outlined in the Order are those necessary to assure that it operates in a business-like fashion. They involve requirements for maintaining records and submitting reports of activities as required by the Department, making annual reports of activities to producers and the public accounting for funds received and expended each fiscal period, and initiating an annual audit of its financial status by a certified public accountant. Further, the Board is required to give the Department the same notice of all meetings, including committee and emergency meetings, as is given Board members and to provide any other information pertaining to the Order which the Department requests.

An exception was received suggesting that reports of Board activities should be made available through the newsletters of county ASCS offices. The Order contemplates that the Board will adequately inform producers of its activities as well as providing information to consumers and other segments of the beef industry. The Order requires the Board to periodically prepare and make public and to make available to producers reports of activities carried out. Accordingly, since the Order already provides for producer information and since the record fails to show that distribution of newsletters through county ASCS offices is necessary, this suggestion is not adopted.

An exception was received recommending that the Order provide that all consumer advisors receive notice of Board meetings. As stated previously in this Decision, the record indicates that input from consumer advisors is important to many of the Board's deliberations and activities and thus, by authorizing appointment of such advisors, the Order contemplates that they will regularly be invited to attend Board meetings to advise the Board in the exercise of its responsibilities. Therefore, it is determined that amending the Order is not necessary, and the recommendation is not adopted.

Programs and projects. The Board has the authority to determine the type of research, market development, education, producer information, consumer information, promotion, and advertising projects to be undertaken, and it is charged with the responsibility of initiating and recommending to the Department the establishment of such projects as are authorized by the Act. However, it is intended that promotion and/or advertising activities should be substantially devoted to presenting nutritional or other educational

information, including the results of research conducted by the Board. While similar research and information programs for other commodities expend the bulk of funds collected on advertising activities, hearing testimony suggests that a substantial share of funds collected under a Beef Research and Information Order could be effectively used in research activities and it is expected that a significant portion of the funds would be used to fund research.

An exception was received recommending that the Order be modified to provide that 80 percent of the Board's non-administrative budget be applied to the research function. Although, a number of witnesses testified as to the importance of research in various areas which supports the expectation that a significant portion of the Board's budget will be applied to research, the hearing evidence does not support a provision which would require that 80 percent of the Board's non-administrative budget be allocated to research. Accordingly, the recommendation is not adopted.

The proposal also provided for plans and projects including "public relations," however, it has been determined that the use of the term "public relations" in the Order is not appropriate. Accordingly, this language has not been adopted. The plans and projects should be designed to assist, improve, or promote the production, sale, marketing, processing, distribution, and utilization of cattle, beef, and beef products. The Order is broad and flexible to enable the Board with the approval of the Department, to use the most efficient and effective methods of carrying out the purposes of the Act. Finally, since the program under the Order is to be financed by producers in all parts of the nation, the Board shall place emphasis on developing a coordinated national program, with activities designed to compliment the efforts of local, State, and regional groups, organizations, or agencies which are currently engaged in research and promotion activities.

The Board has the authority under the Act to engage in programs designed to expand sales in foreign markets for cattle, beef, and beef products. This area of activity should include steps to increase sales to present overseas customers as well as to develop new outlets and tailor products to their needs.

Programs or projects conducted by the Board shall be periodically reviewed to determine if each such program or project contributes to an effective and coordinated program of research, information, education, and promotion. Such review should also determine if the goals and objectives of the program or project are being accomplished and whether the expenditure of funds is still justified. Upon such review the Board shall terminate any program or project which it determines does not further the purposes of the Act.

As specified in the Act, the Order provides that no advertising or promotion shall make any reference to private brand names of cattle, beef, or beef products in order to avoid discrimination. The Board represents all interests in the industry and therefore must be fair to all segments and elements of the cattle industry. Prohibition of the use of false or misleading claims on behalf of cattle, beef, or beef products or false or misleading statements with respect to the attributes or uses of competing products is also necessary for proper administration of the Order.

An exception was filed stating that the Order provision prohibiting the use of false or misleading claims in advertising, consumer education, or sales promotion is inadequate to prevent the Board from disseminating biased research results to trade associations and other industry groups for use as objective scientific data. As previously discussed in this decision, however, the record contains no evidence to suggest that the Board's research projects will not be objective or that the Department's oversight of the Board's research projects will be inadequate. Accordingly, this exception is rejected.

The record shows that an ample and stable supply of beef for consumers is clearly in the public interest. Maintenance and expansion of existing markets and the development of new markets, both at home and abroad, are essential if the cattle industry is to be healthy enough to supply the needs of consumers. Therefore, the Order provides the necessary authorizations for research designed to accomplish this objective. The Board is authorized to undertake production research, marketing research, product development, and other research designed to improve efficiency throughout the production and marketing chain from the earliest stages of production up to the time the product reaches the consumer. The results of such research and other factual information developed or discovered thereby should be disseminated to both producers and consumers to the extent practicable. Such research may be performed directly by the Board or through contracts with public and private research and development agencies which are capable of performing the work needed.

(d) *State beef councils.* Section 16 of the Act states that nothing in the Act shall be construed to preempt or interfere with the workings of any beef board, beef council, or other beef promotion entity organized and operating within and by authority of any of the several States. The stated purpose of the Act is to enable the development of an effective and continuous program of research, consumer information, producer information, and promotion designed to strengthen the cattle and beef industry's position in the market place. A new national program for cattle and beef may be aided through a coordinated research and information program with existing State programs.

Record evidence shows that 28 States have programs similar to the national program which would be established under this Order. Also, there is a national effort of a similar nature, currently operating on a voluntary basis, conducted by industry interests through the National Livestock and Meat Board. A portion of the funds collected in connection with several of the State programs presently is being forwarded to the National Livestock and Meat Board. State programs differ widely in several characteristics, but especially with respect to the basis for the assessments, the assessment rate, the method of collection, the mandate under which the State programs operate, the availability of refunds, and the composition of the administrative body of the program.

Many of the representatives of State beef research and promotion organizations, currently being funded through check-off funds, that testified at the hearing stated that the implementation of this Order would probably curtail their present source of funding because cattle producers would resist paying an assessment for both a State and a national program. Thus, the record reflects that the continued existence of some State programs would depend on this Order to provide the funding necessary to support their work. The record further shows that in some aspects the national program authorized under the Act can achieve its obligations through participation in a coordinated, cooperative effort with many of the State programs currently operating for the benefit of beef producers. Such an approach could provide continuity with ongoing State programs, minimize duplication of effort, encourage uniformity and assure that

the total effort was directed toward common goals.

However, the Board will be expected to continually analyze the results of cooperative relationships with the various State organizations and select the most effective approach in each case.

Record evidence supports the inclusion of a provision in the Order which permits the Beef Board, upon approval by the Department, to annually allocate to qualified State beef promotion entities either (1) up to ten percent of net assessments paid by producers in a State, or (2) up to an amount equal to the State beef promotion entity's collections for the 12 months preceding approval of the Order. It was suggested in hearing testimony that instead of basing the maximum potential allocation on the amount collected by a State beef promotion entity during the 12 months preceding the approval of the Order, that the calculation should take into consideration a longer period, such as three years, because most States would be experiencing a decline in revenue in the 12-month period preceding the referendum due to declining cattle sales. Although it is recognized that some States may feel that the most recent 12-month period is not an objective criteria for the calculation, it does not appear that any other period would be more representative for all States concerned when considering such factors as recently increased assessment rates, and increased or decreased participation of producers in the various State programs. Accordingly, this suggestion is not adopted.

The Order does not guarantee that the Beef Board will automatically provide funds to State beef promotion entities simply upon request. The State beef promotion entities must first meet specified qualifications to receive such funds. Further, the Beef Board's authorization is to allocate up to a maximum level as provided in the formula. To qualify to receive any amount of funding from the Beef Board a State beef promotion entity shall be organized pursuant to legislative authority within the State or be organized pursuant to State charter, and must demonstrate an ability to provide research, information, education, or promotion consistent with the Act and this Order. Since funding more than one beef promotion entity in a State would not contribute to a coordinated national program, in no event shall more than one such entity qualify within a State. Further, as required by the Act, each State promotion entity shall submit to the Board specific plans or projects together with a budget or budgets showing the estimated costs of the plans or projects. A State beef promotion entity shall keep accurate records of its activities, make periodic reports to the Board of activities carried out, and shall account for funds received and expended as required by the Act. In addition such plans or projects shall address the defined objectives of the Board in that funds will be used for advertising, promotion, education, producer information, consumer information, research, market development, and studies with respect to the production, sale, processing, distribution, marketing, or utilization of cattle, beef, and beef products and the creation of new beef products. It is not anticipated that funds allocated to a State beef promotion entity would be used to fund programs which are national in scope and would be more appropriately funded in a direct manner by the Beef Board, through, for example, contributions to the National Livestock and Meat Board. State programs must be consistent with the goals and objectives of the national program.

To provide for continuity during the first year of the program's existence, the Beef Board may estimate the net assessments from a State to calculate the appropriate level of funding for a qualifying State beef promotion entity under the percentage formula of allocation. In making this estimate of net assessments, the Beef Board may rely upon the data reflecting the cash receipts from the sale of cattle by producers in each State, published by the U.S. Department of Agriculture. This data will probably provide the best available estimate of total assessments obtained from each State. The proposal contained an explanation of how net assessments from a State are to be determined. Since it has been determined that this matter can be more appropriately addressed in the rules and regulations, and since the record does not establish that such a provision is essential to the Order, the proposed language has not been adopted.

(e) *Assessments, refunds, expenses.* The Act provides that funding for activities under this Order shall be acquired from assessments levied on producers of cattle, which will be collected from producer-sellers by producer-buyers and slaughterers, and that the slaughterers shall remit the assessments to the Board. As required by the Act, assessments levied on producers are based on the value of cattle at the time of sale, normally the sale price. In order for each producer to pay his or her fair share of the assessment on cattle which change ownership two or more times, a value-added procedure has been employed. Although the producer is obligated to pay the total assessment due on the animal at the time of sale, based on its current value, including all amounts collected from previous owners, the producer would actually be contributing from his or her own pocket only an amount based on the value he or she added to the animal.

Although the rate of assessment will be established by the Board, subject to approval by the Department, it is limited by statute to a maximum of one-half of one percent of the value of the cattle sold. The Order establishes that the initial assessment level shall not exceed a rate of two-tenths of one percent of the value of cattle sold. An assessment level of two-tenths of one percent should provide sufficient funds to carryout the policy and purposes of the Act, initially, while not creating an undue burden on producers. Section 1260.162 of the Order further specifies that the two-tenths of one percent level may not be exceeded during the first two years assessments are collected.

Proponents indicated that the maximum authorized assessment level of five-tenths of one percent could be used effectively in an ongoing program. In considering the long-term needs of the beef industry for beef research and information activities, at some point in the future increasing the assessment to the maximum level of five-tenths of one percent may be justified. However, it is determined that the two-tenths of one percent level will be sufficient to initiate a number of beneficial programs for the industry but will not result in such a large deduction as to unduly burden beef producers. Since initially the Board will be involved in organizing and in seeking proposals for the types of projects to initiate, it is determined that the funding generated by the maximum initial assessment level, approximately $40 million annually, will be sufficient.

An exception was received suggesting that the discretion to raise the assessment rate above the initial two-tenths of one percent level should be eliminated. However, the suggestion is not adopted since the hearing record supports the need to retain the flexibility to increase the assessment rate up to the five-tenths of one percent permitted by the Act at a future date if conditions warrant and an increase is recommended by the Board and approved by the Department.

The cattle industry includes numerous classes of producers, such as dairy cattle producers, purebred or breeding

stock producers, cow-calf producers, stocker-growers, traders, and cattle feeders. Each represents a segment of the industry or a stage in the production process. Most cattle slaughtered are owned by at least two producers prior to slaughter and some change hands several times.

The evidence indicates that for all producers to pay their fair share of assessments, each producer should pay an assessment based on the increase in value of cattle under his or her ownership. More specifically, this value-added concept operates as follows: Assuming an assessment rate of two-tenths of one percent of the sale price, a cow-calf producer who sells a calf to a stocker-grower for $400 would be assessed two-tenths of one percent of the sales price or $.80. The cow-calf producer could pay the stocker-grower $.80 or the stocker-grower could deduct $.80 from the $400 sales price and pay the cow-calf producer $399.20 rather than $400. In either case, the cow-calf producer would have paid an assessment based on the value added to the animal during his or her ownership. If the stocker-grower sold the animal to a cattle feeder for $600, the stocker-grower would either pay the feeder two-tenths of one percent of the sales price ($1.20) or the feeder would deduct $1.20 from the $600 sales price and pay the stocker-grower $598.80. In either case, the $1.20 assessment would include the $.80 from the $400 increase in value during the cow-calf producer's period of ownership (collected from the cow-calf producer when the stocker-grower purchased the animal) and $.40 from the $200 increase in value during the stocker-grower's period of ownership. If the feeder later sells the animal to a slaughterer for $800, the feeder would pay to the slaughterer or the slaughterer would deduct from the feeder's check, two-tenths of one percent of the sales value or $1.60. The slaughterer would forward the $1.60 to the Beef Board. Each of the producers would have contributed a fair share of the total assessment based on the value added during that producer's period of ownership—$.80 from the cow-calf producer and $.40 each from the stocker-grower and the feeder.

Most cattle increase in value rather consistently from birth to slaughter. Thus, under the value-added system of assessments, the final assessment remitted to the Beef Board by the slaughterer will exceed any previous assessment for the bulk of all cattle slaughtered. However, if the value of cattle involved in a sales transaction declines during a producer's period of ownership, the total assessment paid by previous producers would not be passed on in the normal manner established under this value-added procedure. A decline in value could be due to factors such as death, weight loss, or decline in market price.

Section 8(e) of the Act authorizes the Board to collect assessments not passed along in the normal manner. Detailed procedures for the collection of assessments under such circumstances should be provided in the rules and regulations.

If no sales transaction occurs at the point of slaughter or other transfer, the Act requires that a fair commercial market value shall be attributed to the cattle for purposes of determining the assessment. For example, packer-owned cattle from feedlots will be assessed at the point of slaughter based on market prices of similar cattle. Cattle traded for other cattle or for merchandise also would be assessed based on commercial market value. Similarly, cattle which are custom slaughtered for home consumption would be assigned a fair commercial market value for assessment purposes. However, cattle slaughtered for an individual's own home consumption are exempt from the assessment if the individual has owned the animal from birth to slaughter as provided for in the Act.

Recognizing that many cattle achieve a much higher value for breeding or other purposes such as milk production, than their slaughter value and that the full assessment associated with this high value would not automatically be passed along under the value-added system because the animal's value would be decreasing from its peak productive value, Congress provided in the Act that the Beef Board could exempt from or vary the assessments on transactions involving such animals. The record indicates that while many breeding animals would be sold for a significant premium in the marketplace, other breeding animals would be sold at or near the commercial market value for slaughter cattle. In addition, the hearing record indicates that exempting from assessment certain breeding animals, until sold for slaughter, which have a significantly higher value for breeding or milk production purposes than for slaughter, appears to be the most workable method of assessing such cattle. Accordingly, the Order specifies that the Beef Board shall, to the extent practical, exempt such cattle from assessment until sold for slaughter.

The proponents proposed that breeding cattle and cattle kept for commercial milk production be exempted from assessment when these animals were validly designated as breeding cattle or as cattle to be used for commercial milk production by the producer-seller. Since the proponents failed to adequately support the need for and workability of such language, the proposal is not adopted. Since the hearing record suggests that the detailed language proposed by proponents concerning the valid designation of breeding animals by producer-sellers could create inequities, it is determined that details of this nature would be more appropriately delineated in the rules and regulations.

By placing procedures of this type in the rules and regulations instead of the Order, another referendum would not be required if such a provision included in the Order proved to be unworkable. In the unlikely event that no exemption procedure proves to be workable, the evidence suggests that the assessment for "high valued" cattle could be based on the fair commercial market value at the time of sale. (The fair commercial market value in the slaughter market chain would likely be the slaughter value for mature breeding animals. However, for younger animals, especially when grain prices are relatively low, the highest commercial market value in the slaughter market chain could be the value as a feeder animal rather than as a slaughter animal.)

The Act requires slaughterers to collect and remit assessments to the Board, including assessments due at time of slaughter on cattle of their own production, in accordance with regulations. Assessments due on cattle slaughtered must be paid to the Board regardless of whether the assessment has been collected from the producer. Similarly, throughout the production chain, collection or deduction of assessments with transfer of ownership will be self-enforcing, since a producer-buyer who fails to collect the assessment on a transaction will be obligated to pay, as a producer-seller, an assessment based on the total commercial value of the transaction rather than only the assessment based on the value added during his or her ownership. In all transactions in which a slaughterer or producer-buyer has collected or deducted an assessment from a producer, the producer-seller should be given a receipt showing the amount deducted or collected.

An exception was received objecting to the requirement that would make the packer or slaughterer an involuntary collection agency subject to legal action by the Department to enforce payment of the assessments to the Board. The

Act, however, specifically requires slaughterers to collect and remit assessments to the Beef Board. Further, the record establishes that there are a large number of producers, as compared to slaughterers, and that the slaughterer is normally the final point in the cattle marketing chain. Since the Order allows slaughterers to deduct the assessments from the producers and since it is impractical, in most instances, to expect the Board to search out the individual producers and demand payment directly from them, in the event that a particular slaughterer fails to collect the assessments; there is no basis to limit legal enforcement against slaughterers to those instances when assessments have been collected, but not remitted to the Board. For these reasons, this exception is denied.

The proponents proposed that the Beef Board be authorized to prescribe a standard statement for bills of sale and invoices which would make such documents conclusive evidence that the assessments have been paid. Proponents testified that under such a provision, a statement could be prescribed for bills of sale at a public market which could read as follows: "In this transaction two-tenths of one percent was taken into consideration for the Beef Board assessment." They further explain that all buyers and sellers would be advised of this procedure by public notices. This procedure would reduce the paperwork requirement resulting from the assessment for public markets since a statement that the assessment was taken into consideration would be stamped on the bill of sale and the amount of the assessment would not be calculated. If this procedure were used the producer-seller could present the bill of sale or, if appropriate, bills of sale which included the appropriate stamped wording, to the Beef Board when requesting a refund and the Beef Board would determine the amount of refund due. However, while theoretically the selling price might be reduced by an amount equivalent to the assessment, due to all potential buyers knowing that they would be liable for the full assessment when selling the animal at a later date, a question would arise as to whether the producer actually paid the assessment. Further, the producer would not be aware of the amount of assessment for which he or she is responsible. In order to have producer support it is necessary for the producer to be clearly aware of his or her involvement. Therefore, the proposed provision to authorize a standard statement for bills of sale and invoices is not adopted.

The Beef Board is authorized to set aside funds in an operating reserve and to budget for such a reserve. The record reflects that such a reserve will be necessary to counter fluctuations in assessment income due to varying refund levels and to provide the Board with flexibility to meet unexpected obligations or to take advantage of opportunities that arise on short notice or were not anticipated in the annual budget. Without available funds the Board might be forced to pass up projects of great benefit to beef producers. The amount of the reserve fund will be determined by the Board with the approval of the Department. However, since it is not the intent of the Act to allow the Board to amass substantial cash holdings it has been determined that the reserve fund should not exceed approximately the average yearly collections of the Board. This limitation should permit flexibility in establishing a reasonable reserve without diverting excessive amounts of money from use in program activities.

Refunds.—The Order provides for refunds of assessments paid as required by the Act. Any producer against whose cattle an assessment is made and collected from him or her shall have the right to receive a refund of such assessment from the Beef Board. However, no producer may receive a refund of the portion of the assessment which he or she collected from other producers. More specifically, each producer is entitled to a refund only for the amount of assessment he or she paid on the increased value of the cattle during his or her period of ownership of such cattle. Regulations will be issued controlling the method of obtaining a refund, including a requirement of proof that the producer-seller paid the assessment for which the refund is claimed.

An exception was filed which objected to allowing the Beef Board to develop and issue regulations pertaining to producer refunds and stating that refund procedures should be clearly delineated in the Order. However, the hearing record indicates that initial drafting and development of fair and adequate refund procedures, sufficiently detailed to allow the efficient processing of valid refund requests, as well as the detection of false requests, is a task for which the Beef Board, with its expertise, would be best suited. It should be pointed out, however, that the Department will publish the proposed regulations, solicit public comments, and issue the final regulations after consideration of the comments received. If the refund procedures were delineated in the Order and a situation should arise where these procedures would need to be altered or further specified, it would require an amendment to the Order which would necessitate a producer referendum. Accordingly, the suggestion to fully delineate the refund procedure in the Order is not adopted.

The Act requires that a refund request must be submitted within 60 days after the end of the month in which the transaction occurred. The proponents proposed that refunds shall be made within 60 days after the submission of proof satisfactory to the Board that the producer-seller paid the assessment for which refund is sought. Such a provision could very well result in the passage of more than 60 days from the Board's receipt of the refund demand before payment, if for any reason the Board was not satisfied with the proof submitted in support of the refund within such period of time. However, the result would be inconsistent with the requirements of the Act which state that all refunds shall be made by the Board within 60 days after demand is received therefor. Further, the record fails to demonstrate that more than 60 days should ever be nesessary for the Board to collect and evaluate evidence in support of a refund demand. It is expected that specific regulations will be issued setting forth the refund procedures and notifying potential refunders what evidence they must submit to support their refund demands. It is not intended that an undue amount of paperwork be required for a producer to receive a refund, but only that sufficient information be provided to ascertain that the producer paid the assessment and is entitled to the refund requested. Accordingly, the proposed language is not adopted.

Finally, although, it is stated in the Order that such refund shall be made by the Board within a maximum of 60 days after receipt of demand, the Board should strive to provide such refunds as promptly as possible.

No producer shall claim or receive a refund of any portion of an assessment which he or she collected from other producers. The refund provisions is essential to the voluntary concept of the Order, in that no producer is forced to financially support the Order if he or she does not favor it. The Board should make refund forms readily available to producers. Each producer who asks for a refund must individually request it, i.e., he or she must submit the refund request. Marketing agencies, cooperatives, brokers, or others shall not be allowed to request refunds on behalf of producers.

The success of a national check-off program in an industry as large and diverse as the beef industry will depend on an efficient and effective collection procedure with a reasonable number of collection points that are made responsible for remitting the assessments to the Board. Since it is impractical to expect that the Board could collect the assessments from each producer individually, and since each slaughterer has the opportunity to deduct the assessment at the time the cattle are purchased for slaughter, the Order provides that failure of a slaughterer to collect an assessment does not relieve the slaughterer of his or her obligation to remit an amount equal to the assessment to the Board. Since only producers are eligible to receive refunds under the Act, a slaughterer would not be eligible to receive a refund of such payments. But a slaughterer who is also a producer and has paid the assessment as a producer is entitled to request and receive a refund of such assessment.

There were several exceptions received that raised objections to the requirement that producer-sellers not wishing to support the program must first pay an assessment and then request a refund, and to the requirement that all refund requests be made within 60 days after the end of the month in which the transaction occurred. Further, one exceptor charged that the refund process is intended to discourage producers from seeking refunds. As presently drafted, however, the Order provides the maximum latitude in filing for and receiving refunds allowed by the Statute. Specifically, the Act requires all producers who sell cattle to pay the established assessment. The Act also provides that any producer who has paid an assessment is entitled to receive a refund of the assessment upon proof of payment, however, the Act limits the time for filing such requests to the 60 day period referred to above. These provisions of the Act cannot be changed by the Order and, thus, these exceptions cannot be adopted. Finally, it is not the intent of the Order to discourage producers from seeking refunds, but, rather, to provide some protection to all producers that only valid refunds will be paid. As previously stated, the detailed procedures for making refunds will be included in the regulations and all producers will be afforded an opportunity to comment on the proposed regulations.

Influencing government action.—In accordance with the Act, the Order states that no funds collected by the Board shall be used for influencing government policy except for recommending amendments to the Order. The adopted provision in the Order clarifies the proposal submitted by the proponents to specifically state that the only exception to the prohibition against influencing governmental policy is that the Board may propose amendments to the Order.

Some exceptions recommended that specific uses of funds to influence governmental policy directly or indirectly be explicitly prohibited. It is determined, however, that all such uses including political contributions, advocating or opposing amendments to the Act, or persuading producers to exert political influence are already prohibited by the comprehensive, general language of the Order. Therefore, the suggested change is unnecessary and is not incorporated herein.

Expenses.—Board expenses shall be paid from assessments received and any other funds which accrue to the Board. The Board may incur expenses which are found by the Department to be reasonable for the functioning and maintenance of the Board and necessary for the Board to exercise its powers and duties.

The Act provides that included in the expenses of the Board will be a reimbursement to the Department for such expenses, excluding salaries, as the Department determines were incurred by the Government in preparation of an original Order and for the conduct to the referendum.

The Act also requires that, after the Order becomes effective, all administrative costs, including salaries, which the Department determines were incurred by the Government under the Order shall be reimbursed by the Beef Board. Therefore, it is determined that this reimbursement would begin when the Order becomes effective upon publication in the Federal Register following approval of the Order by a majority of those producers voting in a referendum.

(f) *Records and reports.*—As authorized by the Act, the Order provides that slaughterers shall keep records and make such reports as necessary for the effectuation, administration, and enforcement of the Act, the Order, and regulations issued pursuant to the Order. The Order provides that regulations may be established requiring slaughterers to keep necessary books and records and to report to the Board periodically as the Board determines is necessary. However, it is intended that requirements imposed upon slaughterers will be held to the minimum necessary for effective administration of the program. Details on the information needed in records and reports and the frequency and timing of reports are to be established by the Board, with the approval of the Department, and shown in the regulations.

An exception was received objecting to the imposition of reporting requirements on all slaughterers on the basis that there are different classes of slaughterers that should be exempt from such procedures. However, the provision in the Act authorizing a section in the Order or in the regulations requiring reports by slaughterers does not authorize such distinctions between slaughterers. Furthermore, reports from all slaughterers may be necessary to verify producer assessments for refund verification purposes. Finally, to the extent that the Order mandates the filing of reports by slaughterers, it has been determined that the content of such reports would be more appropriately specified in the regulations. Therefore, this suggestion is not adopted.

All books and records required under the regulations must be made available by slaughterers as required by the Act, for inspection by representatives of the Board or the Department as necessary to verify reports on assessments made and forwarded to the Board. These records are to be retained at least two years beyond the marketing year of their applicability. Such a time period is necessary to permit the completion of authorized audits, investigations, or other actions that may be necessary in administering and enforcing the provisions of the Order and the Act.

Representatives of the Board or the Department, while acting in their official capacities, on occasion may have access to records and accounts of slaughterers, which may reveal trade secrets. The Act requires that the confidential nature of such business records be protected. Therefore, the Order provides that information obtained from books, records, and reports required of slaughterers, and information about refunds made to producers, shall be kept confidential by the Board and by employees of the Board, and of the Department of Agriculture. Since work involving information of this type would be performed by certain staff members of the Board, it is anticipated that only in unusual situations would it be necessary for other staff members or Board members to be provided with such information and then only on a need-to-know basis after consultation with the Department. Also, any such information which becomes available to

contracting parties should be kept confidential by officers and employees of such parties. However, the only exception to the confidentiality requirements is the Secretary's authority to permit disclosure of such information in connection with a suit or administrative hearing relevant to the Order brought at the direction, or upon the request, of the Secretary of Agriculture, or to which any officer of the United States is a party.

An exception recommended limiting the Board's access to slaughterer's books and records to only those necessary to assure proper handling of assessments. However, the Order already protects slaughterer's information and records. The Board may only require slaughterers to reveal such information that is necessary to administer, enforce and otherwise effectively carry out the provisions of the Order and the regulations. Furthermore, it is intended that only those persons who need to know the information contained in such books and records to fulfill their authorized function shall have access to such documents or information. Accordingly, the exception is not adopted.

It is recognized in the Act that some information about the program may be of interest and benefit to the general public. Accordingly, the Order does not prohibit (1) the issuance of general statements concerning the number of persons subject to the Order or statistical data collected which do not identify the information furnished by any person; (2) the publication, as approved by the Secretary of general statements relating to refunds made by the Beef Board which do not identify any person to whom a refund is made; or (3) the publication by direction of the Secretary of the name of any person violating the Order, together with a statement of the provisions of the Order violated.

An exception was filed recommending monthly publication through county ASCS offices of the number and amount of refunds requested and granted. While the Order provides that information pertaining to producer refunds shall be confidential, primarily to assure that those persons requesting refunds are not subject to pressure discouraging them from requesting refunds, the Order does permit the publication of general statements relating to refunds which do not identify any person to whom refunds are made. However, the record evidence does not support a need for an Order provision requiring a particular schedule or means for publication of such information. Therefore, the suggestion is not adopted.

(g) *Other terms and conditions.*—The Order provides that any patents, copyrights, inventions; or publications developed through the use of funds collected under this Order shall become the property of the Government as represented by the Beef Board, and shall, along with any income from such items, inure to the benefit of the cattle industry. Hearing testimony indicated that this provision may make it difficult for some institutions to contract with the Board because, it may conflict with their procedures in cases of shared funding, i.e., when the Board does not provide 100% of the funding. The witnesses did not, however, develop satisfactorily the extent of these potential conflicts or establish that already existing programs of this nature have experienced such problems on a significant level. Accordingly, this Order provision has been adopted as proposed.

An exception was received suggesting that additional safeguards be incorporated in the Order to prevent suppression of patents and copyrights if small beef producers, other commodity producers, or consumers are adversely affected. It is determined that adequate safeguards against such situations already exist through the Department's role of monitoring the program and that such a provision would not be necessary. Accordingly, the suggestion is not adopted.

The record shows a need for several other miscellaneous terms and conditions as shown in §§ 1260.182 through 1260.187 of the Order. Each section sets forth certain rights, obligations, privileges, or procedures which are necessary and appropriate for the effective operation of the Order. These provisions are incidental to, and not inconsistent with, the terms and conditions of the Act, are necessary to effectuate the other provisions of the Order, and are supported by the record evidence.

Some exceptions recommended changes in the suspension and termination provisions in the Order. The suggested changes to the required volume of cattle produced by those voting in a suspension or termination referendum and to the separability of the section itself conflict with the Act which sets forth referendum requirements and provides for the possible suspension or termination of any provision in the Order. Accordingly, these suggestions are not adopted.

Rulings on Briefs, Proposed Findings, and Conclusions

At the close of the hearing, the Administrative Law Judge fixed July 31, 1979, as the final date for interested parties to file briefs, proposed findings, and conclusions based on the evidence received at the hearing. In response to a request for additional time from the National Farmers Union, the Administrative Law Judge extended the time for filing proposed findings of fact and briefs until August 15, 1979. Briefs were filed on behalf of the following parties: Merlyn Lokensgard, President, Minnesota Farm Bureau Federation, St. Paul, Minnesota; Wayne James, Executive Director, Southwestern Meat Packers Association, Arlington, Texas; Michael R. McLeod and O. R. Armstrong, attorneys, Beeferendum Advisory Group, Washington, D.C.; Reist R. Mummau, Farmville, Virginia; Robert J. Mullins, Assistant Director of Legislative Services, National Farmers Union, Washington, D.C.; and Richard Ekstrum, President, South Dakota Farm Bureau.

Several of the briefs reiterated points made by witnesses at the hearing. The points in each of the briefs were carefully considered along with the record evidence received at the hearing in making the findings and conclusions set forth herein. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions as set forth herein, requests to make such findings or reach such conclusions are denied.

Rulings on Exceptions

In arriving at the findings and conclusions of this decision, all exceptions to the recommended decision were carefully and fully considered in conjunction with the other record evidence. To the extent that the findings and conclusions are at variance with any of the exceptions, such exceptions are overruled.

General Findings

On the basis of the evidence presented at the hearing and the record thereof, it is found that:

1. The Beef Research and Information Order and all of the terms and conditions thereof as hereinafter set forth will tend to effectuate the declared policy of the Act; and

2. The following terms and conditions of the Order are an appropriate detailed means of carrying out the declared policy of the Act with respect to the development of effective, continuous, and coordinated programs of research,

consumer information, producer information, and promotion for cattle, beef, and beef products with adequate financing through assessments on the sales of cattle.

Beef Research and Information Order

It is concluded that the detailed and appropriate means of effectuating the foregoing conclusions is the Beef Research and Information Order which follows. However, this Order shall not become effective unless approved in a producer referendum as provided in Section 9 of the Act and in § 1260.17 of the Rules of Practice and Procedure Governing Proceedings to Formulate an Order (7 CFR 1260).

If approved in a referendum of producers, a new subpart would be added to Part 1260 of Title 7, Code of Federal Regulations, as follows:

PART 1260—BEEF RESEARCH AND INFORMATION

Subpart—Beef Research and Information Order

Definitions

Sec.
1260.101 Secretary.
1260.102 Department.
1260.103 Act.
1260.104 Person.
1260.105 Cattle.
1260.106 Beef.
1260.107 Beef products.
1260.108 Fiscal period.
1260.109 Beef Board or Board.
1260.110 Executive Committee.
1260.111 Producer.
1260.112 Producer-buyer.
1260.113 Producer-seller.
1260.114 Slaughterer.
1260.115 United States.
1260.116 Marketing.
1260.117 Commerce.
1260.118 Producer organization or eligible organization.
1260.119 Producer information.
1260.120 Consumer information.
1260.121 Promotion.
1260.122 Research.
1260.123 Transaction.
1260.124 Contracting party.
1260.125 Marketing year.
1260.126 Part and subpart.

Beef Board

1260.136 Establishment and membership.
1260.137 Term of office.
1260.138 Nominations.
1260.139 Appointment of members and alternates.
1260.140 Acceptance.
1260.141 Vacancies.
1260.142 Alternate members.
1260.143 Procedure.
1260.144 Compensation and reimbursement.
1260.145 Powers of the Board.
1260.146 Duties of the Board.

Research, Information, Education, and Promotion

1260.151 Research, information, education, and promotion.

State Beef Councils

1260.156 Continuity.
1260.157 Qualifications.

Expenses and Assessments

1260.161 Expenses.
1260.162 Assessments.
1260.163 Producer refunds.
1260.164 Influencing governmental action.

Reports, Books, and Records

1260.171 Reports.
1260.172 Books and records.
1260.173 Confidential treatment.

Certification of Organizations

1260.176 Certification of organizations.

Miscellaneous

1260.181 Patents, copyrights, inventions, and publications.
1260.182 Suspension and termination.
1260.183 Proceedings after termination.
1260.184 Effect of termination or amendment.
1260.185 Amendments.
1260.186 Personal liability.
1260.187 Separability.

Authority: Beef Research and Information Act (7 U.S.C. 2901 *et seq.*).

Definitions

§ 1260.101 Secretary.

"Secretary" means the Secretary of Agriculture or any other officer or employee of the Department of Agriculture to whom there has heretofore been delegated, or to whom there may hereafter be delegated the authority to act in his stead.

§ 1260.102 Department.

"Department" means the United States Department of Agriculture, the Secretary of Agriculture or any officer or employee of the Department of Agriculture who has been delegated or may be delegated the authority to act for the Department of Agriculture on a particular matter under this subpart.

§ 1260.103 Act.

"Act" means the Beef Research and Information Act (7 U.S.C. 2901 *et seq.*) and any amendments thereto.

§ 1260.104 Person.

"Person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity.

§ 1260.105 Cattle.

"Cattle" means live domesticated bovine quadrapeds.

§ 1260.106 Beef.

"Beef" means the flesh of cattle.

§ 1260.107 Beef products.

"Beef products" means products produced in whole or in part from cattle, exclusive of milk and products made therefrom.

§ 1260.108 Fiscal period.

"Fiscal period" is the 12-month budgetary period and means the USDA's fiscal year unless the Beef Board, with the approval of the Department, selects some other 12-month period.

§ 1260.109 Beef Board or Board.

"Beef Board" or "Board" or other designatory term adopted by such Board means the administrative body established pursuant to § 1260.136.

§ 1260.110 Executive Committee.

"Executive Committee" means those members of the Beef Board, eleven in number, who are elected by the Board to administer the provisions of the subpart under the supervision of the Board and within the policies determined by the Board.

§ 1260.111 Producer.

"Producer" means any person who owns or acquires ownership of cattle other than one who acquires cattle solely for the purpose of slaughter: *Provided,* That a person shall not be considered to be a producer if his or her only share in the proceeds of a sale of cattle or beef is a sales commission, handling fee, or other service fee.

§ 1260.112 Producer-buyer.

"Producer-buyer" means a producer who buys cattle.

§ 1260.113 Producer-seller.

"Producer-seller" means a producer who sells cattle.

§ 1260.114 Slaughterer.

"Slaughterer" means any person who slaughters cattle including cattle of his or her own production.

§ 1260.115 United States.

"United States" means the 50 States of the United States of America and the District of Columbia.

§ 1260.116 Marketing.

"Marketing" means the sale or any other disposition of cattle, beef or beef products in any channel of commerce.

§ 1260.117 Commerce.

"Commerce" means interstate, foreign, or intrastate commerce.

§ 1260.118 Producer organization or eligible organization.

"Producer organization" or "eligible organization" means any organization

which has been certified pursuant to this subpart.

§ 1260.119 Producer information.

"Producer information" means facts, data, and othe information that will assist producers in making decisions that lead to increased efficiency, lower cost of production, a stable supply of cattle, and the development of new markets.

§ 1260.120 Consumer information.

"Consumer information" means facts, data, and other information that will assist consumers and other persons in making evaluations and decisions regarding the purchasing, preparation, and utilization of beef and beef products.

§ 1260.121 Promotion.

"Promotion" means any action, including paid advertising, to advance the image or desirability of beef and beef products.

§ 1260.122 Research.

"Research" means any type of systematic study or investigation, and/or the evaluation of any study or investigation, to advance the desirability, marketability, production, or quality of cattle, beef, and beef products.

§ 1260.123 Transaction.

"Transaction" means any transfer of ownership of cattle or beef through a sale, trade, or other means of exchange.

§ 1260.124 Contracting party.

"Contracting party" means any person, public or private, with which the Beef Board may enter into a contract or agreement pursuant to § 1260.146(e).

§ 1260.125 Marketing year.

"Marketing year" means the calendar year ending on December 31 or any other consecutive 12-month period designated by the Board, with the approval of the Department.

§ 1260.126 Part and subpart.

"Part" means 7 CFR Part 1260, containing rules, regulations, orders, supplemental orders, and similar matters concerning the Beef Research and Information Act. "Subpart" refers to any portion or segment of this part.

Beef Board

§ 1260.136 Establishment and membership.

There is hereby established a Beef Board composed of not more than 68 producers, each of whom shall have an alternate, appointed by the Secretary from nominations submitted by eligible producer organizations certified pursuant to § 1260.176 or by producers in a manner to be prescribed under § 1260.138(a). The Secretary shall appoint to the Board up to five nonvoting consumer advisors deemed to be knowledgeable in nutrition and food. The board may recommend to the Secretary qualified individuals to serve as consumer advisors.

§ 1260.137 Term of office.

The members of the Board and their alternates shall serve for terms of three years, except members of the initial Board shall serve, proportionately, for terms of one, two and three years. Each member and alternate member shall continue to serve until his or her successor is selected and has accepted. No member or alternate member shall serve more than six consecutive years: *Provided,* That those members and alternate members serving the initial terms of one or two years are eligible to serve two additional consecutive terms.

§ 1260.138 Nominations.

All nominations to the Beef Board authorized under § 1260.136 shall be made in the following manner:

(a) Within 90 days of the announcement of approval of this Order, or a longer period if so prescribed by the Department, at least two nominations shall be obtained by the Department for each member and each alternate member to be appointed for each geographic area as specified in paragraph (d) of this section. Nominations shall be submitted by eligible organizations certified pursuant to § 1260.176: *Provided,* That if there is no eligible organization certified for a geographic area, or if the Department determines that a substantial number of producers are not members of, or their interests are not represented by, any such eligible organization, then nomination shall be submitted in a manner authorized by the Department;

(b) After the establishment of the initial Board, the Department shall announce within the affected geographic area or areas that a vacancy does or will exist. Nominations for Board members and alternates shall be submitted by eligible organizations to the Department not less than 60 days prior to the expiration of the terms of the members and alternates whose terms are expiring;

(c) Where there is more than one eligible organization within a geographic area, a caucus shall be held for the purpose of jointly nominating at least two producers for each members and for each alternate member to be appointed. If agreement on a joint nomination is not reached, or if any organization does not agree with the nomination, such eligible organization(s) may submit to the Department nomination(s) for each appointment to be made.

(d) For purposes of nominating members and their alternates to the Board, the United States shall be divided into geographic areas. The number of Board members from each geographic area shall reflect as nearly as practicable the number of cattle in each geographic area proportionate to the total number of cattle in the United States. *Provided, however,* That each designated geographic area shall be entitled to at least one member on the Board and one alternate member;

(e) The initial geographic areas and the number of members and alternates on the Beef Board from each area shall be: Alabama 1, Arizona 1, Arkansas 1, California 2, Colorado 2, Florida 1, Georgia 1, Idaho 1, Illinois 1, Indiana 1, Iowa 3, Kansas 3, Kentucky 1, Louisiana 1, Michigan 1, Minnesota 2, Mississippi 1, Missouri 3, Montana 1, Nebraska 3, New Mexico 1, New York 1, North Carolina 1, North Dakota 1, Ohio 1, Oklahoma 2, Oregon 1, Pennsylvania 1, South Carolina 1, South Dakota 2, Tennessee 1, Texas 6, Utah 1, Virginia 1, West Viginia 1, Wisconsin 2, Wyoming 1. Additional geographic areas, comprised of combined States, shall be: Nevada-Hawaii 1, Washington-Alaska 1, Maryland-Delaware-New Jersey-District of Columbia 1, Maine-Vermont-New Hampshire-Massachusetts-Rhode Island-Connecticut 1; and

(f) After the establishment of the Board, the geographic areas and apportionment of members and alternates provided for in paragraphs (d) and (e) of this section shall be reviewed periodically, and at least every five years. The Board shall redefine the geographic areas and reapportion the membership of the Board, with approval of the Department, if it finds that the existing geographic areas are not properly represented in proportion to cattle numbers: *Provided,* That each such area shall be represented by at least one Board member.

§ 1260.139 Appointment of members and alternates.

From the nominations made pursuant to §§ 1260.136 and 1260.138, the Secretary shall appoint the members of the Board and an alternate for each member on the basis of the representation provided for in §§ 1260.136, 1260.137, and 1260.138.

§ 1260.140 Acceptance.

Any nominee appointed to be a member or a alternate member of the

Board shall notify the Department of his or her acceptance in writing.

§ 1260.141 Vacancies.

To fill any vacancies occasioned by the death, removal, or resignation of any member or alternate member of the Board, a successor for the unexpired term of such member or alternate member of the Board shall be nominated and appointed in a manner specified in §§ 1260.136, 1260.137, 1260.138, 1260.139 and 1260.140, except that replacement of a Board member or alternate with an unexpired term of less than six months is not necessary.

§ 1260.142 Alternate members.

An alternate member of the Board, during the absense of the member for whom he or she is the alternate, shall act in the place and stead of such member at Board meetings and perform such other duties as assigned. In the event of the death, removal, or resignation of a member, the alternate shall act for him or her at Board meetings until a successor for such member is appointed.

§ 1260.143 Procedure.

(a) A majority of the members of the Board, including alternates acting for members of the Board, shall constitute a quorum, and any action of the Board shall require the concurring votes of at least a majority of those present and voting. At assembled meetings all votes shall be cast in person.

(b) For matters which dot not require deliberation and the exchange of views, and in matters of an emergency nature when there is not enough time to call an assembled meeting of the Board, the Board may also take action upon the concurring votes of a majority of its members by mail, telegraph, or telephone, but any such telephone vote shall be confirmed promptly in writing.

§ 1260.144 Compensation and reimbursement.

The members of the Board, alternates, and advisors to the Board shall be reimbursed for necessary and reasonable expenses incurred by them in the performance of their duties under this subpart. Members of the Board and alternates shall serve without compensation.

§ 1260.145 Powers of the Board.

The Board shall have following powers: (a) To supervise the administration of this subpart in accordance with its terms and conditions; (b) To make rules and regulations to effectuate the terms and provisions of this subpart; (c) To receive, investigate, and report to the Department complaints of violations of the provisions of this subpart; and (d) To recommend to the Department amendments to this subpart.

§ 1260.146 Duties of the Board.

The Board shall have the following duties:

(a) To meet and organize and to select from among its members a chairman and such other officers as may be necessary, to select committees and subcommittees of Board members, and to adopt such rules for the conduct of its business as it may deem avisable. The Board also may establish advisory groups of persons other than Board members;

(b) To appoint from its members an Excecutive Committee, consisting of 11 members, and to delegate to the Committee authority to employ a staff and administer the terms and provisions of this subpart under the direction of the Beef Board and within the policies determined by the Board. For purposes of determining the membership to the Executive Committee, the Board shall, with approval of the Department, divide the United States into, six, seven or eight regions on the basis of cattle population, each region to consist of one or more whole states. The members of the Beef Board from each region shall select one nominee for the Executive Committee from among themselves, and such nominee shall become a member of the Executive Committee upon confirmation by the Beef Board. The remaining members of the Executive Committee shall be selected by the Beef Board to serve as at-large members: *Provided,* That there shall be no more than two members of the Executive Committee from a region at any time. Initially, there shall be eight geographic regions with each providing one member to the Executive Committee. In addition, there will be three at-large members of the Executive Committee. The Beef Board shall periodically review the geographic regions and may increase or decrease the number of regions within the limits set forth above;

(c) To develop and submit to the Department plans or projects, together with the Board's recommendations with respect to the approval thereof;

(d) To prepare and submit to the Department for its approval budgets on a fiscal period basis of its anticipated expenses and disbursements in the administration of this subpart, including probable costs of each research, information, advertising, promotion, and developmental plan or project. The Board shall also submit informational copies of such budgets to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition and Forestry;

(e) To enter into contracts or agreements, with the approval of the Department, with appropriate contracting parties, including State beef promotion entities, for the development and carrying out of the projects and programs of the Board as authorized by § 1260.151, and for the payment of the costs thereof with funds accruing pursuant to the administration of this subpart: *Provided,* That nothing in this subpart shall preclude the Board from conducting projects or activities on its own to effectuate the intent and purposes of the Act. Any such contract or agreement shall also provide that such contracting parties shall develop and submit to the Board a plan or project, together with a budget or budgets which shall show the estimated cost to be incurred for such plan or project, and that any such plan or project shall become effective upon approval by the Department. Any such contract or agreement shall also require the contracting parties to keep accurate records of all of their activities with respect to the contract or agreement, to make periodic reports to the Board of activities carried out, to identify funds received from the Beef Board and not to use these funds to finance unrelated activities of the contracting party or its affiliated organizations, to account for funds received and expended, and to report to the Department or Board as required. The Beef Board shall endeavor to provide the widest possible dissemination among producers of any supply, demand or other economic information or analysis if such information or analysis is developed pursuant to such contracts;

(f) To maintain books and records and prepare and submit reports from time to time to the Department as it may prescribe and to make appropriate accounting with respect to the receipt and disbursement of all funds entrusted to it;

(g) To periodically prepare and make public and to make available to producers reports of activities carried out and at least each fiscal period to make public an accounting for funds received and expended;

(h) To cause its books to be audited by a certified public accountant at least once each fiscal period and at such other times as the Department may request and to submit a copy of each such audit to the Department;

(i) To give the Department the same notice of meetings of the Board as is given to members in order that Department representatives may attend such meetings; and

(j) To submit to the Department such information pertaining to this subpart as it may request.

Research, Information, Education, and Promotion

§ 1260.151 Research, information, education, and promotion.

(a) The Beef Board shall in the manner prescribed in § 1260.146 provide for:

(1) The establishment, issuance, effectuation, and administration of plans or projects for advertising, promotion, education, producer information, and consumer information with respect to the use of cattle, beef, and beef products and for the disbursement of necessary funds for such purposes;

(2) The establishment and carrying on of research, market development projects, and studies with respect to the production, sale, processing, distribution, marketing, or utilization of cattle, beef, and beef products and the creation of new beef products, in accordance with section 7(b) of the Act, to the end that the production, marketing, and utilization of cattle, beef, or beef products may be encouraged, expanded, improved, or made more efficient and/or acceptable and the data collected by such activities may be disseminated, and for the disbursement of necessary funds for such purposes; and

(3) The development and expansion of foreign markets and uses for cattle, beef, or beef products.

(b) Each program or project authorized under paragraph (a) of this section shall be periodically evaluated by the Board to insure that each plan or project contributes to an effective and coordinated program of research, information, education, and promotion. If the Board finds that a program or project does not further the purposes of the Act, then the Board shall terminate such program or project.

(c) No reference to a private brand or trade name shall be made unless the Department determines that such reference will not result in undue discrimination against the cattle, beef, or beef products of other persons in the United States. No such advertising, consumer education, or sales promotion programs shall make use of false or misleading claims in behalf of cattle, beef, or beef products, or false or misleading statements with respect to quality, value, or use of any competing product.

State Beef Councils

§ 1260.156 Continuity.

The Beef Board shall, with the approval of the Department, annually allocate for use during the next fiscal year by a State beef council, beef board, or other beef promotion entity which makes a request for such funds and which meets the qualifications specified in § 1260.157, (a) up to 10 percent of net assessments from a State, or (b) up to an amount equal to a State beef promotion entity's collections for the 12 months preceding approval of this order: *Provided*, That during the first year the Beef Board may estimate the net assessments from a State for the purpose of funding State proposals under (a) of this section.

§ 1260.157 Qualifications.

(a) A request from a State beef promotion entity for funds pursuant to § 1260.156 shall include specific plans or projects and estimated costs of activities for which the funds will be used, in accordance with the requirements of § 1260.146(e) and § 1260.151. The contract or agreement for such funds shall provide that the State promotion entity shall keep accurate records of all activities with respect to the contract or agreement and make periodic reports to the Board of activities carried out, an accounting for funds received and expended, and such other reports as the Board or the Department may require.

(b) To qualify for the receipt of funds pursuant to § 1260.156, a State beef board, beef council, or other beef promotion entity shall (1) be organized pursuant to legislative authority within the State or be organized by State charter, (2) have goals and purposes complementary to the goals and purposes of the Act, and (3) demonstrate ability to provide research, information, education, or promotion consistent with the Act and this subpart. In no event shall more than one such entity qualify within a State. If more than one entity applies for qualification within a State, the Beef Board shall choose, subject to the approval of the Department, the one most qualified to fulfill the purposes of the Act and this subpart.

Expenses and Assessments

§ 1260.161 Expenses.

(a) The Board is authorized to incur such expenses as the Department finds are reasonable and likely to be incurred by the Board for its maintenance and functioning and to enable it to exercise its powers and perform its duties in accordance with the provisions of this subpart. Such expenses shall be paid from assessments received pursuant to § 1260.162 and other funds collected by the Board.

(b) The Board shall reimburse the Department, from producer assessments, for all the expenses and expenditures, excluding salaries, which were incurred by the Government in the preparation of an original order and the conduct of the referendum considering its approval.

(c) The Board shall reimburse the Department, from producer assessments, for administrative costs, including salaries, which are incurred by the Government which respect to this subpart.

§ 1260.162 Assessments.

(a) Each producer-seller, upon sale or transfer of ownership of any cattle, except as provided below, shall pay to the producer-buyer or slaughterer thereof, pursuant to regulations, and such producer-buyer or slaughterer shall collect from the producer-seller an assessment based on the value of the cattle involved in the transaction as follows:

(1) The Beef Board, with the approval of the Department, shall set the amount of assessment, not to exceed five-tenths of 1 percent of the sale price;

(2) The assessment rate for the first two years shall not exceed two-tenths of 1 percent of the sale price;

(3) In the event that no sales transaction occurs at the point of slaughter or other transfer, a fair commercial market value shall be attributed to the cattle for the purpose of determining the assessment;

(4) Cattle slaughtered for his own home consumption for a producer who has been the sole owner of such cattle shall not be subject to assessments provided in this subpart;

(5) In order that assessments be based on commercial market value for beef, the Beef Board shall pursuant to procedures established in the regulations, insofar as practical, exempt until sold for slaughter the collection of assessments on breeding cattle and on cattle used for commercial milk production having a breeding or production value significantly above the commercial market value in the slaughter market chain.

(6) Each slaughterer shall remit assessment(s) collected to the Beef Board at such times and in such manner as prescribed by regulations, including any assessment(s) due at time of slaughter on cattle of his own production;

(7) Failure of the slaughterer to collect the assessment on each animal shall not relieve the slaughterer of his obligation to remit the assessment to the Beef Board as required in this subpart;

(8) The Beef Board may collect directly from any producer any assessment(s) which he collected under the provisions of this subpart or which

were otherwise due which were not passed along in the manner set forth in this subpart due to the loss in value of the cattle or due to the export of the cattle or due to other reasons.

(b) The Beef Board may accumulate a reasonable reserve of approximately the average yearly collections to maintain continuity of programs and fulfill other obligations and expenses.

(c) The Secretary may maintain a suit in the several district courts of the United States against any person subject to the Order for the collection of any assessment due pursuant to this section.

§ 1260.163 Producer refunds.

Any producer-seller on whose cattle an assessment is made and collected from him under the authority of the Act shall have the right to demand and receive from the Beef Board a refund of such assessment upon submission of proof satisfactory to the Board that the producer-seller paid the assessment for which refund is sought. Any such demand shall be made by such producer-seller in accordance with regulations and on a form prescribed by the Board and approved by the Department. Such demands shall be made within 60 days after the end of the month in which the transaction occurred upon which the refund is based. Refund shall be made by the Board within 60 days after the demand is received therefor: *Provided,* That no producer shall claim or receive a refund of any portion of an assessment which he collected from other producers.

§ 1260.164 Influencing governmental action.

No funds collected by the Board under this subpart or any other funds collected by the Board shall in any manner be used for the purpose of influencing governmental policy or action except as provided in § 1260.185.

Reports, Books, and Records

§ 1260.171 Reports.

Each slaughterer subject to this subpart shall be required to report to the Beef Board periodically such information as may be required by regulations.

§ 1260.172 Books and records.

Each slaughterer shall maintain and make available for inspection by the Beef Board and the Department such books and records as are necessary to carry out the provisions of this subpart and the regulations issued thereunder, including such records as are necessary to verify any reports required. Such records shall be retained for at least two years beyond the marketing year of their applicability.

§ 1260.173 Confidential treatment.

All information obtained from the books, records, or reports required to be maintained under §§ 1260.171 and 1260.172 and all information obtained by the Beef Board pertaining to producer refunds made pursuant to § 1260.163 shall be kept confidential by the Beef Board, employees of the Beef Board, employees of the Department, and officers and employees of contracting parties, and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary, or to which any officer of the United States is a party, and involving this subpart: *Provided, however,* That nothing in this subpart shall be deemed to prohibit (a) the issuance of general statements based upon the reports of the number of persons subject to this subpart or statistical data collected therefrom, which statements do not identify the information furnished by any person, (b) the publication of general statements relating to refunds made by the Beef Board during any specific period, which statements do not identify any person to whom refunds are made, or (c) the publication by direction of the Secretary of the name of any person violating this subpart, together with a statement of the particular provisions violated by such person.

Certification of Organizations

§ 1260.176 Certification of organizations.

(a) Any organization that represents producers within a geographic area designated pursuant to § 1260.138 may request the Department to certify its eligibility to represent cattle producers to participate in nominating members and alternate members to represent such geographic area on the Beef Board. Such eligibility shall be based, in addition to other available information, upon a factual report submitted by the organization which shall contain information deemed relevant and specified by the Department for the making of such determination, including but not limited to the following:

(1) Geographic area covered by the organization's active membership;

(2) Nature and size of the organization's active, annual dues-paying membership, proportion of total of such active membership accounted for by producers of cattle, and the volume of cattle produced by the organization's active membership in each such State or applicable geographic area(s);

(3) The extent to which the cattle producer membership of such organization is represented in setting the organization's policies;

(4) Evidence of stability and permanency of the organization;

(5) Sources from which the organization's operating funds are derived;

(6) Functions of the organization; and

(7) The organization's ability and willingness to further the aims and objectives of the Act.

(b) The primary consideration in determining the eligibility of an organization shall be whether its producer membership consists of a substantial number of producers who produce a substantial volume of cattle in the geographic area subject to the provisions of this subpart.

(c) The Department shall certify any organization which it finds to be eligible under this section and its determination shall be final. After the original certification of organizations, the Department will require recertification at least once every five years, and may require recertification at any time.

Miscellaneous

§ 1260.181 Patents, copyrights, inventions, and publications.

Any patents, copyrights, inventions, or publications developed through the use of funds collected under the provisions of this subpart shall be the property of the U.S. Government as represented by the Beef Board, and shall, along with any rents, royalties, residual payments, or other income from the rental, sale, leasing, franchising, or other uses of such patents, copyrights, inventions, or publications, inure to the benefit of the cattle industry. Upon termination of this subpart § 1260.183 applies to determine disposition of all such property.

§ 1260.182 Suspension and termination.

(a) The Secretary shall, whenever he finds that this subpart or any provision thereof obstructs or does not tend to effectuate the declared policy of the Act, terminate or suspend the operation of this subpart or such provision.

(b) The Secretary may conduct a referendum at any time, and shall hold a referendum on request of 10 percent or more of the number of cattle producers voting in the referendum approving this subpart, to determine whether cattle producers favor the termination or suspension of this subpart, and the Secretary shall suspend or terminate such subpart six months after he determines that its suspension or termination is approved or favored by a

majority of the producers of cattle voting in such referendum who, during a representative period determined by the Department, have been engaged in the production of cattle and who produced more than 50 percent of the volume of the cattle produced by the cattle producers voting in the referendum.

§ 1260.183 Proceedings after termination.

(a) Upon the termination of this subpart, the Beef Board shall recommend not more than five of its members to serve as trustees for the purpose of liquidating the affairs of the Beef Board. Such persons, upon designation by the Department, shall become trustees of all of the funds and property then in the possession or under control of the Board, including claims for any funds unpaid or property not delivered or any other claim existing at the time of such termination.

(b) The said trustees shall: (1) continue in such capacity until discharged by the Department; (2) carry out the obligations of the Beef Board under any contracts or agreements entered into by it pursuant to § 1260.146(e); (3) from time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the Board and of the trustees, to such person as the Department may direct; and (4) upon the direction of the Department, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the Board or the trustees pursuant to this subpart.

(c) Any person to whom funds, property, or claims have been transferred or delivered pursuant to this subpart shall be subject to the same obligations imposed upon the trustees.

(d) Any residual funds or property not required to defray the necessary expenses of liquidation shall be turned over to the Department to be utilized, to the extent practicable, in the interest of continuing one or more of the beef research or information programs hitherto authorized.

§ 1260.184 Effect of termination or amendment.

Unless otherwise expressly provided by the Department, the termination of this subpart or of any regulation issued pursuant thereto, or the issuance of any amendments to either thereof, shall not:

(a) Affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulation issued thereunder;

(b) Release or extinguish any violation of this subpart or any regulation issued thereunder; or

(c) Affect or impair any right or remedies of the United States, or of any person, with respect to any such violation.

§ 1260.185 Amendments.

Amendments to this subpart may be proposed, from time to time, by the Board or by an organization certified pursuant to Section 15 of the Act, or by any interested person affected by the provisions of the Act, including the Secretary.

§ 1260.186 Personal liability.

No member, alternate member, or employee of the Beef Board shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member, alternate, or employee except for acts of dishonesty or willful misconduct.

§ 1260.187 Separability.

If any provision of this subpart is declared invalid or the applicability thereof to any person or circumstances is held invalid, the validity of the remainder of this subpart or the applicability thereof to other persons or circumstances shall not be affected thereby.

Copies of this decision may be procured from Ralph L. Tapp, Livestock, Poultry, Grain, and Seed Division, Agricultural Marketing Service, Room 2610, South Building, United States Department of Agriculture, Washington, D.C. 20250, or may be inspected at the Office of the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250.

This action was determined significant under the Department's criteria for implementing Executive Order 12044. The impact analysis is incorporated in this document.

Signed at Washington, D.C., on: December 11, 1979.

Jerry C. Hill,

Deputy Assistant Secretary for Marketing Services.

[FR Doc. 79-38278 Filed 12-13-79; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

Agricultural Stabilization and Conservation Service

Procedure for the Conduct of Referendums in Connection with Beef Research and Information Order

AGENCIES: Agricultural Marketing Service and Agricultural Stabilization and Conservation Service.

ACTION: Notice of Cattle Producers Referendum.

SUMMARY: This document announces a referendum among cattle producers to determine if they approve a Beef Research and Information Order ("Order") issued by this Department. The final Order appears elsewhere in this issue of the Federal Register. This notice prescribes the registration and voting periods of the referendum. It also sets forth the representative period during which a producer must have owned cattle in the United States in order to be eligible to vote.

DATES: Registration period—January 28 through February 6, 1980. Voting period—February 19 through February 22, 1980. Representative period—January 1 through December 31, 1979.

EFFECTIVE DATE: December 14, 1979.

FOR FURTHER INFORMATION CONTACT: Robert M. Cook, 202-447-7997.

ADDRESS: Emergency and Indemnity Programs Divisions, ASCS, USDA, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: The Order, issued pursuant to the Beef Research and Information Act ("Act"), establishes a program of research and information for cattle, beef, and beef products. The regulations for conducting referendums pursuant to the Act were published in the Federal Register of May 17, 1977 (7 CFR 1260). An amendment to the regulations was published in the Federal Register on December 7, 1979. As required by Section 9 of the Act, the Order will become effective only if approved by cattle producers who vote in a referendum. For approval of the Order, ballots must be cast by at least 50 percent of the producers registered to vote in the referendum and a majority of those voting must favor or approve the issuance of the Order.

Notice is hereby given of a referendum to consider the Order issued by the Secretary of Agriculture on December 11, 1979. The registration period will be January 28 through February 6, 1980. The voting period will be February 19 through 22, 1980. The representative period of ownership to determine eligibility of producers to register and vote in the referendum is January 1 through December 31, 1979. Registration and voting will be conducted through local offices of the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture.

Issued at Washington, D.C. this 11th day of December 1979.

Ray Fitzgerald,

Administrator, Agricultural Stabilization and Conservation Service.

William T. Manley,

Administrator, Agricultural Marketing Service.

[FR Doc. 79-38279 Filed 12-13-79; 8:45 am]

BILLING CODE 3410-02-M

federal register

Friday
December 14, 1979

Part VII

Department of Agriculture

Agricultural Marketing Service

Wheat and Wheat Foods Research and Nutrition Education Order; Decision and Order and Wheat End Product Manufacturer Referendum

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1280

[Docket No. WR-1]

Wheat and Wheat Foods Research and Nutrition Education Order and Decision

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Decision and Order.

SUMMARY: This document announces a decision to issue an Order which provides for the establishment of a nationally coordinated program of research and nutrition education for wheat, processed wheat, and wheat end products as authorized by the Wheat and Wheat Foods Research and Nutrition Education Act (7 U.S.C. 3401 *et seq.*). The program, authorized under the Order, would be financed by assessments of up to five cents per hundredweight, to be paid by end product manufacturers on their purchases of processed wheat. The Order limits the assessment to one cent per hundredweight during the first two years of the program. The program would be administered by a twenty-member Council, composed equally of representatives of wheat producers, processors, end product manufacturers and consumers.

DATE: The Order would become effective if approved in a referendum of wheat end product manufacturers; results of the referendum and the effective date, if applicable, will be announced later.

FOR FURTHER INFORMATION, CONTACT: W. David Spalding, Livestock, Poultry, Grain, and Seed Division, AMS, USDA, Washington, D.C. 20250, Phone: 202-447-2068.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Rules of Practice—Issued October 30, 1978 and published November 6, 1978 (43 FR 51604).

Notice of Hearing—Issued January 22, 1979 and published January 26, 1979 (44 FR 5450).

Recommended Decision—Issued September 4, 1979 and published September 7, 1979 (44 FR 52226).

A Procedure for the Conduct of Referendum in connection with this Order and a Notice of Referendum appear elsewhere in this issue of the Federal Register.

Preliminary Statement

A recommended decision including a recommended Order to establish a wheat and wheat foods research and nutrition education program was published in the September 7, 1979 issue of the Federal Register (44 FR 52226). Interested persons were given until October 22, 1979 to file exceptions to the recommended decision. Five such comments were received which are discussed at the appropriate place in the decision.

The recommended decision was formulated based on evidence received at a public hearing on a proposed Order and on briefs submitted based on the hearing record. The public hearing was held at St. Paul, Minnesota, February 27 and 28; Atlanta, Georgia, March 6; and Denver, Colorado, March 15, 1979. Briefs and proposed findings and conclusions were received until April 24, 1979. This hearing was held pursuant to notice which was published in the Federal Register January 26, 1979, 44 FR 5450. The notice set forth a proposed Order which was submitted to the Department of Agriculture by the Wheat and Wheat Foods Foundation (a coalition of wheat-related organizations) pursuant to rules and regulations for formulating an Order which were published in the Federal Register November 6, 1978, 43 FR 51604. These actions were taken pursuant to authority contained in the Wheat and Wheat Foods Research and Nutrition Education Act (7 U.S.C. 3401 *et seq.*).

On the basis of the evidence introduced at the hearing and the record thereof, the Administrator, Agricultural Marketing Service, filed with the Hearing Clerk, U.S. Department of Agriculture, a recommended decision containing notice of the opportunity for interested persons to file exceptions to the decision. Upon review of the entire hearing record, including comments on the recommended decision; the material issues, findings and conclusions, rulings, and the general findings of the recommended decision which were published in the Federal Register September 7, 1979, 44 FR 52226 are hereby approved and adopted and are set forth in full herein, with the following modifications:

1. Changes in the Order provisions:

a. Section 132(a)(b)(c)(d) is changed to clarify the nominating provisions.

b. The following §§ are changed to clarify several provisions in the Order: § 131, § 134, § 135, § 136, § 140(e)(k)(1), § 151(a)(b), § 152, and § 160.

c. Section 162 is changed to clarify and strengthen the confidentiality provisions.

d. Section 165(d) is changed to clarify the certification procedures.

2. Changes in the Decision:

a. Under the heading "Decision:" Under the heading "1. *Decision*": Under the subheading *"Need for Program"* paragraph 1 is changed.

b. Under the heading "Decision": Under the heading "2. *Procedure and Background*" paragraph 2 is changed and item 4 is added.

3. Changes in the Findings and Conclusions:

a. Under the heading "(1) *Need for the Order*" paragraph 1 is changed and a new paragraph is added after paragraph 5, item 7.

b. Under the heading "(2) *Level of Funding:*" (1) Under the heading "(i) *General* paragraph 3 is changed. (2) Under the heading "(ii) *Cost Impacts*" paragraph 1 is changed and a new paragraph is added after paragraph 1. Under the heading "(iii) USDA and Other Federal Costs" paragraph 1 is changed.

c. Under the heading "(3) *Plans and Projects*" paragraphs 1, 7, and 8 are changed.

d. Under the heading "(4) *Possible Results*" paragraph 1 is changed. Under the heading (ii) *Competitive Impact* a new paragraph is added after paragraph 1.

e. Under the heading "(5) *Terms and Provisions of the Order*": (1.) Under the heading "(a) *Definitions:*"

(a) Under the definition "end product" paragraphs 2, 4 and 5 are changed.

(b) Under the definition "end product manufacturer" paragraph 2 is changed.

(c) Under the definition "nutrition education" paragraph 2 is changed.

(d) Under the definition "Wheat Industry Council" paragraph 1 is changed.

(e) Under the definition "person" paragraph 1 is changed.

(f) Under the definition "eligible organization" paragraph 1 is changed.

(g) Under the definition "retail baker" paragraphs 2, 4, 5, 6, 8, 9, and 10 are changed.

(h) Under the definition "intra-company transfers, related companies or divisions of the same company, and control" paragraphs 1 and 3 are changed.

(2) Under the heading "(b) *Wheat Industry Council*":

(a) Under the subheading "*Term of Office*" paragraph 2 is changed.

(b) Under the subheading "*Certification of Organizations*" paragraphs 2 and 14 are changed.

(c) Under the subheading "*Nominations*" paragraphs 1, 2, 3, 4, 9, and 16 are changed.

(d) Under the subheading "*Appointments*" paragraph 1 is changed.

(e) Under the subheading "*Powers*" paragraph 1 is changed.

(f) Under the subheading "*Duties*" paragraphs 2, 4 and 6 are changed.

(3) Under the heading "(c) *Programs and Projects*" paragraphs 1, 3, and 6 are changed.

(4) Under the heading "(d) *Assessments, Refunds, Expenses*" paragraph 1 is changed and a new paragraph is added after paragraph 7. Paragraph 3 and Tables A and B are changed.

(a) Under the subheading "*Refunds*": Paragraph 1 is changed. A new paragraph is added after paragraph 1. Paragraphs 3, 7, and 8 are changed.

(5) Under the heading "(e) *Records and Reports*" paragraph 1 is deleted and paragraphs 2 and 4 are changed. New paragraphs are added after paragraphs 3 and 6.

Decision

1. *Decision.* The Act provides that the Secretary shall determine, on the basis of hearing evidence, if the proposed Order tends to effectuate the declared policy of the Act which is to establish a research and nutrition education program to make the most efficient use of American wheat and ensure an adequate diet for the people of the U.S. The criteria used in this determination included an evaluation of: (1) The need for the program, (2) the adequacy of the proposed funding level from end product manufacturers, (3) design of potential plans and projects for research concerning wheat quality and utilization and nutrition education as authorized in the Act, (4) the likelihood that these projects will improve nutrition and per capita consumption of wheat and (5) the specific terms and provisions of the proposed Order. It is concluded from evidence introduced at public hearings that there is a need to establish a wheat research and nutrition education program. The criteria used in this conclusion is summarized below.

Need for Program—From 1910 to 1978, per capita consumption of wheat flour decreased about 50 percent. There is growing concern by the industry that consumption may continue to decline because wheat-based foods are perceived to be both fattening and lacking in nutritional value by a large segment of the population. Research has shown that increased consumption of wheat-based foods would contribute to both a healthy and more economical diet for U.S. consumers. Representatives from nearly every segment of the wheat industry presented evidence which strongly supports the need for a Wheat and Wheat Foods Research and Nutrition Education Order.

Funding—An assessment of up to 5 cents per cwt. or, up to a maximum funding of about $10 million annually on processed wheat would be remitted to the Wheat Industry Council by the end product manufacturers (primarily wholesale bakers). The program is voluntary and those who do not wish to support it can request and receive a refund of their assessment from the Council.

Plans and Projects—Basic research on nutrition, health, products, processing and marketing of wheat-based foods would be conducted. Nutrition and health research could further investigate the role of wheat-based foods in diets designed to reduce both body weight and cholesterol levels. Product research could focus on improved and new wheat food products while processing research could continue to seek more efficient use of products from wheat. Market research could emphasize more in-depth study of consumer attitudes toward wheat-based foods and stepped up nutrition education activities could provide nutritional information to homemakers, the food service industry, and food editors of newspapers and magazines. Based on hearing testimony concerning similar type programs, it appears that the plans and projects authorized under the Order could be designed to achieve many of the objectives of the Act.

Possible Program Results—While it is expected that the Order will increase the demand for wheat-based foods relative to other foods, problems in isolating the effects of other influencing factors may make it difficult to evaluate the program's performance. However, hearing testimony indicated that a one slice per day increase in the per capita consumption of bread would not only contribute to a healthy and more economical diet for the American people but would also result in a 20 percent increase in bread production. All income groups could benefit from the program, but the poor, elderly and teen-age consumers would be expected to derive proportionately greater benefits from increased knowledge of the economic and nutritional advantages of wheat-based foods as a source of good nutrition.

Specific Terms and Provisions—To accomplish the declared policy of the Act, numerous specific terms and provisions are needed to govern the operation of a program. The terms and conditions of the Order contained in this document are the detailed means of carrying out the declared policy of the Act.

2. *Procedure and Background.* The Wheat and Wheat Foods Research and Nutrition Education Act, passed in 1977, authorized the establishment of a wheat research and nutrition education program to make the most efficient use of American wheat and ensure an adequate diet for the people of the United States.

The Act is enabling legislation which authorizes any individual or organization to submit a proposed Order to the Secretary to implement the program authorized by the Act. The Act provides that when the Secretary has reason to believe that a proposed Order will tend to implement the program authorized by the Act the Secretary shall issue a notice and hold a hearing on the proposed Order. The applicable rules of practice and procedure provide for the Department to issue a recommended decision and Order if it is determined, based on the hearing evidence and written briefs, that an Order will implement the Act. If the Secretary finds after a review of comments on the recommended decision and Order and the entire hearing record that the Order will implement the policy of the Act, a final decision will be issued, and a referendum among end product manufacturers will be held to determine if they wish to put the Order into effect. If the vote is favorable, a Wheat Research and Nutrition Education Order would be established. The Wheat Industry Council, authorized under the Order, would be responsible for preparing detailed project proposals for wheat and wheat foods research and nutrition education as part of the Council's annual budget. The Act requires that the proposed projects be reviewed and approved by the Secretary before project expenditures may be authorized by the Council. This requirement assures that the program will be formally evaluated on an annual basis and fulfills the "sunset review" requirement under the Department's criteria for implementing Executive Order 12044. The Order would continue indefinitely unless:

1. The Act is repealed;
2. The Secretary finds that the Order or any provision(s) thereof obstructs or does not effectively carry out the policy of the Act;
3. End product manufacturers reject the Order in a referendum for termination; or
4. End product manufacturers reject a revised Order in a referendum.

Material Issues

The material issues presented in the record of hearing are as follows:

(1) The need for the Wheat and Wheat Foods Research and Nutrition Education Order to effectively carry out the declared policy and purposes of the Act.

(2) The adequacy of the proposed level of funding, from end product

manufacturers, to support the proposed program.

(3) The adequacy of the design of potential research and nutrition education plans and projects to implement the proposed program.

(4) The possible effect of the proposed program on nutrition education and per capita consumption of wheat.

(5) The determination of the specific terms and provisions of the Order necessary to effectively carry out the declared policy and purposes of the Act, including:

(a) Definitions of terms used therein which are necessary and incidental to achieve the objectives of the Order;

(b) The establishment, maintenance, composition, powers, duties, procedures, and operation of a Council which shall be the administrative agency for this Order;

(c) The authority for establishing and financing the development and implementation of programs and projects of research and nutrition education to establish a nationally coordinated program of research and nutrition education for wheat, processed wheat and wheat end products;

(d) The procedures to levy assessments on processed wheat purchased by end product manufacturers, to make refunds of assessments to end product manufacturers who request them, and to incur necessary expenses;

(e) The provisions concerning recordkeeping requirements and reports by end product manufacturers and

(f) The need for additional terms and conditions as set forth in §§ 1280.166 through 1280.172 of the Order which are necessary to effectuate provisions of the Act.

Findings and Conclusions

Evidence presented on the record at the public hearing indicates that wheat is produced, in some quantity, in all 50 States and wheat based foods are produced and consumed in all 50 States. Therefore, it is found that wheat and wheat based foods move in interstate and foreign commerce and that which does not move in such channels of commerce directly burden, or affect interstate commerce of wheat and wheat based foods. The findings and conclusions on the material issues are based on the evidence presented at the hearing and the record thereof and are as follows:

(1) *Need for the Order.* The record herein establishes that from 1910 to 1978, per capita consumption of wheat flour decreased about 50 percent. Most of the decrease took place prior to the mid 1960's. Since that time, per capita consumption has stabilized around the current level of 115 pounds per person. However, because wheat based foods are perceived to be fattening and lacking in nutrition by a large segment of the population, it is possible that per capita consumption may decline further. As a result, U.S. wheat producers as well as processors and end product manufacturers face a domestic market for their products which, at best, may be expected to grow with population.

U.S. wheat producers have seen little growth in the domestic food market for wheat. The domestic food market is currently less than 600 million bushels annually. However, the export market has increased from less than 300 million bushels in 1948 to about 1.2 billion bushels in the current marketing year. There are indications that some of this export increase may be directly attributed to promotional efforts financed jointly by producers and the U.S. Department of Agriculture.

Cereal grain based products are an economical source of protein, energy (calories) and essential vitamins and minerals. Americans currently spend an average of 12% of their food budget on cereal grain products which provide 26% of the calories, 21.5% of the protein and significant percentage of essential vitamins and minerals in their diet. In 1910, cereal grain products were the chief source of protein (38%) in the U.S. diet. Since 1910 the consumption of cereal grain products has decreased which fat and sugar consumption has increased.

The record reveals a need to communicate factual information to consumers as well as nutrition and health professionals about the nutritional properties of wheat based foods. Many consumers perceive wheat based foods as fattening and lacking in nutritional value. They do not realize that wheat based foods are highly nutritious and that the increased consumption of wheat based foods has been strongly recommended by many nutritional authorities. Educational programs could provide sound information to consumers concerning the nutritional properties of wheat based foods. Educational material that has been developed for use with consumers has been well received. However, funding to develop and distribute this information has been lacking, therefore, the material has had limited impact.

Testimony in support of the Order was received from:

(1) The Wheat and Wheat Foods Foundation on behalf of its 45 producer, 53 processor, 36 end product manufacturer and 9 other members;

(2) Producers, including the National Association of Wheat Growers which represents state wheat grower associations in 16 states which produce over 80% of the wheat grown in the U.S., the U.S. Durum Growers Association, Women Involved in Farm Economics (WIFE), and 5 state wheat grower commissions;

(3) Processors, including the Millers National Federation whose members account for 87% of the flour produced in this country;

(4) End product manufacturers, including the American Bakers Association, representing wholesale bakers and representatives of cereal and pasta manufacturers;

(5) Labor, through testimony by the Bakers, Confectionary and Tobacco Workers International Union of the AFL-CIO;

(6) The two principal trade publications in the wheat and wheat foods industry, "Milling and Baking News" and "Bakery Production and Marketing Magazine"; and

(7) Organizations and firms involved in research and/or nutrition education activities relating to wheat and other commodities including several universities, the American Institute of Baking, the National Wheat Institute, Great Plains Wheat, Western Wheat Associates, the Potato Board and several private firms.

Testimony in opposition to the assessment provisions of the Act was received from the Biscuit & Cracker Manufacturers Association, representing wholesale biscuit and cracker manufacturers. Testimony indicated that biscuit and cracker manufacturers use approximately 20 percent of the flour used by the entire baking industry and that Association members use about 85 percent of the flour used by all biscuit and cracker manufacturers.

(2) *Level of Funding:*

(i) *General.* The research and nutrition education activities to be conducted under the proposed program would be funded by an assessment on processed wheat purchased by end product manufacturers. During the first two years, the Order calls for an assessment of one cent per hundredweight of processed wheat purchased. Both the enabling legislation and the Order provide for a maximum assessment of five cents per hundredweight of processed wheat purchased. It is estimated that initial collections at the one cent level would be about $2 million annually. At the maximum assessment level of five cents per hundredweight, collections would be about $10 million annually.

The assessment on the processed wheat would be recorded by the end product manufacturer at the time the processed wheat is purchased and remitted to the Wheat Industry Council on a regularly scheduled basis. The program would be voluntary, in that end product manufacturers who pay an assessment and do not wish to support the program can request and receive a refund.

The implementation of the Act would directly affect all wheat end product manufacturers including retail bakers and end product manufacturers using less than 2,000 hundredweight of processed wheat annually even though the latter groups would not be assessed for the program. Other groups directly impacted would include the recipients of the funds expended by the Wheat Industry Council such as university and other research entities and disseminators of nutrition education information.

The impact on producers and processors of wheat and consumers of wheat based foods would be less direct than the impact on end product manufacturers and would depend on the nature and extent of program developed by the Wheat Industry Council.

(ii) *Cost Impacts.* The cost impact on wheat end product manufacturers would vary from one cent per hundredweight of processed wheat as authorized during the first two years of the program up to a maximum of five cents per hundredweight of processed wheat as permitted by the Order. At the one cent per hundredweight assessment level, the cost per one pound loaf of bread would be about seven one-thousandths of a cent per loaf. At the maximum assessment level of five cents per hundredweight the cost per one pound loaf of bread would be about three one-hundredths of a cent. Proponents have stated that given the competitive nature of the wholesale baking industry and the minuscule amount of the assessment per unit to production, the assessment will not be passed on to the consumer. Proponents point out that a very small increase in volume will reduce per unit costs to more than offset the cost of the assessment.

An exceptor pointed out that the cost impact on wheat end product manufacturers is discussed solely on the basis of bread and not on the basis of cereals. The recommended decision is based on record evidence adduced during the rule making proceeding. No testimony was presented during the proceeding regarding the specific cost impact on cereal manufacturers. Very little information exists for cereal manufacturers, so detailed estimates are not possible. However, based upon information from the Census of Manufacturers, in 1977 cereal manufacturers used wheat for about one-third of ready-to-eat cereal production. Their wheat costs were about 5 percent of the cost of materials and less than a third of the expenditures for sugar. Thus, the cost impact of this program on wheat cereals is judged to be even less than that for bread. In addition, record evidence does indicate that it is expected that all types of wheat and wheat based products will share in the benefits of the proposed Order.

End product manufacturers have testified that the Order will not result in increased recordkeeping costs because existing records can be used to comply with the recordkeeping requirements of the Order.

The Order will have no cost impact on wheat producers. Processors purchase their wheat needs at competitive market prices. The export market accounts for about two-thirds of total usage of U.S. wheat and as such, the U.S. farm price of wheat is determined by the world supply and demand situation.

Processors who supply bakery mixes to end product manufacturers will be required to show the processed wheat content within plus or minus 3% on invoices to end product manufacturers in order for end product manufacturers to determine their use of processed wheat. Processors have testified that this requirement will not increase their costs.

(iii) *USDA and Other Federal Costs.* The Act provides that the Council will reimburse the Department, from assessments, for all referendum and administrative costs incurred under the Act during any period specified by the Secretary.

(3) *Plans and Projects.* Below is a description of the type of impacts that may result from a nutrition education and promotion program based on experience in other commodity programs. Also included is a brief discussion of the types of programs which could be conducted by the Wheat Industry Council. Nutrition education and generic promotion of commodities in the United States and bread in some European markets is relatively new. These recent experiences show marked changes in consumer attitudes with mixed results in terms of impact on consumption.

European processors and end product manufacturers faced a continuous decline in per capita consumption of flour. Sponsors of these programs worked closely with and in some cases gained active support from medical and nutrition professionals as well as government agencies in explaining the nutritional benefits from increased consumption of wheat based foods. Since the adoption of the programs, the per capita consumption of flour has stabilized and in some cases increased.

In the U.S., per capita potato consumption in the early 1950's was about 100 pounds, about half of what it was in 1910. In the 1960's consumption increased to about 110 pounds, probably as a result of the introduction of processed potato products. However, consumption of fresh potatoes continued to decrease. One of the reasons given for the decline in consumption was the rather prevalent opinion that potatoes are fattening. Actually, potatoes are a nutritious food, rich in the vitamins and minerals necessary in the daily diet. In 1971, the Potato Research and Promotion Act was passed in an effort to increase the per capita consumption of potatoes. The National Potato Promotion Board set out to dispel the negative image of potatoes as fattening and to educate the consumer to their nutritional value. The program has been one of generic promotion with strong emphasis on nutrition education. As a result of the efforts of the Potato Board, consumer attitudes toward potatoes are now more positive. Per capita consumption of fresh potatoes has shown some increase in the last 3 years.

Per capita consumption of eggs declined over 25 percent between 1950 and 1974. In 1974, the Egg Research and Consumer Information Act was passed in an effort to increase per capita consumption of eggs. The American Egg Board has made several research grants to investigate nutritional aspects of the cholesterol controversy. In addition, the Board, through the use of a generic education and promotion program, has improved consumer attitudes toward eggs. In 1978, the per capita consumption of eggs showed the first increase since 1971.

The impact of any ongoing research and nutrition education program is difficult to measure because of the problems in isolating the effects of other influencing factors. Estimating the possible impacts of a potential program is even more troublesome.

The results of the various programs under the Wheat and Wheat Foods Research and Nutrition Education Order will be a function of the priority given to the research and education programs by the Wheat Industry Council. It is anticipated that in addition to domestic research and nutrition education activities, the Council will also be involved in export activities.

Basic research could include nutrition and health research as well as product, processing and market research. Nutrition and health research could further investigate the role of wheat based foods in weight loss diets and diets designed to reduce blood cholesterol levels. Product research could develop new or improved wheat based products. Research into processing methods could result in more efficient processing methods as well as more efficient utilization of wheat in the production of flour and other flour mill products. Market research could involve study of consumer attitudes toward wheat based foods. Nutrition education activities could provide nutrition, health and education material for nutrition and health professionals as well as food editors, homemakers, the food service industry and school children. Foreign market activities could be carried out to increase export markets for U.S. wheat and wheat products. Obviously, for all of these possible opportunities, there is always a risk of failure. The rate of return for various potential projects could undoubtedly vary significantly. Thus, the Wheat Industry Council should attempt to choose those projects with a high probability of successfully achieving a high rate of return.

(4) *Possible Results:*

(i) *General.* Per capita consumption of bread in the U.S. averages about five slices per person per day. Research based on the McGovern committee report "Dietary Goals for the United States" has suggested that any increase in consumption up to 67 percent over the present level, of wheat based foods would contribute to a healthy and more economical diet for the American people. The record emphasizes the role of wheat based foods in a balanced diet. However, it points out that wheat based foods are only part of a balanced diet. Hearing testimony indicated that a one slice per day increase in the per capita consumption of bread would not only contribute to a healthy and more economical diet for the American people but would also result in a 20 percent increase in bread production.

Bakers testified to the existence of excess capacity in the wholesale baking industry. Given the existence of excess baking capacity, an increase in volume would result in reduced per unit costs of production. As a result of the competitive nature of the wholesale baking industry, any significant cost reductions resulting from increases in volume would either be passed on to the consumer in terms of lower prices or used to offset cost increases that would otherwise be passed on to consumers.

(ii) *Competitive Impact.* It is expected that the Order will increase the demand for wheat based foods relative to other types of food. The impact of the proposed program on different types of end product manufacturers will depend on the specific research and education projects undertaken by the Council. However, it is the intent of the Order that the Council represent and act in the best interests of the entire wheat industry, including all types of end product manufacturers.

An exceptor suggested that the Wheat Industry Council, as described in the recommended decision, is designed to increase the consumption of bread products and especially bread and that insufficient attention may be focused on cereals, pasta, and products other than bread. However, the recommended decision clearly states that it is the intent of the Order that the Council represent and act in the best interests of the entire wheat industry, including all types of end product manufacturers.

(iii) *Distribution of Effects by Income Classes.* The Order provides for a program of research and nutrition education. Previous research efforts have shown that wheat based foods are nutritious and an economical source of protein, energy (calories) and essential vitamins and minerals. All income groups could benefit from the program by receiving sound nutritional information and learning how to use this information to develop more nutritious meals at lower cost. However, the poor, the elderly and teenage consumers could be expected to derive proportionately greater benefits from increased knowledge of the economic advantages of wheat based foods as a source of good nutrition. Research has indicated that these groups are the most at-risk categories for poor nutrition and related health problems.

(5) *Terms and provisions of the Order.*

(a) *Definitions.* "Processed wheat" is defined to mean the wheat-derived content of any substance (such as cake mix or flour) produced for use as an ingredient of an end product by changing wheat grown within the United States in form or character by any mechanical, chemical, or other means. The definition is necessary to specify one of the products to which research and nutrition education plans or projects may apply, and to determine applicability of the assessment.

"End product" is defined to mean any product which contains processed wheat as an ingredient and which is intended, as produced, for consumption as human food, notwithstanding any additional, incidental preparation which may be necessary by the ultimate consumer. For example, bread, cake, cookies, crackers, breakfast cereals, and pasta products would all be end products.

This definition is necessary to determine products to which plans or projects may apply, as well as to determine applicability of the assessment and certain exclusions therefrom.

The terms "processed wheat" and "end product" as used in the Act are mutually exclusive. An "end product" is defined as a product which contains "processed wheat" as an ingredient and which is intended as produced to be used for consumption as human food, notwithstanding any incidental preparation which may be necessary by the ultimate consumer. "Incidental preparation" means such actions as thawing frozen bakery products or baking brown-and-serve products, so that frozen cakes, breads, or bread doughs, brown-and-serve rolls, etc. would be considered "end products" and, therefore, the processed wheat contained in these products would be subject to the assessment.

On the other hand, "processed wheat" contained in substances such as flour, self-rising flour, and cake mixes, which are sold at retail in that form would be exempt from assessment.

Products such as Graham crackers, granola, or other substances which may be consumed in their present form or used as an ingredient of another end product are within the definition of end product. Therefore, the assessment on the processed wheat purchased for use in the manufacture of such substances would be paid by the end product manufacturer who first manufactures them into a substance which can be consumed as human food. No further assessment, however, would be due from subsequent end product manufacturers using such end products as ingredients of other end products.

It should also be noted that the assessment would apply to the end products of an end product manufacturer regardless of whether the end product is consumed in the U.S. or exported.

"Wheat producer" is defined to mean any person who grows wheat within the United States for market. The definition is necessary to define one class of persons eligible for representation on the Wheat Industry Council.

"Processor" is defined to mean any person who commercially produces processed wheat within the United States. This definition specifies a class eligible for Council representation and subject to reporting and record-keeping obligations under § 1280.160 and

§ 1280.161 of the Order but not subject to assessments.

"End product manufacturer" is defined to mean any person who commercially produces an end product within the U.S., but does not include such persons to the extent they produce end products on the premises where such products are to be consumed by an ultimate consumer, including, but not limited to hotels, restaurants, and institutions. Nor does the term include persons who produce end products for their own personal family or household use.

The definition establishes a general class eligible for Council representation, subject to certain reporting and recordkeeping obligations, and liable for the assessment under the Order. Certain end product manufacturers are exempt from assessment. However, only those who will be liable for the assessment will be eligible to vote in the referendum.

With respect to voting in the referendum, each end product manufacturer will be allowed one vote whether such end product manufacturer is an individual, a partnership or a corporation. The principal of one "person" (as defined in the Act) one vote will apply regardless of the number of subsidiaries, affiliates or divisions a corporation may have or the number or type of end products it may produce. The interests or large end product manufacturers will be given appropriate consideration because volume of processed wheat purchased will be taken into account in the referendum as required by section 1708 of the Act.

It is intended under the Act that entities such as hotels, restaurants, institutions, etc., which produce end products on the premises where they are to be consumed by an ultimate consumer should not be subject to any obligations under the Act or the Order, and this definition so provides. Furthermore, there may be some hotels, restaurants or institutions which prepare end products at central commissaries and then distribute them to several locations (e.g., a restaurant with three or four locations in the same city which bakes end products at one central location). Such end products would not technically be "consumed on the premises" where baked. However, it is intended that the persons who produce these end products be excluded from those covered by the end product manufacturer definition since they are still clearly within the class at which the statutory exemption is aimed.

"Research" is defined to mean any type of research to advance the nutritional quality, marketability, production, or other qualities of wheat, processed wheat, or end products.

The definition is broad enough to include any type of research aimed at achieving the general objectives of the Act but narrow enough to assure projects will not go beyond the scope of those objectives.

"Nutrition education" is defined to mean any action to disseminate to the public information resulting from research concerning the economic value or nutritional benefits of wheat, processed wheat and end products.

Nutrition education activities must be based on the results of research (whether conducted by the Wheat Industry Council *or* others). They would not include promotion efforts based solely on the desirability of wheat, processed wheat or end products. Such activities, that encourage consumption for its own sake without imparting any knowledge of nutritional facts or economic value, are clearly not intended under the Act and its legislative history, and they would not be included under this definition.

"Wheat Industry Council" is defined as the administrative agency or body charged by the Act with the duty to administer the Order. The administrative agency would be composed of wheat producers, processors, end product manufacturers, and consumers appointed by the Secretary from nominations submitted by eligible producers, processors, end product manufacturer and consumer organizations.

"Person" is defined to mean any individual, partnership, corporation, association or other entity. This conforms to the definition in the Act and covers the range of possible different entities that may be subject to the order.

"Fiscal period" is defined to mean the calendar year or such other consecutive twelve-month period as the Council, with the approval of the Secretary, may determine. The Wheat Industry Council is required to submit to the Secretary, for approval, budgets on a fiscal period basis containing anticipated expenses and disbursements in the various areas expenditures are authorized.

"Eligible organization" is defined to mean any organization or association which has been certified by the Secretary pursuant to § 1280.165. There are many organizations and associations representing producers, processors, end product manufacturers and consumers throughout the U.S., both nationwide and in various specific geographical areas. The Act requires eligible organizations to carry the major responsibility for nominating members to the Council. If the Secretary determines that a substantial number of wheat producers, processors, end product manufacturers or consumers are not represented by any eligible organization, then nominations shall be submitted in a manner authorized by the Secretary. The determination of eligibility rests with the Secretary.

"Part" means 7 CFR Part 1280, containing rules, regulations, orders, supplemental orders and similar matters concerning the Act;

"Subpart" means any portion or segment of such part. These are necessary technical definitions.

"Retail baker" is defined to mean an end product manufacturer who sells end products directly to the ultimate consumer: *Provided*, That such term shall not include any end product manufacturer who derives less than ten percentum of gross end product sales revenues from sales to ultimate consumers or who derives ten percentum or more of gross food or food product sales revenues from the sale of such products manufactured or produced by others.

This definition is necessary to describe a class of persons who are exempt from payment of the assessment, from voting in the referendum on the Order, and from serving on the Council.

Retail bakers are specifically exempted from all provisions of the Act as a matter of statutory right. The effect of this exemption is to free retail bakers from all obligations under the Act. End product manufacturers which derive less than ten percent of gross end product sales revenues from sales to ultimate consumers are excluded from the definition so that wholesale bakers who do some minor retail sales will remain subject to the Act. End product manufacturers which derive ten percent or more of gross food sales revenues from sales of products manufactured or produced by others are excluded from the definition of retail bakers with the effect that volume users of processed wheat such as large chain grocery store bakery operations will remain subject to the Act.

To receive the benefit of the exemption it would only be necessary for any end product manufacturer to demonstrate to the Council, and to the Secretary if so requested: (1) That it does sell end products directly to ultimate consumers; (2) that it derives ninety percent or more of its gross end products sales revenues from sales to ultimate consumers; and (3) that it does not derive ten percent or more of its gross food or food products sales revenues from the sale of products manufactured or produced by others. It is not expected that retail bakers would

be required to prove eligibility for the exemption except in rare instances.

The 10 percent limitation concerning sales to ultimate consumers is not expected to exclude any wholesale bakers from the assessment. Most wholesale bakers operate retail stores to sell bread and other bakery foods which have passed the typical supermarket shelf-life period. The baker's goal is to recover costs of production through his "day-old bread" or "thrift store" operations. Bakery driver-salesmen retrieve the products from supermarkets after one to three days, and the bakers offer them at significantly reduced prices. But these retail activities typically account for only 2 to 3 percent of a wholesale baker's total sales and would not, in any case approach 10 percent.

Wholesale bakers participating in the program under the proposed order who operate such retail stores would not be entitled to an exemption from assessments on their retail volume.

The second 10 percent limitation excludes from the retail baker definition, and hence from the exemption, persons who derive 10 percent or more of their gross food sales revenues from the sale of foods produced by others. This statutory provision is aimed at chain store bakeries. Although the class has diminished significantly in recent years, bakeries owned and operated by chain stores and supermarkets still account for about 10 percent of sales nationally within the wholesale baking industry.

The preponderance of income for these firms is derived from retail grocery sales—sales of products produced by others. However, their baking operations can give them exclusive brands and additional profits.

Many of these chain store bakery operations are quite substantial in size. Since none of the chain stores' sales of their own bakery products even approaches 90 percent of gross food sales revenues they will be excluded from the retail baker exemption and will be subject to assessment as end product manufacturers. Chain store bakeries of small size will, however, be exempt from the assessment under the 2,000 hundredweight exemption, which will be discussed at a later point in this decision.

The definitions of: (1) "Intra-company transfers," (2) "related companies or divisions of the same company," and (3) "control" are all interrelated. "Intra-company transfers" means sales or transfers of processed wheat for use in the manufacture of end products to end product manufacturers from related companies or divisions of the same company. "Related companies or divisions" means subsidiaries, affiliates or divisions of an end product manufacturer which are controlled by, controlling, or under common control with, such end product manufacturer. "Control," including the terms "controlling," "controlled by," and "under common control with," means the possession directly or indirectly of the power to direct or cause the direction of the management and policies of any person, whether through the ownership of voting securities, by contract, or otherwise.

These three definitions are necessary to determine when the assessment vests with respect to certain end product manufacturers. They are required, due to the structure of certain segments of the wheat industry, where some diversified corporations include both processing and end product manufacture divisions or affiliates. Under this definition, the assessment will vest upon purchase of processed wheat for use in the manufacture of end products, and a "purchase" would include an "intra-company transfer." Thus, the Council will be able to determine exactly when the assessment will vest with respect to each such transfer.

The percentage of processed wheat subject to intra-company transfers is not large. Only about six wheat processor firms are also involved in end product manufacturing. In each of these firms, the two operations are maintained separate from each other and intra-company transfers are treated substantially the same by both entities as a normal purchase and sale of processed wheat. Therefore, it is not anticipated that there will be any significant problem with the reporting or recordkeeping provisions of the Order, or in calculating and remitting assessments.

"Act" is defined to provide the correct legal citation for the statute pursuant to which the Order may be put into effect and operated. The inclusion of this definition makes it unnecessary to refer to such law and statutory citation each time reference is made to the Act in the provisions of the Order. "Act" also is defined to include any amendments that may be made to the Wheat and Wheat Foods Research and Nutrition Education Act (7 U.S.C. 3401 et seq.).

(b) *Wheat Industry Council.* A Wheat Industry Council is established to act as the administrative body for this Order as specified in Section 1706 of the Act. It is composed of wheat producers, processors, end product manufacturers and consumers appointed by the Secretary from nominations submitted by eligible organizations. If the Secretary determines that a substantial number of wheat producers, processors, end product manufacturers or consumers are not represented by any eligible organization, then nominations shall be submitted in a manner authorized by the Secretary. Each member has an alternate to serve in the member's stead as necessary.

Membership. The Act provides for the Council to consist of "not more than" twenty members, to be divided equal among producers, processors, end product manufacturers and consumers. In view of the broad representation on the Council, and the diverse interests be represented, the Order provides for the maximum allowable Council size, i.e., twenty members, five from each segment. A Council of less than twenty members would not be able to provide adequate representation to consumers and all segments of the wheat industry.

Term of office. The term of office for Council members and their alternates is 2 years as provided in the Act. Such a period of time is necessary to permit a member to become familiar with the programs and operations of the Council and to make an effective contribution. Initial appointments shall be, proportionately, for 2 and 3 year terms, giving staggered terms for Council members so that all terms would not expire at the same time. This will help to insure continuity of program efforts and program direction.

The Order provides for continuation of a member's service until his or her successor is appointed so as to avoid gaps in Council membership and assure equal representation at all times of all four segments on the Council.

No member or alternate shall serve more than three consecutive terms in the same capacity, but service of three consecutive terms in one capacity will not disqualify any person from appointment in another capacity. Thus, persons who have served as a member can then be appointed as an alternate, and vice versa.

Certification of organizations. Any organization or association may ask the Secretary to certify its eligibility to participate in nominating members and alternates to the Council and to represent producers, processors, end product manufacturers or consumers. Eligibility will be based, in addition to other available information, upon a factual report submitted by the organization or association which shall contain information deemed relevant and specified by the Secretary for the making of such determination. The report must include information which will allow the Secretary to determine that nominating organizations or associations do represent their

respective segments of the industry or consumers. The information includes:

(1) Geographic territory covered by the organization's active membership.

(2) Nature and size of the organization's active membership, including (for non-consumer organizations) the total number of active wheat producers, processors or end product manufacturers respresented.

This is particularly significant with respect to producers. General farm organizations wishing to be certified would need to show the number of wheat producers they represent. Testimony suggested that to the extent that the same producers are also members of organizations specifically representing wheat interests, they would be better represented on the Council by such wheat organizations.

(3) The extent to which producer, processor or end product manufacturer membership, respectively, is represented in setting the organization's policies.

(4) Evidence of stability and permanence of the organization;

Testimony suggested that the Council will be around for a long time and organizations wishing to be involved in the nomination of Council members should likewise be required to demonstrate their stability and permanence.

(5) Sources from which the organization's operating funds are derived;

To insure fair representation on the Council, the operating funds of any organization wishing to submit nominations should, to the extent possible come from those it represents.

(6) Functions of the organization;

The functions of any nominating organization should be consistent with the purposes and goals of the Act.

(7) The organization's ability and willingness to further the aims and objectives of the Act;

Testimony suggested that an organization which is not committed to these aims and objectives would certainly not be likely to produce a constructive member of the Council.

The Order states that the primary consideration in determining eligibility of a non-consumer organization shall be whether its membership consists primarily of producers, processors or end product manufacturers who produce a substantial volume of wheat, processed wheat or end products, respectively, and whether the organization is based on a primary or overriding interest in the production, processing or end manufacturing of wheat or wheat products and the nutritional attributes thereof. This requirement should insure that Council members fairly represent the interests of their particular segment of the industry.

The Order sets out the criteria for consumer organizations. They include the requirement that the primary consideration for a consumer organization shall be whether: (1) A principal purpose of the organization is to promote consumer interests, consumer research, or consumer education; (2) such organization has a broadly representative constituency of consumers, with active membership participation on a regular basis; and (3) the organization has demonstrated to the Secretary's satisfaction its commitment to the achievement of the objectives of the Act. Testimony suggested that a member nominated by an organization which opposes the objectives of the Act would be detrimental to the efficient functioning of the Council and the achievement of the Act's objectives.

Any organization or association which the Secretary finds to be eligible under this section will be certified. The Secretary's determination shall be final. Because the functions, goals and membership of any organization may change over time, organizations are required to be recertified every five years after their original certification. This will insure that the Council members they nominate will continue to be representative of their particular segment of the industry, or of consumers. Additionally, if the Secretary believes that any organization is no longer representative he may require recertification at any time.

Nominations. Orderly procedures are to be established for producer, processor, end product manufacturer and consumer organizations to submit nominations for Council members and alternates to the Secretary. If the Secretary determines that a substantial number of wheat producers, processors, and product manufacturers or consumers are not represented by eligible organizations then the Secretary will establish a procedure for obtaining nominations to represent such wheat producers, processors, end product manufacturers or consumers. It is essential that the nominations and appointments be completed in a timely fashion, but adequate time must be provided for each group to consider and select their nominees and for the Secretary to make the appointments. Following the certification of organizations and the caucusing of such organizations, nominations shall be submitted to the Secretary within a time period specified by the Secretary.

Eligible organizations may caucus to jointly nominate qualified individuals for each member and each alternate member to be appointed to the Council. If they do not caucus or if they fail to agree on nominees, each eligible organization is authorized to submit nominations for each position to be filled. If the Secretary determines that a substantial number of producers, processors, end product manufacturers or consumers are not members of or their interests are not represented by any eligible organization, the Secretary will provide a manner for such individuals to participate in the nomination process. A minimum of 60 days is necessary, after approval of the Order, to permit the Department to certify eligible organizations and for certified organizations to caucus, make their selections, and submit their nominations to the Secretary. The Secretary may prescribe a longer period if necessary.

After the initial Council has been established, nominations for subsequent appointments of Council members and alternates should be submitted sufficiently in advance to permit the Secretary to appoint the members, to inform them of their appointment, and to obtain acceptance of such appointments before the beginning of the term of office for which they are being appointed. It is necessary to make these subsequent appointments in a timely fashion in order that operations of the Council can continue without interruption when normal changes in membership of the Council occur. Therefore, submission of nominations to the Secretary for subsequent Council members and alternates shall be at least 60 days prior to the expiration of the terms of members and alternates previously appointed to the Council. Other aspects of the nomination procedures for these appointments to the Board are the same as those for nominating members and alternates to the initial Council.

In the selection of producer representatives for the Council, consideration shall be given to the selection of members that will be representative of the classes and volume of wheat produced as well as the geographic distribution of that production. Council members, representing producers, will be appointed to represent each of the following areas:

1. The Eastern States—all States east of a north-south line from the western boundary of Minnesota to the western boundary of Louisiana. This will encompass all of the Soft red winter production area and the eastern White wheat production area. It is a natural unit from the standpoint of classes of

wheat, type of farming operations, market channels, and end use interests.

2. North Dakota and South Dakota—This area embraces the unique Durum Wheat class and most of the hard red spring production. Durum is unique from the other classes because of its end uses in pasta products. The Hard red spring production area is a heavily concentrated wheat production area. In this area farming practices and marketing bases differ markedly from the Hard red winter wheat areas.

3. Kansas and Nebraska—This is a heavily concentrated portion of Hard red winter wheat production. Kansas is the leading State in the nation in wheat production. Record testimony indicates that there should be two producer representatives from Hard red winter States (one from area number 3 and one from area number 4) because the volume of production of Hard red winter is more than double that for any other class and this class of wheat is very heavily used in domestic markets.

4. Oklahoma, Texas, Montana, Wyoming, Utah, Colorado and New Mexico—This area comprises the remainder of the Hard red winter production. Its production and marketing problems are generally distinct from those of producers to the east or west. It embraces the very heart of conditions representative of the Great Plains area and much of the Rocky Mountains. Wheat production is not as concentrated as in area number three.

5. The Western States—Idaho, Washington, Oregon, California, Nevada, Arizona, Alaska, and Hawaii. This area encompasses the western White wheat production areas and the production and marketing patterns and problems of the western States. Any export marketings from this area follow different channels from those of the midwest and east. The varieties of wheat produced, farming practices, and research needs are generally different from the other areas.

The above areas represent the following percentages of 1978 wheat production: Area number one—18%; area number two—19%; area number three—22%; area number four—23% and area number five—18%.

The criteria to be used in selecting processor members for the Council include class and amount of wheat processed and geographic distribution. Different classes of wheat are used in the production of different types of end products.

The record suggests that processor representation on the Council should be determined primarily on the basis of the class of wheat processed so that the Council should include at least one individual representing processors who are major suppliers of wheat for: (1) Baked goods; (2) biscuits and crackers; (3) cereals; and (4) pasta products.

To insure that appropriate consideration is also given to volume and geographical considerations processor members should be selected so that at least one represents the eastern area (east of the Mississippi River), at least one represents the midwestern area (from the Mississippi to the Rockies) and at least one represents the far west (west of the Rockies). Further, at least one of the five should represent a processor who is in the bottom third of the industry in terms of volume of processed wheat produced, at least one should represent the middle third and at least one should represent the top third. This will assure that the interests of processors of all sizes will be adequately represented.

Although there is some overlap in these categories, i.e., one processor member might at the same time represent suppliers of processed wheat to bakers, processors in the midwestern area, and processors in the top third of the industry in terms of volume. By taking all these factors into consideration, it should be possible to provide full and fair representation of the interests of all processors.

With respect to end product manufacturers, the criteria for selecting Council members should include the generic type of end product produced by each segment of the end product industry and the percentage each such segment uses of the total processed wheat used by all segments of the industry.

Segments of the industry by generic type include: (1) Baked goods, (2) biscuits and crackers, (3) cereals, and (4) pasta products. Each of these four industry segments is well represented by a nationwide trade association. Record testimony has indicated that if each of these associations propose qualified nominees, then each of the four industry segments they represent should have at least one Council member. Since the industry segment which produces baked goods uses the largest percentage of processed wheat (45%), the baked goods segment should be represented by at least two members on the Council, with each of the other three industry segments having one Council member if they choose to submit nominations.

Criteria to be considered in the selection of consumer representatives are discussed under the prior section, entitled "Certification of organizations."

Appointment. The Order provides that the Secretary will appoint Council members and an alternate for each from nominations submitted. Written notice of their acceptance of the appointment should be submitted to the Secretary promptly by member and alternate designates.

Vacancies. The nomination and appointment procedures for individuals to fill unexpired terms when vacancies occur are the same as those specified for the normal appointment and reappointment of members and alternates. It is important that vacancies be filled promptly in order to maintain full membership and representation on the Council and a minimum of disruption. Accordingly, nominations to fill vacancies are to be submitted to the Secretary within 60 days of the time the vacancy occurs. Such a period provides a reasonable amount of time for selection of nominees. However, should a vacancy occur within 6 months of the expiration of the term of a Council member or alternate, the Secretary need not fill the vacancy.

Alternate members. Each Council member has an alternate designated to serve in the member's place as necessary. On occasions, a Council member may find it necessary to be absent from Council meetings. An alternate member should be available so that the business affairs of the Council will not be impaired. The alternate member will serve at Council meetings in the absence of the member. Also, in the event of a vacancy on the Council for any reason, the alternate will act until a successor is appointed. Alternate members do not automatically serve in place of Council members on committees and other special assignments unless specifically selected to do so by the Council. The Council is not precluded from assigning other duties to alternates in addition to their responsibility to serve in the absence of Council members. The same criteria and procedures are used for nominating and appointing alternates as those for Council members. Alternates also are limited to three consecutive terms of service as an alternate. However, nothing precludes an alternate from replacing or succeeding a member and that alternate is permitted to serve up to three consecutive terms as a Council member, without regard to the length of time served as an alternate.

Procedure. The Council should adopt bylaws governing its organization and operation. However, the method of voting in decisions of the Council and quorum requirements are specified in the Order. The presence of a majority of the members and alternates acting for members constitutes a quorum. On any vote taken by the Council, a majority of

those present and voting must concur before any action can be taken.

It is necessary that the Council adopt procedures which will assure that it operates properly and efficiently and it should schedule regular meetings. However, there may be instances when it is necessary to transact routine, noncontroversial business or take rapid action at times when it would be expensive and unnecessary to call an assembled meeting. Therefore, the Council is authorized to vote by telephone, or other means of communication in such instances. However, any such vote by telephone shall be confirmed promptly in writing. The Council should have authority to determine when it will be necessary to transact business without calling an assembled meeting.

Compensation. Council members and alternates serve without compensation, but it is appropriate that members and alternates be reimbursed for necessary and reasonable expenses incurred when performing authorized Council business. The Council, with the approval of the Secretary, shall set standard procedures governing reimbursement, including the forms to be used, receipts or other documentation required, and the limits of reasonable expenses.

Powers. The Council must have the powers specified in Section 1706 of the Act (7 U.S.C. 3405) in order to effectively provide administrative direction of the program. The Council has the power to administer all terms and provisions of the Order and carry out the plans and programs authorized by the Act. The Council is empowered to develop rules and regulations necessary for implementing and operating the program, such rules and regulations issued by the Secretary under the authority of the Act and published in the Code of Federal Regulations shall have the force and effect of law. Such rules and regulations are necessary to set the procedures under which the Council exercises its responsibilities. They will govern the method of collecting assessments, the refund procedures, the actions to be taken to implement specific programs, the records that must be kept by end product manufacturers and processors, and the related provisions necessary to meet the requirements of the Order.

Violations of the rules and regulations issued pursuant to the Order may occur and the Council has the power to investigate alleged violations. Procedures established for handling such violations should assure fair and equitable treatment in all instances. The Council should take all reasonable steps to settle violations and in the event that settlement cannot be reached, report violations, with documentation, to the Secretary for appropriate action.

Problems may arise or conditions may change within the industry that would necessitate amendments to the Order. The Council should maintain regular surveillance of the need for amendments and should exercise the power to recommend amendments of the Order to the Secretary when it deems that such action is necessary.

Duties. The duties of the Council as set forth in the Order are necessary for the discharge of its responsibilities. The stated duties provide authority and guidance concerning many details common to the operation of an administrative entity such as the Council. They include the duty to meet and organize, elect officers, and establish committees and subcommittees of Council members as necessary to handle the affairs of the Council. Bylaws should be adopted governing the conduct of business by the Council. The Council also has authority to appoint advisory committees, which would include persons who are not members of the Council, in order to gain added advice and counsel on problems, procedures, and progams. Such committees can act in an advisory position only; final decisions and actions are reserved to the Council, and only the Council may take action authorizing the expenditure of funds. The Council has the authority to reimburse advisory committee members for travel and other expenses arising from their assigments.

The Order provides that the Council may appoint an executive committee of not less than four nor more than eight members to administer the terms of the Order under the direction of the Council and within policies determined by the Council. An executive committee is not required, but may be appointed if the Council believes it to be necessary or appropriate. The option to appoint an executive committee gives the Council needed flexibility in its operating procedures. However, because of the diversity of membership on the Council, record testimony indicates that any executive committee appointed have at least one member from each of the four groups represented on the Council.

The Act provides that the Wheat Industry Council shall have the authority to employ staff members, specifying their duties and compensation, and to administer the provisions of the Order. The Council should establish and maintain an effective managerial team composed of Council members and the administrative staff of the Council.

A major duty of the Council is the development of plans and programs to implement the Order. The Council has authority to initiate contracts or agreements with other organizations to conduct program activities. Contractors are required to provide plans for each project or program, outline procedures to be followed, and submit a detailed estimate of the costs. Further, contractors are required to keep adequate records and submit regular reports of their activitives on a project showing progress made, disbursement of funds, and any other relevant information required by the Council or the Secretary. Contracts and agreements of the Council may become effective only upon approval of the Secretary. In addition to contracting with others, the Council has authority to conduct program activities on its own if such an approach can be shown to be more effective or efficient in furthering the purposes of the Act and Order.

The Council shall prepare a budget of its anticipated income and expenses each fiscal period and submit it to the Secretary for approval. The Secretary should specify the date for submission of the budget for approval, allowing adequate time for review prior to the beginning of the fiscal period. In addition to income and expenses, the budget statement should include a description of program plans, the distribution of anticipated expenses for each major program category, the estimated cost for administration, and detailed justification of the plans.

Each budget should also include a brief general description of the proposed research and nutrition education programs. This general description will be included with the summary of the budget, as approved by the Secretary, which must be published in the Federal Register.

Other duties of the Council outlined in the Order are those necessary to assure that it operates in a businesslike fashion. They involve requirements for maintaining records and submitting reports of activities as required by the Secretary, making annual reports of activities to producers, processors, end product manufacturers and the public, accounting for funds received and expended each fiscal period, and initiating an annual audit of its financial status by an outside party. Further, the Council is required to give the Secretary the same notice of meetings as is given Council members and to provide any other information pertaining to the Order which the Secretary requests.

(c) *Programs and Projects.* The Council has the authority to determine the type of research, nutrition education,

and consumer information projects to be undertaken, and it is charged with the responsibility of initiating and recommending to the Secretary the establishment of such projects as are authorized by the Act. The projects and programs should be designed to improve and enhance the quality and make the most efficient use of American wheat, processed wheat and wheat end products. The authority is broad and flexible to enable the Council to use the most efficient and effective methods of carrying out the purposes of the Act. Emphasis should be placed on developing a coordinated national program, with activities designed to complement the efforts of groups, organizations, or agencies which are currently engaged in research and information activities.

The Council has the authority to recommend programs designed to expand sales in foreign markets for wheat, process wheat and wheat end products. This area of activity should include steps to increase sales to present overseas customers as well as to develop new outlets and tailor products to their needs. Cooperative efforts with existing programs of this nature conducted by Federal and State governments and private interests may prove to be an effective approach.

Programs or projects conducted by the Council shall be periodically reviewed to determine if each such plan or project contributes to an effective and coordinated program of research, information, and education. Upon such review the Council shall terminate any program or project which it determines does not further the purpose of Act.

The provision of the Order and Act that no programs or projects shall make any reference to private brand names of wheat based products is necessary to avoid discrimination. The Council represents all interests in the industry and therefore must be fair to all segments and elements of the wheat and wheat foods industry. Prohibition of the use of false or unwarranted claims in behalf of wheat or wheat based products or false or unwarranted statements with respect to the attributes or uses of competing products is also necessary for proper administration of the Order.

An economically viable wheat and wheat based foods industry is clearly in the public interest. Maintenance and expansion of existing markets and the development of new markets, both at home and abroad, are essential if the wheat and wheat based foods industry is to be healthy enough to supply the needs of consumers. Therefore, the Order provides the necessary authorizations for research and information designed to accomplish this objective. It enables the Council to undertake production research, marketing research, product or market research, and other research designed to improve efficiency throughout the production and marketing chain from the earliest stages of production up to the time the product reaches the consumer. In addition, information derived from research and other factual information would be made available to producers, processors, end product manufacturers and consumers.

The Council may either perform research or information work within its own organization, or it may contract for such research, education, and consumer information projects and programs with public and private research agencies which are capable of performing the work needed. While the projects and programs must be submitted to the Secretary for approval, it is recognized that study and planning may be involved in the development of such activities. Therefore, reasonable expenses which may be incurred by the Council in connection with such development should be authorized as part of the annual plan or budget even though prior to the time such projects are submitted.

(d) *Assessments, Refunds, Expenses.* The Act provides that each end product manufacturer, excluding retail bakers and those using less than 2000 hundredweight of processed wheat per year, shall pay to the Council, pursuant to regulations, an assessment based on the number of hundredweights of processed wheat purchased, including intra-company transfers of processed wheat with respect to which no assessment has been paid or scheduled for payment, for use in the manufacture of end products. Additionally, the Act authorizes the Secretary to exempt specified categories of end products from assessment under the order. End products in which wheat is a characterizing or major ingredient are subject to assessment and end products in which wheat is not a characterizing or major ingredient are exempt from assessment under the Order.

Table A, below, identifies end products in the Standard Industrial Classification code in which wheat is a characterizing or major ingredient. This list includes end products subject to assessment under the Order. The Council, with approval of the Secretary, may revise the list as needed. Table B, below, identifies many, but not necessarily all, of the end products in the Standard Industrial Classification code in which processed wheat is a minor ingredient but is not a characterizing or major ingredient. End products listed in Table B, and any other end products, subsequently identified, which contain processed wheat as minor ingredient but not as a characteristic or major ingredient will be exempt from assessment under the Order and will not be considered "end products" for the purpose of weighted referendum voting.

Table A. List of wheat end products included within the "end product" definition of § 1280.103, of the Wheat and Wheat Foods Research and Nutrition Education Order, which are subject to the assessment established under § 1280.151.

SIC No.	
2032	Macaroni, canned
	Ravioli, canned
	Spaghetti, canned
2038	Baked goods, frozen
	Pies, fozen (except meat)
	Pizza, frozen
	Spaghetti and meat balls, frozen
	Waffles, frozen
2041	Dough, biscuit: canned
	Doughs, refrigerated
2043	Breakfast foods, cereal (wheat based)
	Wheat flakes
2045	Dough, biscuit: Canned
	Doughs, refrigerated
2051	Bagels
	Bakery products, partially cooked, except frozen (frozen are included in SIC No. 2038)
	Bakery products, "perishable": Bread, cakes, doughnuts, pastries, etc. (including croutons)
	Biscuits, baked: Baking powder and raised
	Bread, brown: Boston and other—canned
	Buns (bakery products)
	Charlotte Russe (bakery products)
	Crullers
	Knishes
	Pastries: Danish, French, etc.
	Pies, except meat pies
	Rolls (bakery products)
	Sponge goods (bakery products)
	Sweet yeast goods
2052	Bakery products, "dry": biscuits, crackers, pretzels, etc.
	Biscuits, baked: Dry, except baking powder and raised biscuit (which are included in SIC No. 2051)
	Cookies
	Crackers: Graham, soda, etc.
	Saltines
	Zwieback, machine-made
2098	Macaroni and products, dry: Including alphabets, rings, seashells, etc.
	Noodles: Egg, plain and water
	Spaghetti, except canned (canned is included in SIC No. 2032)
	Vermicelli
2099	Pizza, refrigerated, except frozen (frozen is included in SIC No. 2038)

Table B. List of wheat end products which could technically be included in the "end product" definition, but which will be exempted under rules issued pursuant to § 1280.151 (a)(2) of the Order, and § 1705(d) and § 1716 of the Act.

SIC No.	
2032	Meat pies, canned
2034	Soup mixes and powders
2035	Sauces
2038	Frozen dinners
2052	Cones, ice cream
2085	Distilled, Rectified, and Blended Liquors

The rate of assessment may not exceed the statutory maximum of five

cents per hundredweight of processed wheat purchased or transferred. Further, section 1280.151 of the Order specifies that assessments may not exceed one cent per hundredweight during the first 2 years that assessments are collected. The Council may recommend changes in the rate of assessment subject to approval by the Secretary.

The Wheat Industry Council is authorized to set aside funds in an operating reserve and to budget for such a reserve. Such a reserve will allow the Council to meet expenses already committed to in the event that the amount of assessments should decrease unexpectedly. The size of the reserve should be determined by the Council, with the approval of the Secretary, on the basis of the level of assessments being received, and the existing liabilities and anticipated expenses.

The recommended decision inadvertently omitted a discussion of hearing testimony that proposed an amendment to the Order that would permit end product manufacturers not wishing to participate in the program to request exemption from assessment rather than to request a refund of the assessment as provided for in the Act and the Order. In hearing testimony proponents of the Order cited legislative authority and program need as reasons for all end product manufacturers to participate in the program subject to the referendum and refund provisions of the Act. Additionally, producers, processors, other end product manufacturers and the labor union representing end product manufacturers' employees were opposed to the proposed amendment. Since the assessment and refund provisons of the Order are exactly as provided in the Act, the proposed amendment must be rejected because it would not be in keeping with the statutory framework and legislative intent of Congress.

Refunds. Assessments are to be paid by end product manufacturers. There are relatively few such firms, in comparison with the numbers of producers who have been subject to assessments under other research and education orders, and some of these firms are extremely large. Obviously, one very large end product manufacturer unexpectedly requesting a refund of its assessments could cripple ongoing plans and projects undertaken in expectation of receiving such assessments. Therefore, the Order provides for a refund election procedure. Under such procedure, end product manufacturers will have a 60-day period from the date of publication of the summary of the Council budget, to elect to reserve the right to seek refunds. Only those end product manufacturers making such an election shall be eligible for refunds of assessments paid during the one year period immediately following the 60-day election period.

In practice, the initial budget summary would be published 60 days prior to the date on which the obligation to pay assessments will vest. All end product manufacturers not reserving the right to request refunds during this 60-day period would be committed to pay assessments for the first year of the program. Thereafter, a summary of each year's budget would be published 60 days before the beginning of each succeeding year of the program.

The budget summary would include a brief general description of the proposed research and nutrition education programs contemplated. The description should be sufficient to allow end product manufacturers to evaluate the Council's proposed program and make a considered decision on whether to elect to reserve the right to seek refunds.

A similar election period and procedure would apply with respect to amendments to the budget. However, this provision would be interpreted to require a summary of budget amendments to be published only in the case of amendments so significant as to substantially change the nature of the ongoing plans or projects upon which the most recent refund election was based. This is essential to avoid the confusion and severe administrative burden on the Council that would result from publication of a new budget summary, and initiation of a new refund election period, on the basis of every minor change in the budget. If, however, there were a change in the Council's priorities of the magnitude described, a description of the budget amendments entailed by such change would be published. All persons subject to the assessment would thereafter have 60 days within which to make the election.

In order to avoid confusion if such a mid-year budget amendment is published, the Order provides that an election made on the basis of a budget amendment shall apply only until the end of the one year period then in effect with respect to the annual budget.

End product manufacturers will have an opportunity to make a further election based on the publication of the summary of the next annual budget. This procedure will carry out the intent of the Act in allowing end product manufacturers to make an informed decision on whether to reserve the right to seek refunds. And it will give them the necessary information upon which to base this decision. However, it will avoid the confusion and additional administrative expense that could otherwise result from overlapping refund eligibility periods due to a change in priorities in the middle of a budget year.

The Order allows end product manufacturers who have paid an assessment and reserved the right to seek a refund, to demand and receive from the Council a refund of assessments they have paid. The refund procedure, in combination with the obligations to describe proposed plans, and projects to end product manufacturers 60 days in advance of the initiation of assessments for each budget year, should provide a good check to insure that the Council plans its activities, and spends assessments, wisely. As provided in the Act, the demand for the refund shall be made by end product manufacturers, in accordance with regulations, and on a form and within a time period, prescribed by the Council and approved by the Secretary. It will also require submission of proof satisfactory to the Council that the end product manufacturer paid the assessment. Any such refund shall be made within 60 days after demand is received.

An exception was filed recommending that the refund election procedure in the order be changed to permit end product manufacturers to make a one time election to reserve their right to seek a refund rather than annual elections to reserve their refund rights as specified in the Order. This exceptor asserted that this change in the refund election procedure would simplify the procedure by eliminating the need to reserve the right to seek a refund on an annual basis. Since the refund provisions of the Order are exactly as provided in the Act, the recommendation must be rejected because it would not be in keeping with the statutory framework and legislative intent of Congress.

Expenses. Council expenses shall be paid from assessments received and any other funds which accrue to the Council. The Council may incur expenses which are found by the Secretary to be reasonable for the functioning and maintenance of the Council and necessary for the Council to exercise its powers and duties.

The Act and its legislative history make it clear that the expenses of the Council shall include reimbursement by the Council to the Secretary for such expenses as the Secretary determines were incurred by the government in preparation of an original order and for the conduct of the referendum and, subsequently, for all administrative costs, including salaries, which the

Secretary determines are incurred by the government under the approved Order.

(e) *Records and Reports.* The Act imposes requirements on end product manufacturers to keep records and make such reports as necessary to the effectuation, administration, and enforcement of the Act and the Order or regulations issued pursuant to the Order. The Council has authority, with approval of the Secretary, to establish regulations requiring end product manufacturers to keep necessary books and records and to report to the Council periodically as the Council determines is necessary. Details on the information needed in records and reports and the frequency and timing of reports are to be established by the Council and shown in the regulations. Record evidence indicates some concern that unduly burdensome requirements may be imposed on end product manufacturers. It was suggested that existing records systems of the industry should be utilized to the extent possible, and the Council should be cognizant of this recommendation when formulating regulations for approval by the Secretary.

All books and records required under the regulations must be made available by end product manufacturers for inspection by representatives of the Council or the Secretary as necessary to verify reports on assessments made and forwarded to the Council. These records are to be retained at least two years beyond the fiscal year of their applicability. Such a time period is necessary to permit the completion of authorized audits, investigations, or other actions that may be necessary in administering and enforcing the provisions of the Order and the Act.

An exceptor expressed concern that confidential information available to the Wheat Industry Council might become available to competitors. The Secretary determines that such concerns are justified. In order to strengthen the confidentiality provisions of the Act and the Order the following paragraph has been revised and a paragraph has been added to this section. Additionally, § 1280.162 of the Order has been revised.

Representatives of the Council or the Secretary, while acting in their official capacities, on occasion are likely to have access to records and accounts of end product manufacturers, processors and distributors of processed wheat, and others which may reveal trade secrets or have competitive value. The Act requires that the confidential nature of such business records be protected. Regulations to be recommended by the Council and approved by the Secretary should specifically prohibit Council members from having access to confidential information that may reveal trade secrets or have competitive value. Only those persons having a specific need for such information in order to effectively administer the provisions of the Order shall have access to such information. The Order provides that information obtained from books, records, and reports required of end product manufacturers and information about refunds made to end product manufacturers, shall be kept confidential by the Council and by employees of the Council and of the Department of Agriculture.

Also, any such information which becomes available to contracting parties shall be kept confidential by officers and employees of such parties. However, the Secretary retains the authority to permit disclosure of such information, but only in a suit or administrative hearing relevant to the Order brought at the direction, or upon the request, of the Secretary of Agriculture, or to which any officer of the United States is a party.

It should be recognized that some information about the program may be of interest and benefit to the general public. Accordingly, the Order does not prohibit (1) the issuance of general statements concerning the number of persons subject to the Order or statistical data collected which do not identify the information furnished by any person; (2) the publication, as approved by the Secretary, of general statements relating to refunds made by the Wheat Industry Council which do not identify any person to whom a refund is made; or (3) the publication by direction of the Secretary of the name of any person violating the Order, together with a statement of the provisions of the Order violated.

The Act provides that any officer or employee of the Department, the Council, or a contracting agency violating these confidential provisions shall, upon conviction, be subject to a fine of not more than $1,000 or to imprisonment for not more than one year, or both, and if an officer or employee of the Council or Department shall be removed from office.

(f) *Other Terms and Conditions.* The record shows a need for several other miscellaneous terms and conditions as shown in §§ 1280.166 through 1280.172 of the Order. Each section sets forth certain rights, obligations, privileges, or procedures which are necessary and appropriate for the effective operation of the Order. These provisions are incidental to, and not inconsistent with, the terms and conditions of the Act, are necessary to effectuate the other provisions of the Order, and are supported by the record evidence.

Rulings on Briefs, Proposed Findings, and Conclusions

At the close of the hearing, the Administrative Law Judge fixed April 24, 1979, as the final date for interested parties to file briefs, proposed findings, and conclusions based on the evidence received at the hearing. One brief was filed on behalf of the Wheat and Wheat Foods Foundation by Donald H. Heitman, Attorney, Wheat and Wheat Foods Foundation, Washington, D.C.

The brief reiterated points made by witnesses at the hearing. The points in the brief were carefully considered along with the record evidence received at the hearing in making the findings and conclusions set forth herein as discussed in this decision. To the extent that the suggested findings and conclusions are inconsistent with the findings and conclusions as set forth herein, requests to make such findings or reach such conclusions are denied for the reasons previously cited in this decision.

Rulings on Exceptions

In arriving at the findings and conclusions of this decision, all exceptions to the recommended decision were carefully and fully considered in conjunction with other record evidence. To the extent that the findings and conclusions are at variance with any of the exceptions, such exceptions are overruled.

General Findings

On the basis of the evidence presented at the hearing and the record thereof, it is found that:

1. The Wheat and Wheat Foods Research and Nutrition Education Order and all of the terms and conditions thereof as hereinafter set forth will tend to effectuate the declared policy of the Act; and

2. The following terms and conditions of the Order are a detailed means of carrying out the declared policy of the Act with respect to the development of effective and continuous coordinated programs of research and nutrition education for wheat, processed wheat and wheat end products with adequate financing through assessments on the purchase of processed wheat.

Wheat and Wheat Foods Research and Nutrition Education Order

It is determined that the detailed and appropriate means of effectuating the foregoing conclusions is the Wheat and

Wheat Foods Research and Nutrition Education Order which follows. However, this Order shall not become effective unless approved in a referendum of end product manufacturers as provided in Section 1708 of the Act and in § 1280.16 of the Rules of Practice and Procedure Governing Proceedings to Formulate an Order (7 CFR Part 1280).

If approved in referendum of end product manufacturers a new subpart would be added to Part 1280 of Title 7 of the Code of Federal Regulations as follows:

Part 1280—WHEAT AND WHEAT FOODS RESEARCH AND NUTRITION EDUCATION

Subpart—Wheat and Wheat Foods Research and Nutrition Education Order

Definitions

Sec.
1280.101 Wheat.
1280.102 Processed wheat.
1280.103 End product.
1280.104 Wheat producer.
1280.105 Processor.
1280.106 End product manufacturer.
1280.107 Research.
1280.108 Nutrition education.
1280.109 Wheat Industry Council or Council.
1280.110 Department.
1280.111 Secretary.
1280.112 Person.
1280.113 United States.
1280.114 Fiscal period.
1280.115 Eligible organization.
1280.116 Representative of wheat producers.
1280.117 Representative of processors.
1280.118 Representative of end product manufacturers.
1280.119 Representative of consumers.
1280.120 Part and subpart.
1280.121 Retail baker.
1280.122 Intra-company transfers.
1280.123 Related companies or divisions of the same company.
1280.124 Control.
1280.125 Act.
1280.126 Plans and projects.

Wheat Industry Council

1280.130 Establishment and membership.
1280.131 Term of office.
1280.132 Nominations.
1280.133 Appointment.
1280.134 Acceptance.
1280.135 Vacancies.
1280.136 Alternate members.
1280.137 Procedure.
1280.138 Compensation and reimbursement.
1280.139 Powers of the Council.
1280.140 Duties.

Research and Nutrition Education

1280.145 Research and nutrition education.

Expenses and Assessments

1280.150 Expenses.
1280.151 Assessments.
1280.152 Refunds.
1280.153 Influencing governmental action.

Reports, Books, and Records

Sec.
1280.160 Reports.
1280.161 Books and records.
1280.162 Confidential treatment.

Certification of Organizations

1280.165 Certification of organizations.

Miscellaneous

1280.166 Suspension and termination.
1280.167 Proceedings after termination.
1280.168 Effect of termination or amendment.
1280.169 Personal liability.
1280.170 Patents, copyrights, inventions, and publications.
1280.171 Amendments.
1280.172 Separability.

Authority: Wheat and Wheat Foods Research and Nutrition Education Act (7 U.S.C. 3401 et seq.).

Definitions

§1280.101 Wheat.

"Wheat" means all classes of wheat grains grown in the United States.

§ 1280.102 Processed wheat.

"Processed wheat" means the wheat-derived content of any substance (such as cake mix or flour) produced for use as an ingredient of an end product by changing wheat grown within the United States in form or character by any mechanical, chemical, or other means.

§ 1280.103 End product.

"End product" means any product which contains processed wheat as an ingredient and which is intended, as produced, for consumption as human food, notwithstanding any additional incidental preparation which may be necessary by the ultimate consumer.

§ 1280.104 Wheat producer.

"Wheat producer" means any person who grows wheat within the United States for market.

§ 1280.105 Processor.

"Processor" means any person who commercially produces processed wheat within the United States.

§ 1280.106 End product manufacturer.

"End product manufacturer" means any person who commercially produces an end product within the United States, but such term shall not include such persons to the extent that they produce end products on the premises where such end products are to be consumed by an ultimate consumer, including, but not limited to, hotels, restaurants, and institutions, nor shall such term include persons who produce end products for their own personal, family, or household use.

§ 1280.107 Research.

"Research" means any type of research to advance the nutritional quality, marketability, production, or other qualities of wheat, processed wheat, or end products.

§ 1280.108 Nutrition education.

"Nutrition education" means any action to disseminate to the public information resulting from research concerning the economic value or nutritional benefits of wheat, processed wheat, and end products.

§ 1280.109 Wheat Industry Council or Council.

"Wheat Industry Council" or "Council" means the administrative body established pursuant to § 1280.130.

§ 1280.110 Department.

"Department" means the United States Department of Agriculture.

§ 1280.111 Secretary.

"Secretary" means the Secretary of Agriculture of the United States or any other officer or employee of the Department to whom there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in the Secretary's stead.

§ 1280.112 Person.

"Person" means any individual, partnership, corporation, association or other entity.

§ 1280.113 United States.

"United States" means the several States and the District of Columbia, including any territory or possession.

§ 1280.114 Fiscal period.

"Fiscal period" means the calendar year or such other period as the Council may determine.

§ 1280.115 Eligible organization.

"Eligible organization" means any organization or association which has been certified by the Secretary pursuant to § 1280.165.

§ 1280.116 Representative of wheat producers.

"Representative of wheat producers" means a wheat producer, the owner, officer, or employee of a producer, or an officer, or employee of an organization or association representing wheat producers certified under § 1280.165.

§ 1280.117 Representative of processors.

"Representative of processors" means a processor, the owner, officer, or employee of a processor, or an officer, or employee of an organization or association representing processors certified under § 1280.165.

§ 1280.118 Representative of end product manufacturers.

"Representative of end product manufacturers" means an end product manufacturer, the owner, officer, or employee of an end product manufacturer, or an officer or employee of an organization or association representing end product manufacturers certified under § 1280.165.

§ 1280.119 Representative of consumers.

"Representative of consumers" means a consumer, or an officer or employee of an organization or association representing consumers certified under § 1280.165.

§ 1280.120 Part and subpart.

"Part" means 7 CFR Part 1280, containing rules, regulations, orders, supplemental orders and similar matters concerning the Wheat and Wheat Foods Research and Nutrition Education Act. "Subpart" means any portion or segment of such part.

§ 1280.121 Retail baker.

"Retail baker" means an end product manufacturer who sells end products directly to the ultimate consumer: *Provided,* That such term shall not include any end product manufacturer who derives less than 10 percentum of gross end product sales revenues from sales to ultimate consumers or who derives 10 percentum or more of gross food or food product sales revenue from the sale of such products manufactured or produced by others.

§ 1280.122 Intra-company transfers.

"Intra-company transfers" means sales or transfers of processed wheat for use in the manufacture of end products to end product manufacturers from related companies or divisions of the same company.

§ 1280.123 Related companies or divisions of the same company.

"Related companies or divisions of the same company" means subsidiaries, affiliates, or divisions of an end product manufacturer which are controlled by, controlling, or under common control with, such end product manufacturer.

§ 1280.124 Control.

"Control", including the terms "controlling", "controlled by", and "under common control with", means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of any person, whether through the ownership of voting securities, by contract, or otherwise.

§ 1280.125 Act.

"Act" means the Wheat and Wheat Foods Research and Nutrition Education Act (7 U.S.C. 3401 et. seq.) and any amendments thereto.

§ 1280.126 Plans and projects.

"Plans and projects" means those research and nutrition education plans, studies or projects pursuant to § 1280.145.

Wheat Industry Council

§ 1280.130 Establishment and membership.

There is hereby established a Wheat Industry Council of twenty members, each of whom shall have a specific alternate. The Council shall be composed equally of representatives of wheat producers, processors, end product manufacturers and consumers, appointed by the Secretary from nominations submitted by eligible organizations certified pursuant to § 1280.165, or from nominations in a manner authorized by the Secretary pursuant to § 1280.132(a).

§ 1280.131 Term of office.

The members of the Council and their alternates shall serve for terms of two years, except appointments to the initial Council shall be proportionately for terms of two and three years. Each member and alternate member shall continue to serve until his successor is appointed by the Secretary and has accepted the position. No member or alternate shall serve more than three consecutive terms in such capacity, but service of three consecutive terms in one capacity will not disqualify any person from appointment in another capacity.

§ 1280.132 Nominations.

All nominations authorized under § 1280.130 shall be made in the following manner:

(a) Within 60 days after approval of this Order by referendum, or such other period as determined by the Secretary, nominations shall be obtained by the Secretary as specified in paragraph (d) of this section from eligible organizations or associations certified pursuant to § 1280.165. However, if the Secretary determines that a substantial number of wheat producers, processors, end product manufacturers or consumers are not members of, or their interests are not represented by, any such eligible organizations or associations, then nominations shall be submitted by such wheat producers, processors, end product manufacturers and consumers in a manner authorized by the Secretary;

(b) After the establishment of the initial Council, the Department shall announce when a vacancy does or will exist. Nominations for subsequent Council members and alternates shall be submitted to the Secretary not less than sixty days prior to the expiration of the terms of the members and alternates whose terms are expiring;

(c) Where there is more than one eligible organization or association representing wheat producers, processors, or end product manufacturers within any geographic area, or within any segment of the wheat producing, processing, or end product manufacturing industry, they may caucus for the purpose of jointly nominating two or more qualified persons for each member and for each alternate member to be appointed. If joint agreement is not reached with respect to any such nominations, or if no caucus is held, each eligible organization or association may submit to the Secretary two or more nominations for each appointment to be made;

(d) In making nominations for such members and their alternates, factors such as those listed below shall be considered in determining equitable representation on the Council:

(1) For wheat producers—class and volume of wheat produced and geographic distributions;

(2) For processors—class of wheat processed, amount of wheat processed and geographic distribution;

(3) For end product manufacturers—the generic type of end product produced by each segment of the end product industry (baked goods, biscuits and crackers, cereals, pasta products) and the percentage each such segment uses of the total processed wheat used by all such segments of the end product industry; and

(4) For consumers—the factors set out in § 1280.165.

§ 1280.133 Appointment.

From the nominations made pursuant to § 1280.132, the Secretary shall appoint the members of the Council, and an alternate for each such member, on the basis of representations provided for in §§ 1280.130, 1280.131 and 1280.132.

§ 1280.134 Acceptance.

Any person appointed by the Secretary as a member, or as an alternate member, of the Council shall file a written acceptance with the Secretary within a period of time prescribed by the Secretary.

§ 1280.135 Vacancies.

To fill any vacancy occasioned by the death, removal, resignation, or disqualification of any member or alternate member of the Council, a successor for the unexpired term of such member or alternate member shall be nominated, and appointed in the manner specified in §§ 1280.130, 1280.132(b)(c)(d), 1280.133 and 1280.134, except that replacement of a Council member, or alternate, with an unexpired term of less than six months is not necessary.

§ 1280.136 Alternate members.

An alternate member of the Council, shall act in the place and stead of the member for whom he or she is the alternate during the absence of such member and shall perform such other duties as assigned. In the event of the death, removal, resignation, or disqualification of a member, his alternate shall act for him until a successor for such member is appointed and has accepted the position.

§ 1280.137 Procedure.

(a) A majority of the members, including alternates acting for members of the Council, shall constitute a quorum, and any action of the Council shall require the concurring votes of at least a majority of those voting.

(b) For routine and non-controversial matters which do not require deliberation and exchange of views, and in matters of an emergency nature when there is not enough time to call an assembled meeting of the Council, the Council may take action upon the concurring votes of a majority of its members by mail, telephone, or telegraph, but any such action by telephone shall be confirmed promptly in writing.

§ 1280.138 Compensation and reimbursement.

The members of the Council and alternates shall serve without compensation but shall be reimbursed for necessary and reasonable expenses, as approved by the Council, incurred by them in the performance of their duties under this subpart.

§ 1280.139 Powers of the Council.

The Council shall have the following powers:

(a) To administer the provisions of this subpart in accordance with its terms and provisions;

(b) To make rules and regulations to effectuate the terms and provisions of this subpart;

(c) To receive, investigate, and report to the Secretary compliants of violations of the provisions of this subpart; and

(d) To recommend to the Secretary amendments to this subpart.

§ 1280.140 Duties.

The Council shall have the following duties.

(a) To meet and organize and to select from among its members a chairman and such other officers as may be necessary, to select committees and subcommittess of Council members, and to adopt such rules for the conduct of its business as it may deem advisable. The Council may also establish advisory committees of persons other than Council members and pay the necessary and reasonable expenses of the members of such committees;

(b) To appoint from its members an executive committee consisting of not less than 4 nor more than 8 members, and to delegate to the committee authority to administer the terms and provisons of this subpart under the direction of the Council and within the policies determined by the Council, if such a committee is believed to be necessary or appropriate, and to appoint or employ such persons as it may deem necessary and define the duties and determine the compensation of each;

(c) To develop and submit to the Secretary for approval, research plans or projects and nutrition education plans or projects resulting from research conducted either by the Council or others;

(d) To prepare and submit to the Secretary for approval, budgets on a fiscal period basis of its anticipated expenses and disbursements in the administration of this subpart, including probable costs of research and nutrition education plans or projects, and also including a general description of the proposed research and nutrition education programs contemplated therein;

(e) To prepare a summary of the annual budget, or amendments thereto, including a brief general description of the proposed research and nutrition education programs contemplated therein, which shall, upon approval, be published promptly in the Federal Register.

(f) To maintain such books and records, which shall be available to the Secretary for inspection and audit, and prepare and submit such reports from time to time, to the Secretary, as the Secretary may prescribe, and to make appropriate accounting with respect to the receipt and disbursement of all funds entrusted to it;

(g) With the approval of the Secretary, to enter into contracts or agreements for the development and conduct of the activities authorized under § 1280.145 of this subpart and for the payment of the cost thereof with funds collected through the assessments pursuant to § 1280.151. Any such contract or agreement shall provide that: (1) The contractors shall develop and submit to the Council a plan or project together with a budget or budgets which shall show the estimated cost to be incurred for such plan or project; (2) any such plan or project shall become effective upon approval of the Secretary; and (3) the contracting party shall keep accurate records of all of its transactions and make periodic reports to the Council of activities conducted and an accounting for funds received and expended, and such other reports as the Secretary may require;

(h) With the approval of the Secretary, to invest, pending disbursement pursuant to a plan or project, funds collected through assessments authorized under § 1280.151 in, and only in, obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank which is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States;

(i) To prepare and make public, at least annually, a report of its activities carried out and an accounting for funds received and expended;

(j) To cause its books to be audited by a certified public accountant at least once each fiscal period and at such other times as the Secretary may request, and submit a copy of each such audit to the Secretary;

(k) To give the Secretary the same notice of meetings of the Council as is given to members in order that the Secretary or representative of the Secretary may attend such meetings; and

(l) To submit to the Secretary such information pursuant to this subpart as may be requested.

Research and Nutrition Education

§ 1280.145 Research and nutrition education.

The Council shall develop and submit to the Secretary for approval any plans or projects authorized in this section. Such plans or projects shall provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate plans or projects for

nutrition education, both within the United States and in international markets, with respect to wheat, processed wheat, and end products;

(b) The establishment and conduct of research or studies with respect to sale, distribution, marketing, utilization or production of wheat, processed wheat, and end products and the creation of new products thereof to the end that marketing and utilization of wheat, processed wheat, and end products may be encouraged, expanded, improved, or made more acceptable;

(c) Each plan or project authorized under paragraph (a) or (b) of this section shall be periodically reviewed or evaluated by the Council to insure that each such plan or project contributes to an effective coordinated program of research and nutrition education. If it is found by the Council that any such plan or project does not further the purposes of the Act, then the Council shall terminate such plan or project; and

(d) In carrying out any plan or project, no reference to a private brand or trade name shall be made unless the Secretary determines that such reference will not result in undue discrimination against wheat, processed wheat or end products of other persons. No such plans or projects shall make use of unfair or deceptive acts or practices with respect to the quality, value or use of any competing product.

Expenses and Assessments

§ 1280.150 Expenses.

(a) The Council is authorized to incur such expenses (including provision for a reasonable reserve), as the Secretary finds are reasonable and likely to be incurred by the Council for its maintenance and functioning and to enable it to exercise its powers and perform its duties in accordance with the provisions of this subpart. Such expenses shall be paid from assessments received pursuant to § 1280.151.

(b) The Council shall reimburse the Secretary, from assessments, for all the expenses and expenditures, including any referendum and administrative costs incurred by the Secretary under the Act, as the Secretary finds are reasonable and likely to be incurred under this subpart during any period specified by the Secretary.

§ 1280.151 Assessments.

(a) Each end product manufacturer shall pay to the Council, pursuant to regulations recommended by the Council and approved by the Secretary, an assessment based on the number of hundredweights of processed wheat purchased, including intra-company transfers of processed wheat with respect to which no assessment has been paid or scheduled for payment, for use in the manufacture of end products, from processors, distributors, or (in the case of such intra-company transfers) related companies or divisions of the same company: *Provided,* That no person, including any end product manufacturer who makes intra-company transfers, shall be required to pay more than one assessment with respect to the same processed wheat, whether or not such processed wheat is further processed by such person: *And provided further,* That the following end product manufacturers shall be exempt from such assessment:

(1) Retail bakers, as defined in § 1280.121, including any end product manufacturer who does not purchase more than 2,000 hundredweights of processed wheat per year for use in the manufacture of end products: *Provided,* That any person exempted under this subparagraph may waive such exemption, upon application to and approval by the Council, and thereafter will be treated as a non-exempt end product manufacturer under this subpart unless and until such person requests that such exemption be reinstated.

(2) End product manufacturers who manufacture specified end products, or types or categories thereof, which are exempted under rules or regulations issued pursuant to § 1716 of the Act to the extent of the processed wheat they purchase for use in the manufacture of such exempted products.

(b) The Council, with the approval of the Secretary, shall set the amount of the assessment, not to exceed five cents per hundredweight of processed wheat purchased or transferred: *Provided, however,* That the assessment rate for the first two years shall not exceed one cent per hundredweight.

(c) In order to enable end product manufacturers to calculate the amount of processed wheat they have purchased, persons selling or transferring processed wheat in combination with other ingredients to such end product manufacturers for use in the manufacture of end products shall disclose to such end product manufacturers the amount or proportion of processed wheat contained in such products, plus or minus 3 per centum.

(d) End product manufacturers shall remit assessments to the Council at such times and in such manner as prescribed by regulations, but in no case shall assessments be required to be remitted more often than quarterly.

§ 1280.152 Refunds.

(a) Subsequent to the publication of the summary of the Council budget, or amendments thereto, provided for under § 1280.140(e), all end product manufacturers not exempt from the assessments under § 1280.151 shall have 60 days each year from the date of publication within which to elect to reserve the right to seek refunds under paragraph (b) of this section. Reserving the right to seek refunds shall be indicated to the Council in writing, by registered or certified mail under such conditions as the Secretary may prescribe. Only those end product manufacturers who make such an election, under the described procedure, shall be eligible for refunds of assessments paid during the one-year period immediately following the expiration of such 60-day period. *Provided,* That, an election made on the basis of a budget amendment shall apply only until the end of the one-year period then in effect with respect to the annual budget.

(b) Notwithstanding any other provision of this subpart, any end product manufacturer who has been subject to and has paid an assessment, but who has reserved the right, under paragraph (a) of this section, to seek a refund, and who is not in favor of supporting the programs as provided for herein, shall have the right to demand and receive from the Council a refund of such assessment: *Provided,* That such demand shall be made by such end product manufacturer in accordance with regulations, and on a form and within a time period, prescribed by the Council and approved by the Secretary and upon submission of proof satisfactory to the Council that the end product manufacturer paid the assessment for which refund is sought, and any such refund shall be made within 60 days after demand is received therefor.

§ 1280.153 Influencing governmental action.

No funds collected by the Council under this subpart shall in any manner be used for the purpose of influencing governmental policy or action, except to recommend to the Secretary amendments to this subpart.

Reports, Books and Records

§ 1280.160 Reports.

Each end product manufacturer subject to this subpart, and other persons subject to section 1705(c) of the Act, shall be required to report to the Council periodically such information as may be required by the regulations

recommended by the Council and approved by the Secretary. Such information may include but not be limited to the following:

(a) The number of hundredweights of processed wheat purchased, sold, or initially transferred (as described in § 1280.122 and § 1280.151(a)) for use in the manufacture of end products;

(b) The number of hundredweights of processed wheat on which an assessment was paid; and

(c) The date any assessment was paid.

§ 1280.161 Books and records.

Each end product manufacturer who is subject to this subpart, and other persons subject to section 1705(c) of the Act, shall maintain and make available for inspection by the Council or the Secretary such books and records as are necessary to carry out the provisions of this subpart and the regulations issued hereunder, including such records as are necessary to verify any reports required. Such records shall be retained for at least two years beyond the fiscal period of their applicability.

§ 1280.162 Confidential treatment.

All information obtained from such books, records or reports under the Act and this part, and all information pertaining to refund requests and refunds, shall be kept confidential by the Council, all employees of the Council, all officers and employees of the Department, the Council and by all officers and employees of contracting agencies having access to such information. Only those persons having a specific need for such information in order to effectively administer the provisions of this subpart shall have access to such information. In addition, only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving this subpart. Nothing in this section shall be deemed to prohibit: (a) The issuance of general statements based upon the reports of the number of persons subject to this subpart or statistical data collected therefrom, which statements do not identify the information furnished by any person, (b) the publication, by direction of the Secretary, of general statements relating to refunds made by the Council during any specific period, or (c) the publication, by direction of the Secretary, of the name of any person who has been adjudged to have violated this subpart, together with a statement of the particular provisions of the subpart violated by such person.

Certification of Organizations

§ 1280.165 Certification of organizations.

(a) Any organization or association may request the Secretary for certification of eligibility to participate in nominating members and alternate members of the Council to represent wheat producers, processors, end product manufacturers or consumers. Such eligibility shall be based, in addition to other available information, upon a factual report submitted by the organization or association which shall contain information deemed relevant and specified by the Secretary for the making of such determination, including, but not limited to the following:

(1) Geographic territory covered by the organization's active membership;

(2) Nature and size of the organization's active membership, including, in the case of an organization other than a consumer organization, the proportion of the total number of active wheat producers, processors, or end product manufacturers represented by the organization;

(3) The extent to which wheat producer, processor, or end product manufacturer membership, respectively, of such organization is represented in setting the organization's policies;

(4) Evidence of stability and permanence of the organization;

(5) Sources from which the organization's operating funds are derived;

(6) Functions of the organization; and

(7) The organization's ability and willingness to further the aims and objectives of the Act.

(b) The primary consideration in determining the eligibility of an organization, other than a consumer organization, shall be whether its membership consists primarily of wheat producers, processors, or end product manufacturers who produce a substantial volume of wheat, processed wheat, or end products, respectively, and whether the organization is based on a primary or overriding interest in the production, processing, or end manufacturing of wheat or wheat products, and the nutritional attributes thereof.

(c) In determining the eligibility of a consumer organization, the primary consideration shall be whether (1) a principal purpose of the organization is to promote consumer interests, consumer research, or consumer education, (2) such organization has a broadly representative constituency of consumers, with active membership participation on a regular basis, and (3) the organization has demonstrated to the Secretary's satisfaction its commitment to the achievement of the objectives of the Act.

(d) The Secretary shall certify any organization or association which is found to be eligible under this section and the determination as to eligibility shall be final. After the original certification of organizations, the Secretary will require recertification at least once every five years and the Secretary may require recertification at any time.

Miscellaneous

§ 1280.166 Suspension and termination.

(a) The Secretary shall, whenever it is found that this subpart or any provision thereof obstructs or does not tend to effectuate the declared policy of the Act, terminate or suspend the operation of this subpart or such provision.

(b) The Secretary may conduct a referendum at any time, and shall hold a referendum on request of 10 per centum or more of the number of end product manufacturers subject to this subpart, to determine whether such manufacturers favor the termination or suspension of the subpart, and the Secretary shall suspend or terminate such subpart within six months after the Secretary determines that suspension or termination of the subpart is approved or favored by a majority of the end product manufacturers voting in such referendum who, during a representative period determined by the Secretary, have been engaged in the manufacture of end products or by end product manufacturers who produced end products containing more than 50 per centum of the total processed wheat contained in all end products manufactured during such period by the end product manufacturers voting in the referendum.

§ 1280.167 Proceedings after termination.

(a) Upon the termination of this subpart the Council shall recommend not more than five of its members to the Secretary to serve as trustees for the purpose of liquidating the affairs of the Council. Such persons, upon designation by the Secretary, shall become trustees of all the funds and property then in the possession or under the control of the Council, including claims for any funds unpaid or property not delivered or any other claim existing at the time of such termination.

(b) The said trustees shall: (1) Continue in such capacity until discharged by the Secretary; (2) carry out the obligations of the Council under

any contracts or agreements entered into by it pursuant to § 1280.140(g); (3) from time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the Council and of the trustees, to such persons as the Secretary may direct; and (4) upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such persons full title and right to all of the funds, property, and claims vested in the Council or the trustees pursuant to this subpart.

(c) Any person to whom funds, property, or claims have been transferred or delivered pursuant to this subpart shall be subject to the same obligations imposed upon the Council and upon the trustees.

(d) Any residual funds not required to defray the necessary expenses of liquidation shall be turned over to the Secretary to be used, to the extent practicable, in the interest of continuing one or more of the research or nutrition education plans or projects hitherto authorized.

§ 1280.168 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant hereto, or the issuance of any amendment to either thereof, shall not:

(a) Affect or waive any right, duty, obligation, or liability which shall have arisen or which may hereafter arise in connection with any provision of this subpart or any regulation issued thereunder;

(b) Release or extinguish any violation of this subpart or any regulation issued thereunder; or

(c) Affect or impair any rights or remedies of the United States, or of the Secretary, or of any person, with respect to any such violation.

§ 1280.169 Personal liability.

No member, alternate member or employee of the Council shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts either of commission or omission, of such member, alternate or employee, except for acts of dishonesty or willful misconduct.

§ 1280.170 Patents, copyrights, inventions and publications.

Any patents, copyrights, inventions, or publications developed through the use of funds collected under the provisions of this subpart shall be the property of the U.S. Government as represented by the Council, and shall, along with any rents, royalties, residual payments, or other income from the rental, sale, leasing, franchising, or other uses of such patents, copyrights, inventions, or publications, inure to the benefit of the wheat and wheat foods industry. Upon termination of this subpart, § 1280.167 shall apply to determine disposition of all such property.

§ 1280.171 Amendments.

Amendments to the subpart may be proposed, from time to time, by the Council, or by any organization or association certified pursuant to section 1714 of the Act, or by any interested person affected by the provisions of the Act, including the Secretary.

§ 1280.172 Separability.

If any provision of this subpart is declared invalid or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of this subpart or the applicability thereof to other persons or circumstances shall not be affected thereby.

Copies of this decision and Order may be obtained from W. David Spalding, Livestock, Poultry, Grain and Seed Division, Agricultural Marketing Service, Room 2610 South Building, United States Department of Agriculture, Washington, D.C. 20250.

This action was determined significant under the Department's criteria for implementing Executive Order 12044. The impact analysis is incorporated in this document.

Referendum

Rules governing the procedure to conduct referendums on the Wheat and Wheat Foods Research and Nutrition Education Order and a Notice of Referendum are published elsewhere in this issue of the Federal Register.

Signed at Washington, D.C., on December 11, 1979.

Jerry C. Hill,

Deputy Assistant Secretary for Marketing Services.

[FR Doc. 79-38392 Filed 12-13-79; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1280

[Docket No. WR-1]

Procedure for the Conduct of Referendums in Connection With Wheat and Wheat Foods Research and Nutrition Education Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of wheat end product manufacturer referendum.

SUMMARY: This document announces a referendum among wheat end product manufacturers (primarily wholesale bakers) to determine if they approve a Wheat and Wheat Foods Research and Nutrition Education Order ("Order") issued by this Department. The Order appears elsewhere in this issue of the Federal Register. This notice prescribes the registration, voting, and representative periods of the referendum.

DATES: Registration period—January 7 through February 1, 1980. Voting period—March 17 through March 28, 1980. Representative period—January 1, 1978 through December 31, 1978.

EFFECTIVE DATE: December 14, 1979.

FOR FURTHER INFORMATION CONTACT: W. David Spalding, Livestock, Poultry, Grain, and Seed Division, AMS, USDA, Washington, D.C., 20250, Phone: 202-447-2068.

SUPPLEMENTARY INFORMATION: The Order provides for the establishment of a program of research and nutrition education for wheat and wheat foods and was issued pursuant to the Wheat and Wheat Foods Research and Nutrition Education Act ("Act"), 7 U.S.C. 3401 *et seq.* Under the Act, the Order becomes effective only if it is approved by wheat end product manufacturers who vote in a referendum. The regulations for conducting referendums pursuant to the Wheat and Wheat Foods Research and Nutrition Education Act are published elsewhere in this issue of the Federal Register. By law, at least 50 percent of those registered would have to vote in order for the referendum to be valid. The Order would be approved if two-thirds favor it. It also could be approved if a simple majority of those voting favor it, providing that they account for two-thirds of the total amount of processed wheat purchased by all voters during the representative period.

Notice is hereby given of a referendum to consider the Order issued by the Secretary of Agriculture on December 14, 1979. The registration period will be January 7 through February 1, 1980. The voting period will be March 17 through March 28, 1980. The representative period is January 1, 1978 through December 31, 1978.

Registration and voting will be conducted by mail by the Referendum Agent, Livestock, Poultry, Grain, and Seed Division, Agricultural Marketing Service, U.S. Department of Agriculture.

Signed at Washington, D.C., on December 11, 1979.

Jerry C. Hill,

Deputy Assistant Secretary for Marketing Services.

[FR Doc. 79-38393 Filed 12-13-79; 8:45 am]

BILLING CODE 3410-02-M

federal register

Friday
December 14, 1979

Part VIII

Department of Agriculture

Agricultural Marketing Service

Procedure for Conduct of Referendums in Connection With Wheat and Wheat Foods Research and Nutrition Education Order

DEPARTMENT OF AGRICULTURE
Agricultural Marketing Service
7 CFR Part 1280
[Docket No. WR-1]

Procedure for the Conduct of Referendums in Connection With Wheat and Wheat Foods Research and Nutrition Education Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final Rule.

SUMMARY: This rule establishes the procedure for conducting referendums with respect to any Wheat and Wheat Foods Research and Nutrition Education Order or amendment issued pursuant to the Wheat and Wheat Foods Research and Nutrition Education Act, 7 U.S.C. 3401 *et. seq.* This action is necessary because the Act provides that an Order must be approved in a referendum among eligible wheat end product manufacturers (primarily wholesale bakers) before it can become effective.

EFFECTIVE DATE: December 14, 1979.

FOR FURTHER INFORMATION, CONTACT: W. David Spalding, Livestock, Poultry, Grain, and Seed Division, AMS, USDA, Washington, D.C., 20250, Phone: 202-447-2068.

SUPPLEMENTARY INFORMATION: The Act provides that the Secretary of Agriculture shall issue a Wheat and Wheat Foods Research and Nutrition Education Order, or amendments thereto, applicable to eligible end product manufacturers, if the Secretary determines, based on a public hearing record that such Order or amendment will tend to effectuate the declared policy of the Act. Such an Order appears elsewhere in this issue of the Federal Register. The Act further provides that the Secretary shall conduct a referendum among end product manufacturers for the purpose of ascertaining whether the issuance of an Order is approved or favored by end product manufacturers. A notice of referendum is published elsewhere in this issue of the Federal Register. The procedure for the conduct of referendums is in accordance with the authority vested in the Secretary of Agriculture by the Act.

The following terms: Wheat, processed wheat, end product, end product manufacturer, retail baker, United States, related companies or divisions of the same company, and control, are defined in the Order itself and shall have the same meaning as therein.

The proposed rules for conducting referendums were published in the Federal Register on September 7, 1979 (44 FR 52243), and interested persons were invited to submit comments on the proposal by October 22, 1979.

Only two comments were received. One comment concerned the "validity" of ballots. That comment suggested that a ballot, to be considered "valid," must be: (1) Cast by an eligible end product manufacturer (§§ 1280.201(f) and 1280.206(a)), who is a registered voter (§ 1280.207), (2) signed by the end product manufacturer or (for other than sole proprietorships) an "authorized representative" (§ 1280.206 (b)), and (3) postmarked and received within the applicable time periods (§ 1280.208). In order to further clarify the validity of ballots it is determined that "valid" ballots will exclude: (1) Challenged ballots deemed invalid (§ 1280.210(a)) and (2) spoiled ballots (§ 1280.210(b)).

An additional comment, received from a trade association, included a copy of its membership list for the stated purpose of aiding the referendum agent in the distribution of registration forms and instructions. The referendum agent has obtained commercially available lists of end product manufacturers who may be eligible to register to vote in the referendum. The lists have been reviewed to eliminate duplicate and subsidiary firms. The resulting mailing list has been developed in an objective manner. A review of the list submitted by the trade association indicated that some subsidiary firms were included. In order to ensure objectivity and avoid any duplication, the referendum agent will not use the membership list submitted by the trade association with its comment.

Registration material will be mailed just prior to the beginning of the registration period to end product manufacturers whose names appear on the mailing list. Any end product manufacturers not receiving the registration material by January 10, 1980 but who believe themselves to be eligible may request that they be provided the registration material. End product manufacturers who wish to register must review the registration material and, it they determine they are eligible to register, certify as to their eligibility and return the completed registration form to the referendum agent.

Minor changes in the following sections have been made to clarify provisions in the proposed rules: §§ 1280.201(d)(i), 1280.202, 1280.205, 1280.207(a)(b), 1280.208, 1280.210(a)(b), 1280.212 and 1280.213.

Since this procedure is essentially the same as the proposed rule published September 7, 1979, and an earlier effective date will not impose any additional burden on any person, good cause exist for making the procedure effective on less than 30 days notice.

Accordingly, the referendum rules are adopted as set forth below.

Subpart—Procedure for the Conduct of Referendums in Connection with Wheat and Wheat Foods Research and Nutrition Education Order

Sec.
1280.200 Referendums.
1280.201 Definitions.
1280.202 Supervision of referendums.
1280.203 Requirements of referendum.
1280.204 Computation of time.
1280.205 Rublic notice.
1280.206 Eligibility.
1280.207 Registration.
1280.208 Voting.
1280.209 Challenge of eligibility.
1280.210 Canvassing ballots.
1280.211 Results of the referendum.
1280.212 Disposition of ballots and records.
1280.213 Suspension and termination of Order.
1280.214 Instructions and forms.

Authority: Wheat and Wheat Foods Research and Nutrition Education Act, Pub. L. 95-113, 95th Cong., approved September 29, 1977, (7 U.S.C. 3401-3417).

Subpart—Procedure for the Conduct of Referendums in Connection With Wheat and Wheat Foods Research and Nutrition Education Order

§ 1280.200 Referendums.

Referendums for the purpose of ascertaining whether the issuance by the Secretary of Agriculture of a Wheat and Wheat Foods Research and Nutrition Education Order, or the amendment, continuance, termination, or suspension of such an Order, is favored by end product manufacturers shall, unless supplemented or modified by the Secretary, be conducted in accordance with this subpart.

§ 1280.201 Definition.

(a) "Secretary" means the Secretary of Agriculture or any other officer or employee of the U.S. Department of Agriculture to whom there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in the Secretary's stead.

(b) "Act" means the Wheat and Wheat Foods Research and Nutrition Education Act (7 U.S.C. 3401 *et seq.*) and any amendments thereto.

(c) "Administrator" means the Administrator of the Agricultural Marketing Service with power to redelegate, or any other officer or employee of the Department to whom authority has been delegated or may hereafter be delegated to act in the Administrator's stead.

(d) "Referendum agent" means the individual or individuals designated by the Administrator to conduct the referendum.

(e) "Person" means any individual, group or individuals, partnership, corporation, association, cooperative, or any other entity.

(f) "Qualified" or "eligible" end product manufacturer means any end product manufacturer as defined in the Order who used at least 2000 hundredweight of processed wheat per year in the manufacture of end products which are subject to assessment and who is not subject to exemption from payment of assessments as a retail baker.

(g) "Order" means the Wheat and Wheat Foods Research and Nutrition Education Order or any amendment thereto promulgated pursuant to the Act with respect to which the Secretary has directed that a referendum be conducted.

(h) "Representative Period" means a consecutive twelve-month period preceding the registration period as designated by the Secretary.

(i) "Registration Period" means a period to be announced for the registration of eligible end product manufacturers who desire to vote in a referendum. The registration period shall end not less than 30 days prior to the first day of the voting period.

(j) "Voting Period" means a 12-day period to be announced for voting in a referendum.

§ 1280.202 Supervision of referendum.

The Referendum Agent shall be in charge of and responsible for conducting each referendum in accordance with this Subpart and under supervision of the Administrator.

§ 1280.203 Requirements of referendum.

No Wheat and Wheat Foods Research and Nutrition Education Order or amendment issued under the Act shall become effective unless the Secretary determines (a) that valid ballots were cast by at least 50 percent of the eligible end product manufacturers registered to vote, and (b) that the issuance of such Order is approved or favored by not less than two-thirds of the end product manufacturers casting valid ballots in such referendums or by a majority of the end product manufacturers voting in such referendum if such majority manufactured end products containing not less than two-thirds of the total processed wheat contained in all end products manufactured during the representative period by those voting in the referendum.

§ 1280.204 Computation of time.

Sundays and Federal holidays shall be included in computing the time allowed for the filing of any documents or taking any action: *Provided,* That when such time expires on a Sunday or a Federal holiday, such period shall be extended to include the next following business day.

§ 1280.205 Public notice.

Advance public notice of the referendum shall be provided by the Administrator (a) by utilizing, without advertising expense, available public information media to announce the dates for registration and voting, eligibility requirements and other pertinent information, and (b) by such other means as the Administrator may deem advisable.

§ 1280.206 Eligibility.

(a) *Eligible end product manufacturer.* Each end product manufacturer who, during the representative period, used at least 2000 hundredweight of processed wheat in the manufacture of end products which are subject to assessment, and who is not subject to exemption from payment of assessments as a retail baker, is entitled to register and to cast one vote in the referendum. Related companies or divisions of the same company as defined in the Order shall not be entitled to cast individual ballots in the referendum.

(b) *Proxy registration and voting.* Proxy registration and voting is not authorized except that an officer or employee of a corporate end product manufacturer, or any guardian, administrator, executor, or trustee of the estate of an end product manufacturer, or an authorized representative of any end product manufacturing entity other than an individual proprietor, such as a corporation or partnership may register and cast a ballot on behalf of such entity. Any individual registering to vote in the referendum on behalf of any end product manufacturing entity shall certify that the individual is authorized by such entity to take such action.

§ 1280.207 Registration.

(a) *Registration procedure.* The referendum agent will mail registration forms and instructions and, except in the case of a referendum on the termination or continuance of an order, a summary of the terms and conditions of the Order to end product manufacturers thought to be eligible and whose name and address are known to the referendum agent. The registration material will also be mailed to any end product manufacturer who believe they are eligible and requests such material. To register, an end product manufacturer must complete the registration form and mail it to the referendum agent during the registration period. A registration form shall be considered received during the registration period if it was postmarked not later than midnight on the final day of the registration period and was received by the referendum agent prior to the close of business on the fourth day after the close of the registration period. At the time of registration each end product manufacturer shall certify to the referendum agent, in the manner prescribed, the amount of processed wheat contained in the assessable end products manufactured by such end product manufacturer during the representative period. No person who claims to be eligible to register shall be refused a registration form.

(b) *List of Registered End Product Manufacturers.* The referendum agent shall determine which end product manufacturers are eligible to vote in the referendum and publish the list of eligible voters in the Federal Register. The list shall include all persons who submitted a valid registration form in a timely manner. The eligibility of any person appearing on this list may be challenged under § 1280.209.

§ 1280.208 Voting.

Voting instructions and ballots shall be mailed just prior to the voting period by the referendum agent to eligible end product manufacturers who have resistered with the agent. No person who has filed a registration form and claims to be qualified to vote shall be refused a ballot. Each registered end product manufacturer shall cast his or her ballot on the form provided for that purpose by mailing it to the referendum agent during the voting period. A ballot shall be considered to have been received during the voting period if it was postmarked not later than midnight on the final day of the voting period and was received by the referendum agent prior to the close of business on the fourth day after the close of the voting period. The ballot shall be marked to indicate "yes" or "no," to signify approval or disapproval of the Order. The ballot shall also be marked to include the amount of processed wheat used in the manufacture of end products which are subject to assessment and must be signed by the end product manufacturer. Ballots received by the referendum agent shall be kept in the agent's custody or secured at all times until they are disposed of pursuant to § 1280.212.

§ 1280.209 Challenge of eligibility.

(a) *Who may challenge.* A person's eligibility to register and vote may be challenged by any person. The referendum agent shall review all registrations and promptly challenge any registrant who appears to be ineligible. Any challenge of a person's eligibility to register and vote must be made prior to the end of the voting period.

(b) *Determination of challenges.* Any person whose eligibility to register and to vote has been challenged must prove to the satisfaction of the referendum agent that he or she was an eligible end product manufacturer during the representative period. Record such as tax returns, sales documents, purchase documents, or other similar documents may be submitted to prove that a person is a qualified end product manufacturer. The referendum agent shall make a determination concerning the eligibility of an end product manufacturer who has been challenged as soon as practicable, and in all cases before the opening of the ballots.

(c) *Challenged ballot.* A person whose eligibility to register or to vote has been challenged but not resolved by the referendum agent, if on appeal, may be allowed to cast a ballot, but such ballot shall be considered a challenged ballot for the purpose of the referendum until a resolution of the challenge has been made. A challenged ballot shall be determined to have been resolved if no appeal is taken from the determination of the referendum agent within the time allowed for appeal or there has been a determination by the Administrator after appeal.

(d) *Appeal.* Appeal from a decision by the referendum agent on the eligibility of a person to register or vote must be made to the Administrator within three business days after notification of such decision. An appeal shall be determined by the Administrator as soon as practicable, but in all cases not later than 5 days after the opening of the ballots.

§ 1280.210 Canvassing ballots.

(a) *Counting the ballots.* As soon as possible after the start of business on the fifth day after the close of the voting period, the referendum agent shall open and count the ballots. The ballots shall be tabulated as follows: (1) Number of eligible end product manufacturers casting valid ballots, (2) number of eligible end product manufacturers favoring the Order, (3) number of eligible end product manufacturers not favoring the Order, (4) the amount of processed wheat contained in the end products manufactured by end product manufacturers in each of the preceding three categories, (5) the number of challenged ballots deemed invalid, and (6) the number of spoiled ballots.

(b) *Spoiled ballots.* Ballots shall be considered as spoiled ballots when they are unsigned, incomplete, mutilated, or marked in such a way that it cannot be determined whether the ballot is a "yes" or "no" vote. Spoiled ballots shall not be considered as approving or disapproving the Order, or as a ballot cast in the referendum.

(c) *Confidentiality.* All ballots shall be treated as confidential and the contents of the ballots shall not be divulged except as provided for in this Subpart or as the Secretary may direct. The public may witness the opening of the ballots and the counting of the ballots, but shall remain a reasonable distance from the tabulation so as not to interfere with the tabulation or see how any person voted in the referendum.

§ 1280.211 Results of the referendum.

(a) The Administrator shall prepare and submit to the Secretary or the Secretary's designee a report of the results of the referendum, the manner in which it was conducted, the extent and kind of public notice given and other information pertinent to analysis of the referendum and its results. The official results of the referendum shall be published in the Federal Register. Summaries and related papers shall be available for public inspection in the office of the Director, Livestock, Poultry, Grain, and Seed Division, AMS, U.S. Department of Agriculture, Room 2631, South Building, Washington, D.C.

(b) If the Administrator or the Secretary deems it necessary, the report of the results of the referendum shall be reexamined and checked by such persons as may be designated by the Administrator or the Secretary.

§ 1280.212 Disposition of ballots and records.

The referendum agent shall place the registration forms, list of registrants, eligible voter lists, voted ballots, challenged registration forms and challenged ballots found to be ineligible, spoiled ballots, and summaries in sealed containers marked with the identification of the referendum. Such records shall be placed under lock in a safe place under the custody of the referendum agent for a period of 12 months after the referendum. If no notice to the contrary is received from the Administrator by the end of such time, the records shall be destroyed.

§ 1280.213 Suspension and termination of order.

The Secretary may conduct a referendum at any time, and shall hold a referendum on request of 10 percent or more of the number of end product manufacturers subject to the Order, to determine whether such manufacturers favor the termination or suspension of the Order. The Secretary shall suspend or terminate such Order within six months after the Secretary determines that suspension or termination of the Order is approved or favored by a majority of end product manufacturers voting in such referendum who, during a representative period determined by the Secretary, have been engaged in the manufacture of end products or by end product manufacturers who produced end products containing more than 50 percent of the total processed wheat contained in all end products manufactured during such period by the end product manufacturers voting in the referendum.

§ 1280.214 Instructions and forms.

The Administrator is hereby authorized to prescribe additional instructions and forms not inconsistent with the provisions of this Subpart to govern the conduct of the referendum.

Signed at Washington, D.C., on December 11, 1979.

Jerry C. Hill,

Deputy Assistant Secretary for Marketing Services.

[FR Doc. 79-38297 Filed 12-13-79; 8:45 am]

BILLING CODE 3410-02-M

federal register

Friday
December 14, 1979

Part IX

Water Resources Council

Procedures for Evaluation of National Economic Development (NED) Benefits and Costs in Water Resources Planning (Level C); Final Rule

WATER RESOURCES COUNCIL

18 CFR Part 713

Procedures for Evaluation of National Economic Development (NED) Benefits and Costs in Water Resources Planning (Level C)

AGENCY: U.S. Water Resources Council.

ACTION: Final rule.

SUMMARY: This final rule establishes a current set of procedures for the evaluation of national economic development (NED) benefits and costs of Level C studies of Federal water and related land resources projects. These procedures use the best current techniques available and will ensure consistency and accuracy among agencies in the calculation of benefits and costs of Federal water resources projects in response to the President's memorandum of July 12, 1978: Improvements in the Planning and Evaluation of Federal Water Resources Programs and Projects. These final procedures reflect changes made as a result of public review and comment.

EFFECTIVE DATE: January 14, 1980.

FOR FURTHER INFORMATION CONTACT: Lewis D. Walker, U.S. Water Resources Council, 2120 L Street NW., Washington, D.C. 20037 (202/254-6453).

SUPPLEMENTARY INFORMATION:

1. Purpose

The Water Resources Council is publishing as a final rule the Manual of Procedures for Evaluation of National Economic Development (NED) Benefits and Costs in Water Resources Planning (Level C). The purpose is to provide Federal agencies with a set of procedures that ensures that NED benefits and costs are estimated using the best current techniques, and are calculated accurately, consistently, and in compliance with the Principles and Standards and other applicable economic evaluation requirements.

These procedures represent only part of the planning manual being prepared by the Water Resources Council at the direction of the President. Additional economic evaluation procedures are being prepared for deep water navigation, commercial fishing and trapping, and dam failure; in addition to more detailed procedures to account for risk and uncertainty. Environmental quality evaluation procedures also are being prepared. Publication is anticipated in late 1980, and public involvement is encouraged. Subsequent efforts will be directed toward preparation of evaluation procedures for regional development and social well-being, and plan formulation procedures.

2. Background

(a) *Responsibility of the Water Resources Council.* The Water Resources Planning Act was enacted by the Congress in 1965 to provide for the optimum development of the Nation's natural resources through the coordinated planning of water and related land resources. Title I of the Act established the Water Resources Council and outlined its principal duties. One of these duties was to establish, with the approval of the President, Principles, Standards, and Procedures for Federal participants in the preparation of comprehensive regional or river basin plans and for the formulation and evaluation of Federal water and related land resources projects.

(b) *Principles and Standards.* Work on the congressional mandate to develop Principles and Standards was begun by the Council in 1968, culminating in the President's approval of the "Principles and Standards for Planning Water and Related Land Resources" in August, 1973. The Principles and Standards became effective on October 25, 1973. The Principles provide the broad policy framework for planning activities, whereas the Standards provide for uniformity and consistency in comparing, measuring, and judging beneficial and adverse effects of alternative plans.

(c) *Procedures.* Responsibility for establishing agency evaluation procedures was given to the administrators of covered Federal and federally-assisted programs. The procedures were to be developed within the framework of the Principles and the uniformity provided by the Standards. The current effort to revise the Principles and Standards and to develop a manual of evaluation procedures is the result of the President's Water Policy Reform Message of June 6, 1978. In that Message to the Congress, the President stated that reforms in agency planning were essential in order to achieve economic efficiency and environmental quality in water resources management.

On July 12, 1978, the President issued a memorandum directing the Water Resources Council to carry out a thorough evaluation of current agency practices for making benefit and cost calculations and to publish a planning manual that will ensure that benefits and costs are estimated using the best current techniques, and are calculated accurately, consistently, and in compliance with the Principles and Standards and other applicable economic evaluation requirements. This directive provided the impetus for the development of the evaluation procedures. Additional direction of a similar nature was given by the President in Executive Order 12113: Independent Water Project Review, published January 5, 1979.

In addition to the directive to publish a planning manual, the July 12 memorandum stated that, in order to provide greater consideration of water conservation and nonstructural alternatives in all projects and programs subject to the Principles and Standards, the Water Resources Council was directed to modify the Principles and Standards in the following respects:

> The Principles and Standards shall be modified to accomplish the full integration of water conservation into project and program planning and review, as a component of both the economic development and environmental quality objectives, and the Principles and Standards shall be modified to require the preparation and inclusion of a primarily non-structural plan as one alternative whenever structural project or program alternatives are considered. This alternative plan should incorporate a combination of non-structural or demand-reducing measures which could feasibly be employed or adopted to achieve the overall project purpose. Such measures should not be limited to those which the agency of the Federal government could implement directly under present authority but should include floodplain management techniques (such as zoning), pricing policies, groundwater recharge, and other measures.

In addition,

> The new benefit/cost procedures should, among other things, eliminate double counting and inclusion of benefits that are inconsistent with Federal policy or sound economic rationale. Particular attention shall be given to the following items: Benefits attributed to protecting future development in the floodplain; surplus crop benefits; navigation benefits (including regional "savings to shippers"); flat-water recreation benefits; extended project life; area redevelopment benefits; the appropriateness

of calculations for ability to pay (reclamation projects); whether benefits to charter boats should be defined as commercial navigation; uncertainty and risk of cost and benefits; least cost alternative analysis; consideration and display of engineering uncertainty; market value of vendible project outputs; determination of project design flood; the appropriateness of maximizing net benefits versus maximizing benefit/cost ratios under budget constraints; the assessment and consideration of costs of elimination of farmland, wetlands, wildlife habitat, and timberland.

(d) *Events up to May 24, 1979, publication in* Federal Register. In response to the President's directive, the Secretary of the Interior established a task force to revise the Principles and Standards and to develop economic evaluation procedures. The task force, staffed by personnel provided by the Departments of Army, Interior, and Agriculture, was initiated in August 1978.

Workshops were held in Washington, DC, on August 30, 1978, and in Salt Lake City on September 6, 1978, for the purpose of identifying the changes to be considered in refining the Principles and Standards and in preparing the Manual. A total of 41 people attended the two workshops.

Subsequently, workshops were held in San Diego on January 24, 1979, and in Washington, DC, on February 7, 1979, for the purpose of obtaining comments on the initial drafts of the Manual and on the proposed revisions to the Principles and Standards. Seventy-two people attended the two workshops.

In addition to these workshops, continuous and direct public input was obtained by three review contracts with the National Wildlife Federation, the National Governors' Association, and the Water Resources Congress. These organizations served as points of contact for obtaining input from environmental, State, and development interests, respectively.

(e) *Events after publication in May 24* Federal Register. In response to the President's directive, and guided by the public input described above, the Water Resources Council published the Procedures for Evaluation of National Economic Development (NED) Benefits and Costs in Water Resources Planning (Level C) as a proposed rule in the Federal Register of May 24, 1979 (44 FR 30194), and announced that the period for public review and comment would extend for 60 days to July 27, 1979. To provide the public an opportunity to communicate directly with the Water Resources Council staff, public meetings were held in Los Angeles on July 10, in Washington, DC, on July 17, and in St. Louis on July 24, 1979.

The Council received more than 60 written comments during the review period. Commenters included the Water Resources Congress, which coordinated testimony and responses from 15 public and private water resources organizations, and the National Governors' Association, which cooperated with the Association of State and Interstate Water Pollution Control Administrators, the Interstate Conference on Water Problems, and the Western States Water Council to provide the insights and opinions of professionals from eight State water resources management agencies and four regional and interstate water resources organizations. Four national and three regional environmental groups commented. The National Wildlife Federation solicited and presented the individual viewpoints and critiques of nine resource economists in addition to providing a comprehensive critique of the proposed rule. Five university economists independently offered comments on those aspects of economic evaluation falling within their respective areas of expertise.

Comments were also received from water resources engineers, hydrologists, biologists, planners, and administrators in State government and local agencies, interagency groups such as river basin commissions, and regional water resources authorities and associations. Associations of private water users (irrigators, waterway operators and power users, river improvement and development associations, and port authorities) from different geographical regions (Alabama, California, Colorado, Kansas, Mississippi, Nebraska, Ohio, Oklahoma, Pennsylvania, and Texas) were also represented. Consequently, a broad array of groups and individuals interested in the private and public uses of the Nation's water and related land resources was represented in the written comments and in statements at the three public meetings.

The proposed procedures were carefully reappraised by the Council's staff in the light of comments received during the 60-day review period. Every comment dealing with the Manual of Procedures was reviewed carefully to assess its germaneness to the evaluation of NED benefits and costs; suggested changes were discussed and reviewed to determine their validity and usefulness.

A majority of the comments from economists supported the validity of the concepts on which the Council has based the measurement techniques, although a few economists stated that the "best current technique" had not always been proposed. Some of these commenters suggested improvements in definitions, measurement methods, and the types of data to be collected and analyzed.

Several Federal agencies, including the Departments of Agriculture, Army, Energy (including the Federal Energy Regulatory Commission), Interior, and Transportation; the Environmental Protection Agency; and the Tennessee Valley Authority, commented on the proposed procedures.

When the Council staff determined that a comment raised a valid issue concerning the satisfactory measurement of NED benefits and costs (e.g., whether the NED benefit or cost was valid; how accurately the benefit or cost was counted or measured; whether the unit of measurement selected was appropriate and satisfactory; etc.), the procedure was revised to improve measurement. No change was made if the proposed procedure was determined to be valid on the grounds of theory, logic, state of the art of technique development and measurement, data availability, and/or implementability by the agencies.

This rule was determined to be significant under Executive Order 12044. Copies of the regulatory analysis and/or the environmental assessment may be obtained from the Director, U.S. Water Resources Council, 2120 L St., NW, Washington, DC 20037.

3. Response to Comments

Many comments criticized the proposed rule as poorly organized and lacking clarity. These comments provided the basis for substantial improvement in the organization and readability of the Manual. Changes made for clarity, conciseness, precision, and readability are not discussed specifically in the following text, which deals only with substantive changes. The list of section headings in the Manual has been expanded to make it easier for a user to find a specific section. Figure 1 compares the final procedures with the proposed procedures published in the Federal Register on May 24, 1979, and summarizes the improvements made in the final text.

Supplementary Information—Figure 1.—*A Summary of Improvements*[1] *to the Proposed Procedures* (Federal Register, *May 24, 1979*) *for Evaluation of National Economic Development (NED) Benefits and Costs in Water Resources Planning*

May 24 Section	Final Section	Title of paragraph, section, or subpart	Nature of improvement
PURPOSE			
704.100	713.1	Authority and relationship to Principles & Standards.	Correction of the text through the insertion of President Carter's verbatim directive that benefits and costs "* * * are estimated using best current techniques * * *."
704.102	713.5	Responsibility for application of the Manual.	Specific requirements regarding development of agency procedures have been deleted.
704.103	713.7	Schedule for application of the Manual.	The final version stipulates that "* * * agency administrators shall adopt procedures within 30 days of date of publication in the FEDERAL REGISTER * * *" rather than "* * * immediately upon their adoption by the Water Resources Council" as proposed in the FEDERAL REGISTER of May 24.
GENERAL			
704.113		Dam failure	Section deleted; appropriate procedure to be developed with publication planned for September 1980.
	713.81	Display of project interaction	Section added requiring display in matrix form of all expected Federal and non-Federal projects or facilities having significant economic, engineering, or environmental effects on any of the plan alternatives.
	713.91	Definitions	Section added to define agricultural drainage, agricultural flood damage reduction, flood, nonstructural measures, separable features, urban drainage, urban flood damage reduction, water conservation, and water supply.
MUNICIPAL AND INDUSTRIAL WATER SUPPLY			
704.121(b)(3)	713.103	Conceptual basis	The Manual was revised to explicitly state that where marginal cost pricing exists, it shall be used to calculate M&I water supply benefits. A statement to this effect was also incorporated into the P&S.
704.121(d)(1)(ix)	713.123(b)	Compute benefits	In the May 24 version, the benefit of a water supply to a small community that could not afford an alternative water supply was to be based upon the costs of water supply systems for similar sized communities within the region. In the final rule, the benefits to a small community (now defined as having a population of less than 10,000) shall be based under such circumstances on the cost of separable M&I facilities plus an appropriate share of the remaining joint cost of the project. Completion of the M&I benefit analysis and documentation of the without-project condition is required.
AGRICULTURE			
704.123	Subpart D	Agricultural floodwater	These three sections have been rewritten to improve conciseness, clarity, and detail. Steps in procedures for estimating benefits and costs common to all three functions are stated once and referenced briefly in the other two sections.
704.124	Subpart E	Agricultural drainage	
704.122	Subpart F	Agricultural irrigation	
704.122(b)	713.403	Conceptual basis	To be consistent within the Principles and Standards, benefits were broadened to include reduced cost of a given output including that of water quality control costs.
704.122(b)(ii) and (b)(iii)	713.403(c) (2), (3), and (4)	Prices, production costs, and crop yields.	Prices, yields, and production costs to be used in the evaluation are to be measured at current levels, not at projected future levels as proposed in the May 24 FEDERAL REGISTER, except in the case of damage reductions that account for future changes in yields.
704.122(c)	713.405	Planning setting	Incremental analysis is now included in the evaluation procedure.
704.122(d)	713.407	Evaluation procedure	The two-phase procedure has been changed to a four-step evaluation procedure based on intensification and efficiency. The procedure now makes it clear that evaluation applies to all crops expected to be grown in the project area and is not restricted to the *nine* feed and food grain crops, soybeans, and cotton listed in § 704.122(b)(i) in the May 24 FEDERAL REGISTER. Rice has been added to the "nine basic crops" listed in the May 24 version. Water conservation has been included as a first increment. The evaluation procedure has also been changed so that returns to water and the location advantages are counted for either the low value crop or the high value crop, but not for both.
704.122(d)(2)	713.409		
	713.409(d)		
URBAN FLOOD DAMAGE			
704.125(b)(2)(ii)	713.505(b)(2)(ii)	Regulation not yet certified	The assumptions related to Flood Insurance Administration regulation 24 CFR 1910.3 (a) and (b) regarding floodway and flood fringe development are not specifically based on WRC Floodplain Management Guidelines (43 CFR 6030) for implementing E.O. 11988.
704.125(c)	713.505(c)	With-project condition	The statement that the same assumptions underlie the with-project and without-project conditions now explicitly refer to E.O. 11988, E.O. 11990, and Pub. L. 93-234. Several specific nonstructural measures are listed as alternatives to be considered fully and equally with structural alternatives.
704.125(e)(1)(i)	713.531(a)	Remaining flood damage	Statement added on summarization and display of remaining flood damages to activities outside the protected area to specifically include downstream flooding caused by the project.
POWER (HYDROPOWER)			
	713.601(b)	Introduction	The Manual was revised to exempt small hydropower projects (25 MW or less) with no significant adverse environmental effects from the full requirements of the procedures. However, a simplified economic analysis must still be undertaken for them. A nonstructural alternative is not required for these projects.
704.126(b)(2)	713.603	Conceptual basis	The Manual was revised to state that where marginal cost pricing exists, it shall be used in calculating hydropower benefits.
TRANSPORTATION—INLAND NAVIGATION			
704.127(c)	713.705	Planning setting	Changes made to clarify the with- and without-project condition, such as stating that (1) the without-project condition will include broader private and public planning to alleviate transportation problems; (2) alternative modes will be analyzed in the without-project condition rather than in the with-project condition to determine most likely alternative routings; (3) *Proposed* fees, charges, or taxes are part of the with-project condition rather than the without-project condition; and (4) the contribution to benefits of waterway changes that are currently authorized but not constructed will be explicitly identified.
704.127	713.729(d)	Sensitivity analysis	To the extent that rail rates or other prices vary from long run marginal costs, "savings to shippers" will contain a component of transfers varying from real resource savings. This element of uncertainty will now be identified or acknowledged in benefit estimates.
704.127	713.729(d)(i)	Interview	Errors and uncertainties inherent in the interview sampling methods and responses will now be described.

Supplementary Information—Figure 1.—*A Summary of Improvements*[1] *to the Proposed Procedures* (Federal Register, *May 24, 1979*) *for Evaluation of National Economic Development (NED) Benefits and Costs in Water Resources Planning*—Continued

May 24 Section	Final Section	Title of paragraph, section, or subpart	Nature of improvement
RECREATION			
704.129(e)	Appendix 1, 2, and 3 of Subpart K.	Valuation methods and procedures.	Discussion of individual procedures was inappropriate for publication as a rule because of the level of detail, the fact that the techniques are new, and that this material may become dated. This material has been moved to the Appendix, which is not binding.
704.129(e)	713.907-925		Evaluation procedure was set out in a step-by-step format for greater clarity.
704.129(g) (Table 14)	713.903(d) (Figure 703.903-1)	Selection of evaluation procedure	Project cost criteria for selecting among evaluation methods and regional models versus site-specific studies were changed, and benefits gained or foregone were changed from dollar amounts to annual visits. These changes were made because the earlier version would have required cost allocations prior to using selection procedure.
UNEMPLOYED OR UNDEREMPLOYED LABOR RESOURCES			
704.132	713.1201	Introduction	In the May 24 FEDERAL REGISTER, the areas designated as containing unemployed or underemployed labor for which NED benefits could be claimed for employing such labor during project construction time, were the approximately 1,430 counties and areas of "substantial underemployment" out of the Nation's 3,140 counties. In the final version, benefits attributable to the employment of unemployed or underemployed labor resources can be counted only for one or more of 194 areas of *substantial and persistent unemployment and for Indian reservations that meet the same criteria.*
NED COST EVALUATION PROCEDURES			
704.141	713.2001	Introduction	Specific project costs and outlays have been enumerated and described in detail.
	713.2013	Other direct costs	An additional category of uncompensated direct project costs has been added.
	713.2015	External diseconomies	External diseconomies have been defined and a number of examples of external diseconomies set out. It also attempts to give equal treatment to both external diseconomies and economies.

[1] Excluding minor improvements for conciseness, preciseness, clarity, and readability.

Note.—The information in parentheses below the subject title refers to the section number used for the subject in the proposed rule published in the Federal Register on May 24, and the section number(s) used in this final rule.

Authority and Relationship to the Principles and Standards

(May 24: Section 704.100; Final: Section 713.1)

Comment: In the proposed rule, the words in brackets below were omitted from the restatement of President Carter's memorandum of July 12, 1978, directing the Water Resources Council (WRC) to "publish a planning manual that will ensure that benefits and costs are (estimated using the best current techniques and) calculated accurately, consistently and in compliance with the Principles and Standards and other applicable economic evaluation requirements." This omission was noted by several commenters.

Response: The omission was inadvertent; a verbatim quotation of the President's directive is included in the final rule.

Agency Activities Covered by the Manual

(May 24: Section 704.101; Final: Section 713.1)

Comment: Three commenters stated that the rule should apply to all projects for which actual physical construction activity such as site preparation, excavation, dredging, etc., had not begun. One commenter urged that the rule be applied to projects for which construction activity had not progressed to the stage of "significant onsite construction." The President's directive that "the manual * * * apply to all authorized projects (and separable project features) not yet under construction" was cited as authority for this interpretation.

One commenter expressed concern that exempting projects on which construction had not yet started would mean that authorized fish and wildlife resources would not be given "proper consideration."

Two commenters stated that § 704.101(b) of the proposed rule should specify the criteria under which the Secretary of a Department could exempt projects not yet under construction.

One Commenter suggested that exemption be granted only if the NED justification was so overwhelming that a reanalysis under the Manual would be unlikely to reverse the agency's recommendation to construct the project; this commenter recommended that no project with an estimated cost of more than $200 million be granted an exemption under any circumstances.

Another commenter urged that discretion to exempt projects not under construction be vested in the Water Resources Council. The commenter suggested that the Council, in deciding whether to exempt a project, should as a minimum consider the following: The stage of the planning, the size of the project, the degree of controversy about the project, the importance of using the best current evaluation techniques, the relationship to other projects, and the effects of delay.

Response: The definition of projects "under construction" and the conditions for use of discretionary authority to exempt projects were based on extensive discussion with staff members of the Executive Office of the President. To that extent, the rule reflects the intent of the President.

Responsibility for Application of the Manual

(May 24: Section 704.102; Final: Section 713.5)

Comment: One commenter stated that the affected Federal agencies should not be encouraged to establish agency procedures to supplement and implement the rule.

Response: Reference to the development of agency procedures has been deleted. The rule now stipulates:

"The administrator of each covered Federal program or Federally-assisted program is responsible for applying the procedures covered in this Manual."

Schedule for Application of the Manual

(May 24: Section 704.103; Final: Section 713.7)

Comment: Some commenters felt that the proposed rule made an unnecessary distinction between the date of application of procedures dependent on data supplied by the Council and procedures not dependent on Council data. Further, some commenters stated that the requirement that the procedures be applied by agency administrators immediately after adoption by the Council imposed an unnecessarily strict requirement on the affected Federal agencies.

Response: The rule now requires that responsible agency administrators adopt the procedures "within 30 days of the date of publication in the Federal Register."

Modification of the Manual

(May 24: Section 704.104; Final: Section 713.9)

Comment: One commenter emphasized the importance of a clear statement of the Council's intention to revise the Manual periodically.

Response: The rule now states that the Council will periodically revise the procedures as experience, research, and planning conditions require to ensure the use of the best current techniques and accurate and consistent calculations.

Calculation of Net Benefits

(May 24: Section 704.111; Final: Section 713.21)

Comment: Several commenters supported the provisions of this section but drew attention to the need to define more of the terms, increase the specificity of the definitions, and improve the clarity of the procedural detail. The commenters emphasized that a common understanding of the concepts and terms is fundamental to achieving "* * * a uniform standard basis for estimating benefits and costs" as set forth in the President's directive.

Response: The Council has sought to ensure that the procedures are clear and precise and applied uniformly by the affected Federal agencies. The final rule includes a limited set of definitions. As part of its continuing effort on portions of the Manual not published at this time, the Council will develop and publish a set of precise definitions treating each key term and procedure included in § 713.21 of the rule; the approximate time set for publication is September 1980. The comments above will be considered in the preparation of these definitions, and additional opportunities will be available for public involvement during this period.

Risk and Uncertainty—Sensitivity Analysis

(May 24: Section 704.112; Final: Section 713.31–.41)

Comment: The principal thrust of many of the comments on this section was that while it provided a clear statement of the problem and basic principles of risk and uncertainty in water resources planning, it failed to provide a usable procedure. The procedure as written was judged too general, permissive rather than directive, and lacking in instructive detail. Commenters noted the omission of accepted mathematical and probabilistic methodologies and the failure to identify and list key factors to which the benefit-cost evaluation is sensitive. Two commenters stated that the section should be completely rewritten to incorporate current mathematical simulation techniques, that only in this way would it comply with the President's directive of July 12, 1978, to pay particular attention to "uncertainty and risk of costs and benefits."

Several commenters stated that sensitivity analysis had not been adequately discussed in view of its importance to benefit-cost evaluation and that the requirement for sensitivity analyses in various sections of the Manual should be combined in this section under a separate subsection. One commenter suggested that sensitivity analysis be conducted and the results displayed for each of the final alternatives to show break-even years, internal rates of return, and average annual benefits computed for different interest rates. Another commenter proposed that a subsection be devoted entirely to sensitivity analysis to furnish the rationale for conducting this type of analysis and to enumerate the minimum amount of data essential to illustrate sensitivity (future hydrologic conditions, future economic conditions, population projections, water demands, etc.).

Response: In developing § 704.112, the council sought to establish the significance of risk and uncertainty in the evaluation of NED benefits and costs for water resources plans and projects and to set out the background and principles involved in risk and uncertainty assessment. The Council has accomplished these objectives and believes that the rule provides valuable yet flexible guidelines clearly establishing the need to account for risk and uncertainty in plan and project evaluation.

The Council will develop a systematic approach to risk and uncertainty that will not only remedy the deficiencies and omissions in procedural detail, methodology, and identification of sensitive factors but will also set out the total context into which they fit. These procedures will be published as a rule about September 1980. The comments above will be considered in preparation of the proposed rule, and additional opportunities will be available for public involvement during this period.

Dam Failure

(May 24: Section 704.113; Final: Section 713.71 [Reserved])

Comment: Comments on this section of the proposed rule revealed extreme differences in opinions on its relevance and usefulness.

One group of commenters recommended deletion of the section, holding that, while dam safety is a consideration during the planning process, it should be dealt with in the project's Environmental Impact Statement, not in a manual of procedures for measuring benefits and costs.

In contrast, another group of commenters expressed the opinion that since the costs of a dam failure can be sizable, the Council should have set out a practical procedure to measure the NED costs of such an event and that its failure to do so means that the Council has not complied with the President's directive of July 12, 1978. Two of these commenters stated that if the Council had sufficiently explored recent literature and available data on risk assessment of engineered structures, it could have adopted a methodology for analyzing damage associated with dam failure. The exclusion of the costs of dam failure in the evaluation process was thought to be serious by another commenter, since the omission would positively bias the NED benefits.

One commenter urged that dam failure analysis be dealt with under the procedures the Council is developing for the analysis of risk and uncertainty and that the failure of any engineered work—levee, channel, lock, bridge, highway and power plant—be included. Another commenter noted that current concern with dam failure stems from earthquakes and induced seismicity and that since risk of failure due to these causes is a function of site-specific

geology and the engineering of the structure, the procedure to be developed must be capable of site-specific application. Another concern was that the procedure include a balanced analysis of risk in both the with-project and without-project condition and that the high probability of year-to-year hazard reduction as well as the remote possibility of dam failure be accounted for. One commenter recommended that the procedure to quantify the costs of dam failure in terms of "hazards to life, health, safety, and catastrophic economic and environmental losses" deal with *net changes* in the risk of loss of life, damage to health, reduction in safety, and catastrophic economic and environmental losses, not with *increases* in these hazards as stated in § 704.113(b) of the proposed rule.

Several commenters agreed with the Council's statement that satisfactory procedures for the evaluation of NED costs of potential dam failure are not available, stressing, as the Council had, the difficulty of quantifying the probability of failure for each project throughout the Nation. However, one commenter stated that even though such a procedure is not available, there is considerable merit in simply describing whether potential losses and damages in the floodplain as a result of dam failure would be large or inconsequential.

Response: The nature and thrust of the comments, on balance, support the Council's present effort to develop satisfactory procedures to measure the NED effects of potential failure in engineered structures. The section on dam failure has been reserved in the final rule pending the outcome of this effort. The Council will publish the section on dam failure as a rule about September 1980. The comments above will be considered in the preparation of this section, and additional opportunities will be available for public involvement during this period.

Project Scaling Using Net Benefit Analysis

(May 24: Section 704.114; Final: Section 713.51)

Comment: Four commenters questioned the Council's adoption of the maximization of net benefits approach rather than maximization of benefit-cost ratios to determine the overall size of a water resources project. All commented that carrying project scale to the point of maximizing net returns is appropriate only when capital is available to build all projects that show a net return. Since this is not the case, the effect of using the maximization of net benefits approach is to build projects that are sized too large. One of these commenters stated that the maximization of net benefits approach is totally unacceptable on the grounds of economic theory and fiscal propriety and requested that the Council fully explain in the final rule how it arrived at its decision to use this approach. Another commenter cited the President's directive of July 12, 1978, in requesting the Council to explain its adoption of this approach.

Other commenters stated that the correct principle for project sizing is that the net return to the marginal dollar invested is the same in all funded projects and urged that the Council develop an arbitrary rule on the expected cutoff marginal dollar benefit-cost ratio.

Response: This section responds to the President's directive to give attention to the appropriateness of maximizing net benefits versus maximizing benefit-cost ratios under budget constraints. Maximizing benefit-cost ratios would lead to gross distortions in formulating NED plans and would not lead to formulation of NED plans in which optimum contributions are made to the national economic development objective. Benefit-cost ratios are useful only in comparing one project with another, whereas proper net benefits analysis provides a proper tool to scale individual projects. The net benefits approach is the correct approach to project scaling, even under budget constraints. Development of an arbitrary rule on the expected cutoff marginal dollar benefit-cost ratio is not within the purview of the Council.

Comment: Two commenters said that the maximization of net benefits approach entered the planning process too late to be effective in determining the "real scale" of a project, since the project is scaled on factors such as design flood and not solely on the basis of economic efficiency. This was cited as a major problem, as was the Council's failure in the proposed rule to provide an integrated approach to project scaling that would set out an individual sizing procedure for each major type of water project.

Response: The maximization of net benefits approach is not intended to be the sole criterion for project scaling, but rather the basis for scaling the NED plan and the NED elements of all plans. The principle as set forth is applicable to all types of projects, and further specification for each major type of project is unnecessary.

Comment: One commenter called attention to the language in § 704.114(a)—"other project scaling criteria (i.e., design flood)"—requesting that the criteria be identified and illustrated by examples. This clarification is needed, the commenter said, because the design of major structures does not normally assume different design floods; the same level of safety is usually incorporated into alternative plans.

Response: The commenter is correct in observing that the original text could be interpreted to mean that project design flood is a criterion for project scaling. The text has been modified to refer to criteria "such as those used to determine project design flood."

Comment: A commenter said that it was not clear whether the proposed rule applied only to NED plans or to all plans. The commenter stated that it should apply only to NED plans.

Response: The rule applies to the NED aspects of all plans.

Comment: One commenter stated that § 704.114(a) should be expanded to address the agency practice of incorporating safety factors and other "conservative rule-of-thumb design considerations" into the NED alternative relative to the "recommended alternative."

Response: The use of safety factors is permitted by the Manual.

Project Design Flood

(May 24: Section 704.115; Final: Section 713.61)

Comment: Two commenters stated that the Council's discussion of the tradeoffs between efficiency and safety incorrectly characterizes the process of sizing for economic analysis. Their argument is that the NED objective is not met if economic efficiency is balanced with safety or other factors, that economic efficiency is the only appropriate tool for project sizing, and that there is no theoretically sound reason for deviating from it. The Council should therefore ensure that considerations of personal safety and peace of mind never again influence the size of a project. By proposing that efficiency be balanced against safety, the Council is recommending usurpation of the Congress' power to vary project scaling on the basis of factors other than economic efficiency.

The commenters urged that the thrust of this whole section be changed so that planners are instructed to size a project solely on the basis of economic efficiency as indicated in § 704.115(c). Other factors needed for a decision should be displayed in one of the other three accounts (Environmental Quality, Regional Development, and Social Well-Being), but not in the NED account.

Response: The Council conducted a study of the factors that provide the basis for variation in project design flood levels from those levels that reflect maximum economic efficiency. Additional study of these factors is needed. In the absence of conclusive results, the Council is requesting that any such variations be identified, along with the factors that provide the basis for the variation.

Comment: Another commenter interpreted this section as requiring that economic efficiency be the sole determinant of project sizing for a NED plan and that safety considerations be reflected in another plan. This commenter expressed concern that the plan incorporating safety features was then likely to be recommended over the NED plan, which would be used mainly for comparison purposes.

Response: Economic efficiency is the criterion for an NED plan, except as constrained by minimum safety, environmental, and health standards. There is no reason why the NED plan cannot be a recommended plan.

Comment: One commenter stated that the Council should incorporate and expand considerations of economic efficiency beyond flood control components to cover to all existing agency scaling practices; i.e., the rule should integrate net benefit scaling decisions but exclude arbitrary design factors for safety, etc., and place them in one of the other three accounts.

Response: Project design flood is the most notable area in which project scaling may be based on factors other than economic efficiency. The new evaluation procedures should limit abuse of other project scaling criteria. If such abuses are apparent, the Manual can be modified to address them.

Comment: One commenter pointed out that the third sentence in § 704.115(a)—"* * * they (design sizes to protect against larger floods) do so at greater cost * * *"—is not necessarily true when all costs are considered. In support of his argument, this commenter stated that the average annual maintenance cost may be lower for projects designed for larger floods, thus at least partially offsetting the higher initial costs. He offered as an example a situation in which a project designed against minor flood suffers substantial damage from repeated major floods, requiring substantial maintenance and repair after each of these events.

Response: The statement is intended to reflect that annualized total costs generally are greater for larger projects, and this is correct.

Comment: One commenter recommended combining this section and the previous one (§ 704.114), since both deal with project scaling.

Response: The importance of project design flood as a specific scaling issue warrants separate treatment.

Comment: One commenter noted the absence of the project design flood concept for nonstructural alternatives.

Response: The project design flood concept applies to all plans, structural, nonstructural, or combinations of these.

Comment: One commenter requested more detail, the recognition of risk factors, and a step-by-step procedure for evaluating engineering practices undertaken for reasons of safety.

Response: Given the current limited analysis that has been conducted on the factors that cause project design flood levels to vary from economic efficiency, it would be inappropriate to develop such a step-by-step procedure.

Comment: One commenter found the discussion seemingly "restricted to a channel project." His concern was how to apply the criteria "to a reservoir project in which determination of the storage for flood control is separate from the determination of discharge for the design flood."

Response: The requirements of the Manual apply to all flood protection plans and facilities, despite the impression to the contrary that may be conveyed by the use of a single example. However, the subject of how to apply these other criteria to a reservoir is not appropriate for this Manual.

Municipal and Industrial (M&I) Water Supply

(May 24: Section 704.121; Final: Sections 713.101–.127)

Comment: One commenter stated that the Manual could spell out certain minimum conditions under which Federal planning money would be available for a water supply project. The following minimum conditions were suggested by the commenter: (1) Amendment of plumbing codes to require the installation of water-saving toilet, faucet, and shower devices, low-water-use dishwashers and washing machines (if these are being installed), pressure-reducing valves if water pressure is greater than 80 lbs./sq. in. in new homes and buildings; (2) up-to-date leak repair program; (3) outdoor watering program with such limitations as odd-even days; (4) reform of pricing structures, such as flat rates and declining block rates; and (5) drought contingency plans. In addition, the commenter stated that explicit provision should be made that no water supply project will be planned in areas where good records of use are not kept.

Response: The inclusion of such policy matters as minimum conditions for funding is inappropriate for a manual on evaluating economic benefits and costs. The Manual does require that nonstructural measures be included in the formulation of alternative plans to be evaluated.

Comment: One commenter stated that the alternative cost method is not a valid approach for evaluating M&I projects and that water supplied for M&I purposes must be sold at its relevant marginal cost.

Response: This concept is theoretically correct. In reality, few water retailers have adopted a price schedule for water based on marginal cost. Therefore, as now stated in the Manual, when marginal cost pricing is employed, it is to be used in the benefit calculation. If estimates of willingness to pay are not available, the most likely alternative is to be used as a measure of benefits.

Comment: Several commenters stated that the phrase "alter the precipitation patterns" should be deleted as a water conservation measure until national policy is developed on the matter.

Response: The reference has been deleted, although this action does not preclude consideration of this measure.

Comment: One commenter stated that the evaluation procedures for NED benefits and costs should include water quality considerations because water quality and quantity are closely interrelated and changes in one affects the other; for example, degradation of water quality may reduce the supply of water available for a specific use unless there is further treatment of the water. Another commenter stated that improved water quality may be the most important local objective in M&I water use. Another stated that the Manual should require differentiation between fresh water, brackish water, and saline water, since all uses do not require fresh water.

Response: Water quality is now included in the water supply procedures.

Comment: Several commenters suggested that pricing be specifically included as a conservation or nonstructural alternative. One commenter stated that the Manual should require consideration of rates to be charged for water, including the possibility of charging different prices for different uses or even excluding specific sectors from using project water—practices that could have a substantial impact on the water conservation objective.

Response: Rate structure changes (pricing) have been included among the nonstructural measures to be considered.

Comment: Several commenters stated that M&I benefits should not and cannot be claimed unless those who would benefit from the project demonstrate that they can afford and will construct a distribution system; it is therefore critical that the Manual require identification of project beneficiaries.

Response: The procedure requires identification of water user groups (beneficiaries) and demonstration that any alternative is feasible. Project implementation requirements are beyond the scope of this procedure.

Comment: One commenter stated that the procedures should require demonstration that the water supplies identified are dependable and should specifically address any prior and competing rights to the source of the project's water supply.

Response: The Manual requires inclusion of the probability of water supply. While identification of prior and competing water rights is an important part of plan formulation, it is not part of the economic evaluation.

Comment: Several commenters stated that the amount of detail required for estimating M&I water needs is excessive—that in most areas of the West the magnitude of M&I water demands and uses does not justify such an analysis on a regional or local basis.

Response: The amount of detail, while it maybe greater than the amount presently used, is not considered excessive, especially in view of the scarcity of the resource.

Comment: One commenter stated that the regulation should include M&I forecasting models with definitions of terms and variables.

Response: The steps in forecasting are set forth, and specific variables are suggested for inclusion in the forecast model. The specification of the model is left to the investigator because it would be inappropriate to require all studies to use the same forecast model.

Comment: Some commenters urged that the procedures be revised to include alternatives that would provide less than a full water supply, and recommended that the costs of drought be included.

Response: The procedures have been revised to include these considerations.

Comment: Several commenters expressed concern about the statement that the gap between supply and demand must be "closed."

Response: The relevant section has been revised to allow development of plans that employ use-reducing as well as supply-augmenting measures, and to allow inclusion of drought management.

Comment: Some commenters stated that consideration of political and institutional obstacles to implementation of alternatives transcends the responsibilities of those charged with the implementation of the Manual and pointed out that these matters should be left to the Congress.

Response: The Manual requires identification of political and institutional obstacles and the impacts of changing them because such information is pertinent to decisionmakers in considering project feasibility.

Comment: One commenter pointed out that local groups might be less motivated to resolve legal, political, or other institutional impediments to better utilization of existing water supplies if they have the option of a new Federally subsidized water project that would increase supplies.

Response: The procedures allow for identification of alternatives that depend upon changes in institutional constraints as well as structural alternatives that would create new services. The Manual requires that a range of alternatives be examined and that when least costly alternatives are passed over, the reasons for not selecting the most likely alternative be given.

Comment: Some commenters expressed opposition to the use of the Federal discount rate in valuing the cost of the most likely alternative; they contended that when the most likely alternative is a private venture, use of the Federal discount rate will undervalue the true willingness of M&I users to pay. Those who commented in support of the use of the Federal discount rate stated that comparison of the costs of one alternative developed using the Federal rate with costs of another developed using the private rate will bias project decisions toward public investments, even when the private venture is less expensive.

Response: Use of the Federal discount rate for evaluation of all alternatives allows assessment of the comparative value of projects on a common basis and removes from the economic analysis the unrelated element of variable financing. This procedure is consistent with the requirement for evaluation of plans on a comparable basis as stated in both the original and revised Principles and Standards. It should also be noted that the alternative cost method does not measure users' willingness to pay.

Comment: Several commenters pointed out that the proposed rule did not contain a provision to include the differences in transmission costs between structural and nonstructural plans. Another commenter stated that WRC should alert planners to the equivalency problems between M&I alternatives and provide guidance on how adjustments to the costs of alternatives should be made to approximate equivalency.

Response: The Manual now requires that the evaluation reflect differences in treatment, distribution, and other costs among alternatives.

Comment: Section 704.121(d)(1)(ix)(B) of the proposed regulation presented a method for evaluating the benefits of a water supply for a small community based upon what other similar sized communities in the region pay for their water supply. Several commenters said that this section should not be included because it violates principles of sound economics and invites assertions from communities that they cannot afford development of the alternative water supply. Other commenters stated that omitting this section would result in the overstatement of benefits because the most likely alternative that could be implemented by some small communities would be too expensive for the community to afford.

Response: The relevant section has been revised to define the size of the small community (population of 10,000 or less); clarify the requirement for full analysis and documentation of the without-project condition; and to state that the benefits shall be equal to the cost of the separable M&I facilities plus an appropriate share of the remaining joint costs of the project.

Comment: One commenter pointed out that no guidance was given for situations in which disaggregated data on water use are not available.

Response: Such guidance is now included.

Agriculture

(May 24: Section 704.122–.124; Final: Section 713.201–.413)

Comment: Limiting the measurement of benefits as increases in net income to nine crops was the dominant issue in the comments related to agriculture. Some groups generally opposed the nine-crop limitation as too restrictive, urging that the actual crops grown should be used in the evaluation, and that the benefits from all crops be measured as increases in net income. They pointed out that the procedure for specialty crops would require extensive national analysis to determine the benefits of an individual project. One group commented that the limited list of basic field crops would ignore the special advantages of

different regions and the flexibility utilized by the farm operators in specific locations. A comment from a region where much of the Nation's specialty crops are grown stated that little if any of new irrigated land would actually be used for production of the nine basic crops, yet benefits would be limited to their value.

Other groups supported the nine-crop limitation for basic field crops but stated that it oversimplifies the problem in that the evaluation would not include increased costs of price support programs for any of the nine crops that might be involved in such programs. They commented further that an analysis of specialty crops should consider market and other constraints. These groups emphasized that the benefits of an irrigation project are no greater than the amount irrigators can afford to pay for the water delivered to them by the project.

A commenter stated that water requirements and determination of project size must be based on actual crops grown in the project area. The commenter pointed out that several of the nine basic field crops have generally been considered surplus for many years and that some authorizations of reclamation projects have included a moratorium on delivery of water to those crops. The commenter noted further that initial testing on several projects indicated that estimates of irrigation benefits would be reduced by 35 to 80 percent and payment capacity by 35 to 60 percent under the procedures in the Manual.

Response: The sections on cropping patterns and projections have been rewritten. Rice has been added to the original list of nine crops. The procedures do not limit benefits to any of the 10 crops, and all crops expected to be grown with the project are to be included in the analysis. The procedure measures the benefits of increased acreages of basic field crops as the increase in net income, and the benefits from specialty crops as efficiency gains. Thus, the cropping pattern used for estimating benefits is the one for which the project would be designed. It should be noted that implicit in the benefit analysis of intensive crops is an incremental analysis of the cost of providing water in excess of the amount that would be needed for the ten crops.

The proportion of the project acreage devoted to increased acreage of specialty crops is not to exceed the proportion of such crops in the same assessment subarea (ASA) as the project or in protected floodplains of the ASA in the case of agricultural floodwater. The benefits of growing specialty crops are computed as the increase in efficiency from growing them in the project area rather than at an alternate site. More specifically, the benefit will be measured by the reduced cost of producing a given quantity of a specialty crop in the project area compared to producing it in a representative alternate area, plus the value of increased production of the 10 basic field crops at the alternate area compared to production in the project area without the project.

WRC recognizes the problem of conducting extensive national analysis for an individual project; therefore, the efficiency benefits (and increased production) of crops other than the 10 major crops will be measured in comparison with average productive lands within the same ASA as the project.

The procedure does not include an analysis of any increased cost of temporary price support programs. WRC will provide current crop prices. It should be noted that current price support programs are generally not implemented unless market price is less than the cost of production.

Comment: The projections of crop yields, prices, and production costs were addressed in several comments. Some commented that price supports should not be included in the price projections and that irrigation benefits should not be claimed where price supports and set-aside programs are in effect. Others commented that the projection procedures were confusing and that yield rates developed for State or regional areas may not reflect site-specific conditions. One commented that much evidence shows a slowing or stoppage of yield increases, and another that producers capture little if any of the value of technological advances. Another noted that a commonly accepted practice is to use current yields and current prices and costs and assume that these relationships will hold in the future.

Response: The sections on projections of yield trends, prices, and production costs have been rewritten. Current yields at specific sites are to be used for the evaluation. Projected changes in yield are included only to the extent that they reflect expected changes in physical conditions, except in damage analysis where the effects of anticipated technology are included. Current prices for the 10 major crops will be provided by WRC. Constraints on providing water to surplus crops are provided in other directives. Current production costs are to be used, with allowance for any changes expected to result from changes in physical conditions.

Comment: The costing of family labor was objected to by some commenters, who stated that the procedure would reduce irrigation benefits by 25 percent. Others commented that recognizing the opportunity cost of family labor is a giant step forward.

Response: The procedures provide that all labor be costed at the going farm labor wage rate. This recognizes the opportunity cost of experienced farm labor in season and at the prevailing wage rate.

Comment: An evaluation based on crop enterprise rather than on farm budgets was a concern of some who commented that the procedure would exclude income accruing from the integration of livestock with more intensive cropping. One commenter stated the procedure would be an invitation to exaggerate direct benefits by attributing to irrigation the income from a host of other enterprises not dependent on irrigation. Another stated that the manual should prohibit crediting to an irrigation project the benefits for unrelated independent activities.

Response: The relevant section has been rewritten to limit benefits to enterprises dependent on irrigation. Irrigated crops are to be valued at the time of their first opportunity to sell rather than after they have been marketed through other enterprises. This recognizes that livestock feeds are available for purchase at the same value as the selling price.

Comment: The relationship between project benefits and estimates of ability to pay was discussed by some commenters, who stated that ability to pay has been used in some instances to determine water pricing or repayment and has historically tended to be less than irrigation benefits.

Response: Water pricing and estimates of ability to pay are beyond the scope of the manual.

Comment: The need for an incremental analysis of the value added or created by additional units of water was addressed by several commenters. One stated that the proposed procedure would use the average value for all increments, including increments provided by supplemental supplies to existing sources. Another commenter stated that it is economically irrational to provide a full season water supply for all years.

Response: The procedure has been rewritten to provide for an analysis of various increments of water supply levels for wet, dry, and average years. It provides that once the supply level is selected, the benefit is to be adjusted to reflect shortages in dry years and the

value of excess water in wet years. Benefits from supplemental supply are to be derived by comparing existing water supplies to either the reduced cost of water or increased production.

Comment: One commenter noted that the proposed procedure did not address hydrology and agronomy techniques use in forecasting water demand; another stated that the procedure should call for hydrologic evaluation of available water supplies and a demonstration that the supplies are dependable.

Response: This procedure does not provide guidance concerning techniques of hydrologic evaluation. However, it is implicit that sound engineering practices and procedures should be used to provide data for the economic analysis. Use of hydrologic evaluation for incremental analysis has been incorporated into the procedure.

Comment: One commenter, addressing the section on problems in application, noted that increased use of machinery and fertilizers in irrigated agriculture is tied basically to the availability of adequate water supply.

Response: The section has been deleted.

Comment: One commenter stated that using willingness to pay as the standard for evaluating agricultural flood damage reduction benefits is conclusive in nature and asked what standard would be used if users were not willing to pay for the plan. Another commenter said that the procedure was unclear.

Response: The procedure now provides for measurement of the benefit as the reduction in the economic significance of the problem. The assumption that users would be willing to pay for the solution rather than endure the problem is implicit.

Comment: Several commenters noted that the use of locational benefits conflicts with E.O. 11988. Some stated that location benefits should not be allowed if there are reasonable alternatives to floodplain development, and that if they are allowed, they should be offset by costs of 100 percent floodproofing of all improvements in the floodplain.

Response: The evaluation procedure relates to an analysis rather than to policy implementation. The analysis assumes that existing legislation and policy will be implemented. Therefore, if policy or legislation prohibits changes in land use, there will be no change to evaluate. If change in land use is allowed, the procedure provides for an economic analysis.

Comment: Several commenters said that the "test of reasonableness" for flood damages was not clear.

Response: The test of reasonableness has been deleted as inappropriate in a rule.

Comment: One commenter noted that the sections on agricultural flood damage should be titled "Non-Urban Flood Damage," as they cover more than agricultural damages.

Response: The definition of "other agricultural properties" has been broadened to include an entire agricultural or rural area. It was recognized that there are properties in rural areas that are neither urban nor involved in agricultural production.

Comment: One commenter noted that in the procedure for analyzing sediment and erosion benefits, it must be determined that such benefits have not already been accounted for by yield differences in flood damage calculations.

Response: The text has been changed accordingly.

Comment: Two commenters noted the lack of reference to economic losses downstream associated with the installation of project measures.

Response: Economic losses associated with project measures are included in the cost analysis as external diseconomies.

Comment: A commenter questioned the designation of farmers as one source of data about production costs and yield responses and suggested that the Manual list specific data sources that can and must be used.

Response: The Manual does not specify only certain data sources; rather, it provides a partial list of sources to which professional evaluators may refer. Since data on production costs and yield responses must be site-specific, flexibility is allowed in order to obtain the most appropriate data for each project.

Comment: One commenter stated that the section on report and display procedures was inadequate.

Response: The section has been rewritten to include procedures for reporting pertinent basic data.

Urban Flood Damage

(May 24: Section 704.125; Final: Section 713.501–.521)

Comment: Several commenters stated that the inclusion of location and intensification benefits as NED benefits is inconsistent with E.O. 11988, that location benefits cannot be used to justify a project and should not be counted if a reasonable alternative site exists.

Response: The evaluation procedure relates to proper analysis rather than to policy implementation. The analysis is based on the the assumption that existing legislation and policy will be implemented. Therefore, if policy or legislation prohibits such development as reflected in these benefits, there would be no benefit to evaluate. If such development is allowed, the procedure provides for proper analysis.

Comment: One commenter stated that relocation and intensification benefits cannot be accurately quantified and therefore should be deleted as too speculative.

Response: Agency experience to date indicates that such benefits can be reasonably quantified.

Comment: One commenter noted that the land use analysis would be simplified if changed use benefits were excluded.

Response: Although the analysis would be simplified, the benefit level would be artificially based and inaccurate if changed use benefits were excluded.

Comment: One commenter stated that location benefits should be offset by the costs of floodproofing all developments in the floodplain.

Response: There is no requirement to this effect in any policy, nor is it required by sound economic analysis. Of course, if floodfree land is compared to land with residual flooding, the location benefit would be reduced.

Comment: Several commenters stated that § 704.125(c)(2)(ii) (A) and/or (B) should be modified to reflect more clearly the consideration given to and the impact of flood insurance regulations in the without-project condition.

Response: Changes were made in (A) to reflect the possibility that the Flood Insurance Administration (FIA) might certify a modified local regulation; in such cases, the local regulation, not the Federal Code, would be the without-project condition. Changes were made in (B) to clarify the crucial features of without-project zoning regulations and to reference 43 FR 6030, the WRC guidelines on E.O. 11988.

Comment: One commenter recommended that WRC modify the without-project condition to include only authorized projects likely to be implemented.

Response: This change has been made.

Comment: Several commenters stated that the with-project condition should incorporate the FIA code, E.O. 11988, and E.O. 11990.

Response: This was the Council's intent. The final version has been modified for clarity and explicitness.

Comment: One commenter noted that small area projections, especially of land use, are difficult.

Response: The following language has been added: "The first five steps result in a determination of future land use; emphasis will be on evaluating the overall reasonableness of local land use plans with respect to (1) OBERS and other larger area data, and (2) recognition of the flood hazard."

Comment: One commenter stated that the most recent projections should be used in the evaluation procedure.

Response: The change has been made.

Comment: Several commenters recommended that the Manual include explicit mention of other pertinent statutes or regulations for either the without-project condition, the with-project condition, or both.

Response: The Manual assumes existing laws. Those specifically mentioned are most directly related to NED benefit computation.

Comment: Two commenters stated that OBERS is not a sound basis for projections.

Response: OBERS is the best available source of data and is specifically produced for benefit evaluation of water resources projects.

Comment: One commenter stated that the 75 percent limit on the value of contents is inappropriate.

Response: The 75 percent limit is a judgment based on empirical studies conducted by the Army Corps of Engineers in 1975. If future study determines that this limitation is inappropriate, it will be modified.

Comment: Several commenters stated the computation of permanent evacuation and relocation benefits is in error and biased against such measures. In particular, full flood damages reduced should be included.

Response: The Manual seeks an accurate estimate of benefits. Since the market value of floodplain land already includes a deduction for the flood hazard borne by the occupant, no inundation damage reduction to the occupant can be claimed.

Comment: Several commenters stated that the use of market values to reflect flood damages for evacuation and relocation plans is inconsistent with the use of flood damage reductions for measuring benefits to existing buildings in the case of structural alternatives; this reflects a pro-structural bias. Another commenter stated that market values are unreliable.

Response: Market values are used in structural analysis if land use will change as a result of the project (location benefit). Relocation and evacuation alternatives completely alter land use. Market values provide the best basis for evaluating evacuation alternatives.

Comment: One commenter stated that the discount rate used for estimating location benefits should be a private sector rate.

Response: The use of a private sector rate would tend to increase benefits by increasing net income associated with a given land value. The urban flood damage portion of the Manual uses the Federal rate to amortize the benefit, while implicitly using the private rate in determining the land values.

Comment: Several commenters stated that induced downstream flooding is not included as a cost or disbenefit to the project. Another commenter stated that the Manual should establish a procedure for evaluating adverse impacts of induced land use changes.

Response: It was the Council's intent to include induced downstream flooding and any other induced flooding as a cost. To insure that this intent is clear, a sentence has been added to § 713.533(a)(1)(iii): "This includes downstream flooding, if any, caused by the project." Measurement of costs such as induced flooding or costs associated with induced land use changes are provided for in the cost analysis section.

Comment: Two commenters stated that use of historical flood data is risky, especially where there are no gaging stations or where conditions have changed.

Response: Clarifying language has been added on the source and use of historical data, especially in those situations in which there is no gaging station.

Comment: Several commenters expressed concern about underestimating certain nonstructural (evacuation, relocation) benefits by improperly categorizing flood damages as those borne by the general public. One commenter stated that the Manual failed to recognize the effect of the Small Business Administration (SBA) disaster relief loan program in shifting the burden of flood damages from floodplain occupants to the general public.

Response: The program referred to is not currently authorized. If such programs are established, these damages may be included in the analysis, although care would have to be exercised to avoid double counting of public expenses between such programs and existing programs such as the Flood Insurance Program. The procedure recognizes changes in law that might shift damages from the floodplain occupant to the general public.

Comment: One commenter stated that intensification benefits are not applicable to urban settings. Conversely, several commenters objected to the statement (§ 704.125(d)(2)(ii)) that there are to date few convincing urban case studies.

Response: The statements in the proposed rule are accurate; i.e., the applicability of intensification benefits to urban settings is theoretically valid but there are few applications to date.

Comment: One commenter stated that the "internal rate of return" sensitivity analysis should be deleted; it has no place in a correctly done net present value analysis. Several other comments supported the rate of return analysis and suggested that it be added to other portions of the Manual.

Response: This analysis has been deleted.

Power (Hydropower)

(May 24: Section 704.126; Final: Section 713.601–.617)

Comment: A commenter stated that this section should be retitled Energy Resources Development because of the importance of water in the development of other energy resources such as synfuels and thermal electric power. The same commenter stated that the discussion should include all energy resources and entire fuel cycles.

Response: Benefits from water used in the production of synfuels or other energy sources are evaluated using the municipal and industrial water supply procedures. The hydropower evaluation procedure requires consideration of all alternatives that are implementable.

Comment: Several commenters expressed the belief that small hydropower projects at existing facilities should be exempted from the full requirements of the procedures.

Response: This suggestion has been developed and incorporated into the procedures.

Comment: Several commenters suggested that pricing should be specifically included as a conservation or nonstructural alternative.

Response: Pricing has been included as a nonstructural measure to be considered.

Comment: One commenter stated that computation of the true costs of nonstructural measures is essentially impossible and that all references to the NED benefits of nonstructural programs should be deleted until a viable procedure can be formulated. Other commenters suggested that WRC or the Department of Energy (DOE) be assigned responsibility for developing the basic data necessary to make these

evaluations and that a cooperative effort by WRC, DOE, and the construction agencies be initiated to develop procedures for evaluating nonstructural alternatives.

Response: References to the evaluation of NED benefits from certain nonstructural alternatives to hydropower are advisable and are retained. However, it is recognized in the Manual that the net benefits of nonstructural measures that alter the electric power load cannot be measured effectively by the alternative cost procedure because the outputs are not comparable. Attempts to measure such benefits on the basis of direct willingness to pay are encouraged but are not required.

Comment: One commenter stated that the National Energy Act of 1978 requires all utility systems to use electricity conservation in a broad spectrum of applications intended to reduce the rate of growth of consumption to the extent economically feasible, and that these conservation measures are the nonstructural alternatives to projects, so further consideration of nonstructural measures would be redundant. Several other commenters pointed out that nonstructural alternatives (conservation and load management) that are comparable alternatives to hydropower may already be part of the without-project condition, in which case there may not be a viable nonstructural alternative.

Response: The procedures require that nonstructural and/or conservation measures that would be undertaken in the absence of a project be accounted for in analyzing the without-project condition. Any additional nonstructural and/or conservation measures that could be implemented are to be considered as alternatives to structural measures.

Comment: One commenter stated that it is highly presumptuous to assume that nonstructural measures that are part of a with-project condition will be implemented, because the decisions to implement such nonstructural measures as load management and conservation are made by the customer or the supplier.

Response: The procedure deals with the evaluation of hydropower projects and alternatives, not with project implementation. Federal agencies were directed by the President to develop and evaluate for public consideration alternatives that include nonstructural measures. This evaluation should serve to indicate to customers and suppliers and to Federal agencies those situations in which nonstructural measures are more efficient than purely structural alternatives.

Comment: One commenter suggested that the Manual provide various scenarios for computing hydropower benefits for service areas of various sizes.

Response: The manual cautions against selecting a service area that is unnecessarily small, and the procedure considers interregional transfers of power under nonstructural measures.

Comment: One commenter questioned the need for estimating future demand for hydroelectric power because the usability of additional hydroelectric power is a foregone conclusion in most areas of the United States.

Response: It has not been demonstrated that there is a need for all additional hydropower capacity that could be developed; therefore it is appropriate to examine the need on a study by study basis.

Comment: One commenter stated that the procedures should recognize the existence of a bias in favor of exaggerated power reserves and should encourage appropriate adjustments in estimating reserve requirements.

Response: Reserve requirements are determined by DOE and are thus beyond the scope of the Manual.

Comment: One commenter stated that the Manual should not limit electric utility or thermal electric generation alternatives to existing, commercially available technology.

Response: As a practical matter, only those alternatives that do exist and are commercially available can be included. The alternatives considered must be capable of being implemented.

Comment: Several commenters stated that in the context of present concern for the environment and energy conservation, some type of additional credit (e.g., a conservation credit) should be included for hydropower.

Response: If the conservation credit were to reflect the increased cost of alternative nonrenewable fuels, it would result in double counting. Any other credit would be arbitrary.

Comment: Some commenters expressed opposition to the use of the Federal discount rate in valuing the cost of the most likely alternative; they contended that when the most likely alternative is a private venture, use of the Federal discount rate will undervalue the true willingness of users to pay.

Others commented that comparison of the costs of one alternative developed using the Federal rate with the costs of another alternative developed using the private rate will bias project decisions toward the public investment, even when the private venture is less expensive.

Response: Use of the Federal discount rate for the evaluation of all alternatives allows assessment of the comparative value of projects on a common basis and removes from the economic analysis the unrelated element of variable financing. This procedure is consistent with the requirement for evaluation of plans on a comparable basis as stated in both the original and revised Principles and Standards. It should also be noted that the alternative cost method does not measure users' willingness to pay.

Comment: One commenter stated that it would seem appropriate to include the costs of nuclear insurance. Another commenter noted that State and local taxes and insurance costs should be included in the evaluation of NED benefits because they are real costs, whether paid to an outside agency or incurred through self-insurance.

Response: The cost of nuclear hazard is included as a system failure cost. Taxes and insurance are excluded in order to allow evaluation of alternatives on a comparable basis with the Federal plan.

Comment: Certain hydropower facilities could provide badly needed supplemental power to a larger system on a fast start basis or for peaking power. In order to include such benefits in the analysis, the commenter suggests using a differential (higher) price for those kinds of power, with diminishing marginal benefit as the proportion of hydroelectric/thermal power in system increases.

Response: The revised evaluation procedures allow for energy value, capacity value, and intermittent capacity adjustments.

Comment: One commenter noted that there was no guidance on how the capacity value credit is to be computed or what it should be.

Response: Such guidance is now provided.

Comment: One commenter pointed out that several sources of power forecasts are given, but no guidance is provided on which source to use if various sources disagree. The commenter suggested that criteria be given for selecting from among various sources or that the preferred source be identified. Another commenter stated that certain agency guidance, much of it mandated by the Congress, presently requires that the Federal Energy Regulatory Commission (FERC) estimates of power usability and power values be used in their analysis. The commenter stated that the procedures should explicitly state the degree of reliance that must be placed on the FERC estimates, and how

much coordination with FERC and DOE is required.

Response: The availability and/or quality of power forecasts varies over time and from area to area. To specify a particular forecast under these conditions would be inappropriate.

Comment: Another commenter urged that guidance be given for determining the appropriateness of including minimum facilities that preserve the potential for future power production in dams whose complete initial installation is not currently economically feasible.

Response: The procedure recognizes phased construction of hydropower facilities.

Transportation (Inland Navigation)

(May 24: Section 704.127; Final: Section 713.701–.731)

Comment: A number of commenters stated that the use of prevailing rates to measure benefits is inappropriate and that long-run marginal costs should be estimated.

Response: The relevant section has been reworded for clarity (§ 713.703(e)). It is generally agreed by commenters that the Manual states the correct economic principle, i.e., reduction in long-run marginal transportation costs represents the benefit to navigation. The Manual then addresses the empirical issue of the best available method of estimating long-run marginal costs. The rationale was as follows:

Rates v. Engineered Costs

1. Economists generally agree that prices (rates) are normally the most reliable estimate of long-run marginal costs.

2. To the extent that prices (rates) are not based on competitive markets, prices misestimate long-run marginal costs. In the real world, few, if any, markets are perfect; the mere fact of an imperfect market is not sufficient reason to shift to a different measurement technique. The issue is: How accurate is the price measurement compared to other available measurement tools?

3. Rates are easily determined.

4. Costs are not easily determined.

a. The necessary data are not available in the public sector, including the Interstate Commerce Commission (ICC), the Department of Transportation (DOT), or the Federal Railroad Administration (FRA). (WRC requested such data of these agencies; they replied that cost data simply are not readily developable.)

b. The necessary data are commodity-specific costs by rail lines and segment by individual movement.

c. The proper handling of joint costs will always be arbitrary.

d. The input prices of cost items are themselves the products of imperfect markets (project and other labor costs are distorted by the effects of the Davis-Bacon Act (Pub. L. 71–798) and union practices; fuel costs are distorted by regulatory practices and international cartel practices; etc.).

5. Current studies do not provide convincing empirical evidence that use of rates overestimates long-run marginal costs.

a. A recent Association of American Railroads (AAR) staff paper, *Railroad Fixed Costs* (April 18, 1979), places fixed costs at only 11 percent in the "intermediate run" (2 to 3 years); this, plus railroads' low rates of return, indicates that rates are a close approximation of long-run marginal costs.

b. DOT has studied the rate and cost issue and believes that errors made by using competitive rates would be not greater than errors made by using constructed cost data. The preliminary results presented in a 1975 working paper, "Description of an Engineered Economic Cost Methodology for Railroad Freight Operations," indicated that constructed costs exceed rates; however the conclusion is limited by the imprecision of the data.

c. ICC cost scale data are accounting data and do not reflect economic principles. Further, those data are not line-specific but are based on regional averages. The use of such data, as in the Locks and Dam 26 Report *(Locks and Dam No. 26 (Replacement) Formulation Evaluation Report,* June 1975), is not supported by academic, railroad, agency, or environmental representatives.

6. Rates, rather than costs, determine actual movements.

Which Rates?

The determination that rail rates are a better measure of long-run marginal costs than engineered or accounting rail costs does not wholly resolve the issue of which rates are the best estimator of such marginal costs. For existing waterways, prevailing, competitive, and similar rates are the best estimators. The rates must be (1) In use; (2) subject to competition (not necessarily water-compelled); and (3) for similar movements.

The Manual recognizes that, for new waterways, prevailing rates may or may not be the best estimate of NED benefits. Some railroad price cutting has occurred after construction of new waterways; whether this price cutting represents a short-run marketing strategy or a realistic assessment of long-run marginal costs cannot be determined with precision. However, railroads have simply stopped competing for many products on existing waterways, implying that initial price cuts are only a short-term response. In any case, the prevailing rate is determinable, unlike a theoretical rate expected to exist with the project. The benefit measurement for new waterways follows from Section 7a of the DOT Act of 1966.

Comment: The provision regarding "changes in international relations" should be removed from the paragraphs on commodity forecasts.

Response: Admittedly, speculation on future changes is fraught with potential error, but international relations are important determinants of exported goods.

Comment: Several commenters noted the omission of benefits from recreation and from reductions in rates to remaining customers of the alternate mode, due to barge competition.

Response: This portion of the Manual covers only navigation benefits. The NED benefits are those to users and do not include distributional impacts between alternate modes and their remaining shippers.

Comment: Several commenters stated that future user charges should not be speculated on.

Response: Future changes in the level of user charges are sufficiently possible to warrant a sensitivity analysis.

Comment: Several commenters recommended that proposed or possible user fees and taxes should be part of both the without-project and with-project condition.

Response: The Manual has been revised (Section 713.705(a)(2)) to include, for clarity, the directive that possible fees or taxes be considered as part of the nonstructural alternatives in the with-project condition.

Comment: One commenter stated that proposed or possible congestion fees and taxes should not be part of either the with-project or without-project condition because they are not now part of law. Another commenter stated that congestion fees and other taxes and fees should not be part of the with-project condition because they have the effect of raising rates and ultimately costs to consumers.

Response: If new fees are enacted, they are appropriately part of the without-project condition. Possible fees must be considered as alternative solutions and may be recommended by way of a change in the law. To have a basis for recommending such change, the fee must be assumed in the with-

project condition; the impact of the change is the difference between the without-project and with-project conditions. Although fees may raise rates, these increases alone do not constitute a NED cost. Social and distribution issues are handled separately in the P&S system of accounts.

Comment: One commenter stated that the application of existing user charges and taxes to the without-project condition is valid, but these charges should also apply to the with-project condition.

Response: This is the intent of the Manual. As stated at § 704.127(c)(2) (now § 713.705(b)): "The same assumptions underlie the with-project condition that underlie the without-project condition."

Comment: Several commenters stated that total transportation policy and the impact of a project on that policy should be included in the analysis. Various emerging policies (e.g., railroad rehabilitation or deregulation) should be incorporated into future rate estimates.

Response: The Manual is believed to be consistent with National Transportation Policy, insofar as that policy can be described operationally. Current laws and policies are included in the without-project condition.

Comment: One commenter stated that the procedure makes no provision for including the Waterway Trust Fund recovery in the benefit-cost analysis

Response: The comment is valid; the problem is that barge rates will incorporate the tax (user fee), thus reducing the apparent benefit when in fact only a transfer between barge operators and the government may have occurred. Language has been added (§ 713.729(c)) to state: "The incremental collection of user charges, fees, or taxes is not to be considered a NED benefit but a transfer of resources between the public and private sectors of the economy, manifesting itself as resources committed to the proposed navigation system. As such, the increased collection of these charges, fees, or taxes is considered a decrease in the public sector's contribution to the proposed system."

Comment: One commenter stated that user charges should be included as part of the with-project condition in describing the planning setting.

Response: Existing user charges are part of both the with-project and without-project condition. Proposed or possible fees, charges, or taxes are to be considered as part of the nonstructural alternatives in the with-project condition. Moreover, a display of the impact of increased levels of user charges is required as part of the sensitivity analysis.

Comment: Several commenters questioned the assumption that the without-project condition will include only those waterway projects currently in place or under construction as limiting the consideration of alternatives. Some commenters stated that the assumption was biased against waterways (because other modes are congested) while others felt the bias was against alternate modes (because current rates will decline).

Response: The following clarifying language has been added in § 713.705(a)(4): "unless there is specific evidence to the contrary." This change is believed modest. The assumption will minimize benefits but quantifying the capacity of all modes is beyond the state of the art and is not required.

Comment: One commenter stated that the Federal investment will essentially duplicate existing facilities on the alternative modes.

Response: The fact that a Federal investment may duplicate the carrying potential of existing facilities does not make such an investment contrary to public interest. A savings in total transportation costs is the proper criterion and can be determined without assessing the capacity of alternative modes.

Comment: Many commenters stated that the range of alternatives should be expanded. Specifically, the language, "Improvements in railroad, highway, pipeline, and other modes will not be analyzed as alternatives to improvement of the waterway" was objected to as representing bad planning and contrary to the National Environmental Policy Act (NEPA).

Response: The procedure now provides for consideration of improvements in alternative tranportation modes as part of the without-project condition; alternatives modes will be analyzed as a basis for identifying the most likely route by which commodities will be transported in the future in the absence of waterway improvements. The without-project condition includes "any practice likely to be adopted in the private sector under existing policy, as well as actions that are part of a broader private and public planning to alleviate transportation problems." It is believed that these revisions clarify the original intent and are consistent with the procedural steps for analyzing alternative modes.

Specifically, the revisions make clear that changes in the transportation alternative will be considered in establishing the routing (and related rates, transport characteristics, etc.) in the without-project condition (§ 713.721). However, no analysis of the best methods of improving rail, pipeline, truck, and other nonwater modes is required as an alternative plan because such analysis on a project-by-project basis, or even on a programmatic basis, is beyond the state of the art. The use of alternate modes is an integral part of the analysis and will result in recommendations for improvements to the waterway only when waterway costs are less than the costs of movement by other modes.

Comment: Several commenters noted that allowance was not made for future productivity increases on alternate modes while the railroads have historically shown such increases.

Response: While it may be true that there have been productivity increases on the railroads, there is no evidence of faster productivity increases by railroads than by water modes, and productivity increases on either mode to date should be reflected in current rates. Section 713.721(b) does not prohibit the inclusion of changes due to productivity increases. However, inclusion of such changes will require some speculation and must be carefully considered.

Comment: The guidance for computing system delays and costs is inadequate.

Response: It is not possible to establish a definitive procedure because of the variety of studies involved, the unavailability of data, and the evolving state of the art in systems analysis methodology. Further, specifying short-cut techniques would tend to lock systems analysis in at too low a standard. On the advice of staff experts, particularly at the Departments of the Army and Transportation, the Manual specifies the nature (system delays) and need for system analyses, but recognizes the severe practical problems and thus leaves further experimentation with appropriate techniques to the agencies. The agencies are expected to use a system analysis at a level that is appropriate to the size and nature of the problem being studied and the availability of resources for collecting the appropriate data.

Comment: One commenter stated that costs rather than rates should be used to determine modal choice.

Response: Engineered costs have little meaning for modal choice since the cost to the shipper is the transportation rate. Rational shippers will select the mode on the basis of their cost rather than the carriers' cost.

Comment: Several commenters noted that rate savings resulting from the use of prevailing rates should be adjusted to include railroad (or other modal) losses as a NED external diseconomy.

Response: This concept was rejected for existing waterways because prevailing, competitive, and similar rates are believed to be the best indicator of long-run marginal costs. Regional, social, and other distributional impacts, positive or negative, are not appropriate for the NED evaluation; they belong in the regional development (RD) or social well-being (SWB) accounts. This does not imply that such impacts are unimportant; indeed, at a time when improvement in the use of all transportation modes is vital to the Nation, impacts on all modes should be considered. However, they are not NED benefits or costs.

Similarly, no adjustment is allowed for new waterways because the only viable method would be to use post-project rates (ICC data, constructed rates, railroad interviews, or engineered cost) to estimate the impact. This would require use of water-compelled rates, contrary to Section 7a of the DOT Act of 1966. Further, the adjustment would be highly speculative, since all possible methods of establishing the loss are very gross and subject to substantial error.

Comment: Some commenters questioned the use of "competitive and similar" rates (for existing projects) on two grounds. First, they felt that use of such rates is prohibited by law and would mark a return to the 1964–66 criteria. Second they felt that competitive and similar rates are not "prevailing" rates and, especially for existing projects, are not as reliable as prevailing rates.

Response: WRC defines prevailing rates as those in actual use of the time of the study, whether for existing or new waterways. Indeed, the great advantage of using prevailing rates is that they can be verified. The term "competitive and similar" is encompassed in the term "prevailing." When a choice among prevailing rates is possible, the analyst will choose those rates that reflect the best mix of competitive and similar characteristics. Therefore, the Manual is consistent with Section 7a.

Comment: One commenter noted that in sensitivity analysis, a mean should be used in cases in which two or more conditions are equally probable. Also, reference to the section on risk and uncertainty should be made.

Response: The "most likely" criterion is considered sufficient.

Comment: One commenter noted that in computing the effect of alternative levels of user charges on project benefits, the term "average annual costs of the waterway under study" is unclear in that it does not define whether the cost is the existing or incremental cost.

Response: This allows the flexibility to use the one that is more appropriate at the time of the study.

Comment: Many commenters stated that the interviewing of shippers, carriers, and other potentially interested parties will yield biased data, especially since actual individual answers are not disclosed. Among the possible solutions recommended by commenters were: (1) Explicitly correct for bias unless the interview data can be verified from an unbiased source; (2) Disallow use of any information not open to public scrutiny; (3) Require disclosure of all interview information not legally protected (e.g., by the Freedom of Information Act); and (4) Prespecify the precise interview form.

Response: The following language has been added to the Manual: "The errors and uncertainty inherent in the sampling methods and responses shall be described." This addition, together with the original language, strikes an appropriate balance among (1) the need for expert data; (2) the quantum of data required to be disclosed in a report; (3) the possible biases of the interview technique; and (4) reliance on the judgments and competence of the analyst. The Manual requires that the questionnaire and a summary of responses be displayed in the final report. Whether interested members of the public can obtain individual interview forms under the Freedom of Information Act is a matter beyond the scope of the rule.

Recreation

(May 24: Section 704:129; Final: Section 713.901–921)

Comment: Two commenters stated that too much agency discretion is allowed in applying evaluation methods.

Response: The step-by-step evaluation procedure provided in the final rule should reduce most problems associated with excessive discretion.

Comment: One commenter stated that consistency will not be promoted by the use of multiple methods of estimating benefits.

Response: Some methods are more accurate and appropriate under certain circumstances than others. Where recreation is a major project component, or where significant displacement of existing recreation is involved, accuracy of benefit measurement is important. In other circumstances more complex methods may not be cost effective. Results will be consistent among projects of a given kind as long as consistent criteria for applying methods are used. The procedures establish such criteria and require appropriate explanation and justification of the methods used.

Comment: One commenter asked whether the without-project condition is defined as the status quo or as the situation that would exist in the absence of institutional limitations.

Response: Agencies are responsible for defining and justifying the most probable situation in the absence of a Federal project.

Comment: Two commenters noted that the criteria for use of the travel cost method (TCM), the contingent valuation method (CVM), use estimating models (UEM), etc., are unclear. Several commenters thought that the criteria for use of unit day values (UDV) were too restrictive given the expense and complexity of TCM and CVM.

Response: The text has been revised to clarify the circumstances under which each approach is to be used. The application of UDV has been broadened. The revised criteria use Federal costs rather than total recreation costs. The clarity of this chapter has been improved by moving much of the detailed explanatory material to appendices.

Comment: Two commenters mentioned that the criteria for selection of an evaluation method were not consistent with the Principles and Standards.

Response: The revised Principles and Standards are now consistent with the Manual of Procedures.

Comment: Several commenters stated that there is need for a common measurement unit for recreation. One commenter suggested the use of "recreation day."

Response: Agencies are given discretion in choosing which unit to use, since one metric may be more appropriate than another, depending on the type of recreation involved and the method used to estimate benefits.

Comment: Several commenters remarked on the definitions of major recreation resource, market area, and design load.

Response: These definitions have been revised or the terms have been changed.

Comment: One commenter stated that it is important to distinguish the effects of travel costs and travel time in TCM.

Response: Accurate estimates of travel time costs depend on the availability of data. Until more data are widely available, it is inappropriate to specify detailed instructions in this area. Agencies are responsible for justifying the time values used.

Comment: One commenter noted a discrepancy between rejecting transportation costs as a measure of

willingness to pay and then requiring use of TCM.

Response: The procedure disallows use of trip-related expenditures as a direct measure of willingness to pay. TCM uses data on travel costs indirectly to estimate willingness to pay.

Comment: Several commenters noted the absence of reference to dispersed recreation, overnight use, and effects of energy shortages.

Response: The methods described apply under the circumstances noted. Reference to energy shortages has been added to the section on TCM.

Comment: One commenter suggested that onsite time costs should be included in willingness to pay estimates for TCM and that congestion should be accounted for.

Response: The text has been revised to include both of these suggestions.

Comment: Several commenters observed that TCM and CVM are no more accurate than UDV, and that CVM is too experimental. Other commenters stated that UDV is arbitrary, subjective, and inaccurate.

Response: All methods yield only estimates of recreation benefits. Accuracy depends both on the conceptual validity of the method and the skill and judgment of the analyst. UDV is simple but lacks conceptual validity; hence, accuracy can never be verified. TCM and CVM have conceptual validity but require an increased investment in skilled analysis by the agencies.

Comment: One commenter asked what the procedure is for updating UDVs.

Response: Both the proposed and final rule specify that the most recent values published by WRC are to be used.

Comment: One commenter felt that the treatment of substitute alternatives was inadequate.

Response: The proposed procedures explicitly required accounting for substitute alternatives, but additional emphasis has been made in the final text.

Comment: Two commenters asked what values should be used for projections and what level of statistical significance is acceptable for regression estimates.

Response: The text now allows agencies discretion in these areas, subject to technical review.

Comment: One commenter asked how consumer surplus should be allocated if there is excess demand.

Response: The procedure assumes that supply is rationed by pricing according to willingness to pay. If congestion exists in practice, its effect on consumer surplus might be estimated using CVM, but the procedures impose no requirement in this regard.

Comment: Two commenters stated that the proposed rule overemphasizes quantitative analysis.

Response: The requirement that these procedures establish accurate and consistent methods necessarily involves quantitative analysis.

Comment: One commenter stated that use of consumer surplus is inappropriate.

Response: Most economists accept consumer surplus as the appropriate measure of value if the change is large enough to significantly affect price. Therefore, it is a valid concept in the Standards.

Comment: One commenter objected to equation specifications.

Response: This material has been deleted from the rule and placed in an appendix.

Comment: One commenter objected that the value of time was too arbitrary.

Response: The text has been revised to accommodate this objection.

Comment: One commenter noted that the proposed table values for variable cost of travel were too low.

Response: The table has been deleted from the rule, but the most current DOT values are still to be used.

Increases in Output Resulting From External Economies

(May 24: Section 704.131; Final: Sections 713.1101–.1109)

Comment: Two aspects of the treatment of external economies in this section caused the greatest concern to a majority of commenters. First, the examples were judged to be oversimplified and misleading, illustrating mainly offsite direct effects, not uncompensated indirect effects. One example was judged to be spurious, not exemplifying a technical external economy but merely a transfer in wealth—a pecuniary external economy.

The other major area of concern was the procedures and methods for measuring external economies. The procedures were judged to be too general and lacking in specific guidance and examples.

Several commenters expressed approval of the conceptual basis and definition of an external economy, but a few suggested the need for minor improvements. Two commenters pointed out that only those improvements in efficiency of output generated by a decrease in average total cost per unit of output constituted a technical external economy.

Several other comments related to the identification of affected firms and individuals and the boundaries within which technical external economies should be measured, pointing out that while a practical approach to identification and measurement would confine the exercise to existing firms and individuals, new firms and individuals could also benefit from such economies. The difficulty of delineating the area of economic activity for which technical external economies should be measured was emphasized in several comments, as was the tenuous and unrewarding tracing of all external economies. The remedy offered was to concentrate on those external economies recognized as significant.

Response: The objective of the procedure is accurate and consistent estimation of valid NED benefits attributable to technical external economies. This portion of the Manual has been revised to include specific evaluation steps. The examples given in the proposed rule have been replaced with an entirely new set of examples. In the interest of economy and practicality, the Council has resisted several entreaties to stipulate that all externalities, including the minor and microscopic, be traced and measured; instead, the Manual instructs planners to concentrate on measuring the obviously measurable. The boundary to the "area of search" for likely technical economies worth measuring is now guided by reference to the pertinent context; a watershed, river subsystem or system might constitute such an appropriate area to search for these impacts.

Comment: A number of commenters emphasized the need for a stricter definition of pecuniary external economies to ensure that no transfers of wealth be counted as NED benefits. One commenter urged that pecuniary economies be displayed to show which group(s) stand to gain and which to lose from the pecuniary economies created by a project.

Response: Two paragraphs have been added stating the nature of and characteristics of a pecuniary externality. The effects of pecuniary externalities are also described.

Comment: Several commenters expressed concern that external economies were treated at length in a separate section of the Manual while external diseconomies received relatively brief mention in the section of the Manual dealing with costs. The point was made repeatedly that projects are likely to generate as many or more external diseconomies as external economies and the treatment of them should therefore be equally thorough. One commenter was troubled by the

fact that the discussion of external economies was completely and "artifically isolated" from the discussion of external diseconomies.

Response: To balance the treatment of external economies and diseconomies, the section dealing with external diseconomies has been expanded in the NED costs portion of the Manual, and a number of examples are given involving both market and nonmarket outputs.

Unemployed or Underemployed Labor Resources

(May 24: Section 704.132; Final: Sections 713.1201–.1209)

Comment: Four commenters were highly critical of the procedures; all of these commenters recommended that the methodology contained in an earlier draft of the Manual dated February 9, 1979, be reinstated. The approach in that draft used two procedures—one for small projects (a construction wage bill of less than $5 million and a construction period of less than 3 years), and a more detailed procedure for larger projects (matching the specific site's demand for construction labor with the supply of idle labor in the project area). These commenters found the evaluation procedure in the proposed rule appropriate only for small projects; they believe that its use for all projects would result in overestimates of benefits, since the procedure is based on an inordinately high percentage of previously unemployed workers in the total force required to construct a project.

Three commenters supported confining the benefits from unemployed labor resources to labor directly employed onsite for the period of construction and installation only. One commenter noted, however, that this limitation precludes consideration of employment that might be generated in construction support industries.

Two of these commenters said that the procedure proposed on May 24, 1979, is so simplified and arbitrary that it would produce meaningless estimates; they urged that it be replaced by the earlier approach or deleted.

Response: The earlier approach (based on the Haveman and Krutilla procedure) does represent a major methodological advance in the area of estimating benefits from otherwise unemployed resources. However, the Manual tried to strike a balance between procedures that could be widely utilized and give reliable, if only approximate results, and more complex methods that could yield more precise results but at a greater cost. It was judged that the Haveman and Krutilla method would not be appropriate for widespread application for the following reasons:

(1) Because it involves a series of computational steps, the Haveman and Krutilla method would require a substantial computer modeling effort.

(2) The method uses empirically-based response functions relating the probability of hiring unemployed or underemployed labor to the rate of regional unemployment. Little information exists regarding such response functions. (The original Haveman and Krutilla study used synthetic response functions.)

(3) The Haveman and Krutilla method relies on estimates of regional unemployment rates during the period of project construction. However, consistent data on regional unemployment rates and reliable methods for projecting such rates are not currently available.

It is incorrect to state that the Manual will result in large overestimates of the benefits of employing otherwise unemployed resources compared to the Haveman and Krutilla method. The procedure in the Manual is based only on direct employment during construction, whereas the Haveman and Krutilla procedure is based on direct plus indirect employment. In the latter method, direct employment constitutes about 25 to 53 percent of the total of direct and indirect employment which could translate into benefits that are 100 percent of direct labor costs. In summary, the Manual procedure offsets the effects of using a higher previously-unemployed labor percentage by applying it to a smaller base. Also, because the Manual procedure is restricted to those counties with substantial and persistent unemployment, it is more conservative in the number of projects to which it applies (the Haveman and Krutilla method would yield the same results for any county within one of the 10 regions used).

Comment: The Manual points out that the procedure proposed for calculating unemployed or underemployed benefits could result in "highly uncertain estimates." One commenter suggested that a benefit for otherwise unemployed labor is justified only where there is a substantial amount of unemployed labor with the skills needed during construction and installation. Further, an assessment of the potential of the project for employing the otherwise unemployed must be based on the current situation.

Response: The Council has adopted these suggestions. The procedure now limits this benefit to areas of substantial and persistent unemployment and stipulates the current availability of construction labor be estimated. In addition, the procedure requires a careful matching of the projects' labor requirements with the skills available in the unemployed labor force.

Comment: One commenter thought that the procedure would allow a benefit for the employment of otherwise unemployed labor in operation, maintenance and repair activities.

Response: The procedure clearly limits the benefits to direct employment on a project site only during the construction and installation period.

Comment: Two commenters urged that this benefit be applied to all alternatives including nonstructural alternatives, if they result in the employment of otherwise idle labor.

Response: The procedure has been clarified; the benefit applies when appropriate to all alternatives, structural and nonstructural.

Comment: One commenter notes that, under current procedures of the Army Corps of Engineers, most U.S. counties are considered eligible in counting benefits for the employment of otherwise unemployed workers on Corps projects. Two other commenters state that this benefit should be restricted to those areas with significant pools of unemployed and underemployed labor.

Response: Benefit estimation is limited to those counties and areas designated as having substantial and persistent unemployment as specified in Subsection 1 of Title IV of the EDA Act of 1965 (Pub. L. 89–136, as amended) and those Indian reservations that meet the same criteria.

NED Cost Evaluation Procedures

(May 24: Section 704.141; Final: Sections 713.2001–.2021)

Comment: A majority of commenters noted the disparity between the lengthy treatment given the benefit evaluation procedures and the brief discussion of cost evaluation procedures. The commenters recommended that the imbalance be corrected and the section on costs be expanded greatly to encompass more than a set of generalities phrased in "regulatory verbiage." Since cost analysis is as complex as benefit analysis, specific guidance should be given for costing projects or project functions—flood control, irrigation, hydropower, recreation, etc.—that have vastly different data bases and cost considerations. The Council should develop a sufficiently detailed and comprehensive evaluation methodology,

especially for direct and indirect environmental costs.

Response: The proposed rule has been rewritten to enumerate and identify the different classes of project costs and to provide techniques for estimating them. An effort has been made to reduce regulatory verbiage, although certain names and classes of costs have been retained to ensure consistent and uniform application by agencies.

The Council did not enumerate a set of costs appropriate to each project function, preferring to provide a comprehensive set of costs, many of which are common to all project functions.

The procedure as now written is adequate to account for and measure the NED cost components of direct and indirect environmental effects.

Comment: Several commenters took issue with the definition of project costs. They urged the Council to define project costs as the direct pecuniary costs in the market place for the purchase of land, labor, machinery, equipment, materials, and services, plus any environmental or public sector values that are destroyed or not compensated for in the implementation of the project. The commenters state that the external diseconomies should be computed in a manner analogous to that used for computing external technical economies, their counterpart in benefit evaluation. Two commenters stated that significant indirect uncompensated adverse effects are no more uncertain or difficult to measure than effects that are routinely measured as project benefits; they urged that resource costs and benefits be evaluated using the same procedural framework.

Response: The total NED cost of a project has been defined in the rule as "the market value of a resource plus other values not reflected in the market price of the resource; it therefore accounts for all private sector and public sector uses."

The total cost of a project includes the pertinent project outlays, the associated costs, other direct costs, and the external economies. The Manual stipulates that technical external diseconomies shall be measured in a manner analogous to technical external economies. The measurement of a technical externality, whether beneficial or adverse, is usually complex, and this condition should be fully recognized.

Comment: Many commenters praised the inclusion of external diseconomies but thought the discussion totally inadequate; more and better examples and precise procedures for their calculation should be provided. Several commenters stated that the Manual should include specific procedures for evaluating the major types of diseconomies created by projects. In separate sections of the Manual, the Council should develop procedures for the quantification of these major types of indirect uncompensated adverse effects. These procedures should include cost measurement for such phenomena as increases in project-induced downstream flood damage, degradation of water quality, destruction of wetlands and fish and wildlife resources, and introduction of and/or increases in non-point pollution from irrigation return flows.

Two commenters believe that uncompensated indirect public costs of water project development such as congestion, lowered air quality, and inequitable costs charged for necessary new community services should be quantified as legitimate external diseconomies. Two commenters stated that the Council should require agencies to consider each specific category of costs for these external diseconomies and, at a minimum, justify the omission of their quantification.

Response: The Council found great merit in the suggestion that external diseconomies be treated in more depth in the regulation. The external diseconomies section has been expanded to enumerate several of the examples suggested by commenters. The Manual stipulates that the evaluation of these effects shall be studied "both within and outside the project area." The mandate to planners clearly encompasses the types of public cost externalities that impact adversely on the satisfaction of individuals in a community as a result of increased congestion, lowered air quality, and diminution in other environmental amenities.

Comment: One commenter urged that external diseconomies of the pecuniary type be judged relevant for NED cost evaluation: "Secondary pecuniary impacts are just as real as the primary impacts."

Response: The effects of transfers may be significant, especially for those who lose as a result of pecuniary diseconomies. These are not valid NED costs, however, because no real effects on resources are involved.

Comment: Another commenter thought that the Manual did not spell out the difficulties in quantifying external diseconomies, and that the display procedures were inadequate. The commenter suggested that the Council defer its treatment of external diseconomies to "a second round attempt" and then should specify measurement methods for each project function, such as flood control, irrigation, hydropower, water supply, etc.

Response: The Council recognizes the complexity involved in identifying and measuring externalities, whether beneficial or adverse. The Manual now clearly stipulates that "decreased output or increased cost per unit of output" is the pertinent measurement area. Several of the complexities and difficulties encountered in the measurement of external diseconomies (such as identification of the specific effect, and the area and entities impacted) are described in the portion of the Manual dealing with technical external economies. The Manual prescribes that the costs of external diseconomies be computed "using the procedures for computing benefits." Deferring consideration of external diseconomies and their measurement is not justified; these effects are significant in water resources planning, and adequate techniques have been developed for their measurement.

Comment: Two commenters welcomed the recognition that an irrigation project can result in increasing the load and concentration of salts downstream, thus creating an external diseconomy. Another commenter stated that the costs of water quality degradation for any water use should be thoroughly dealt with in the Manual.

Response: The loading and concentration of salts may result in increased water treatment costs for certain downstream users. Total project costs have been defined to include all direct and indirect uncompensated real costs as well as associated costs. Degradation of water quality that increases the cost per unit of output of any use of the degraded water within or outside the project area is accounted for in the procedures.

Comment: Another commenter pointed out that beneficial effects—external economies—are usually produced along with adverse effects.

Response: The Manual stipulates that all measurable indirect uncompensated effects, both beneficial and adverse, be evaluated.

Comment: Two commenters urged that the portions of the Manual dealing with uncompensated economic losses be written to provide specific examples and methods for evaluating these losses. One of the two commenters stated that downstream loss of groundwater recharge or other surface water uses downstream resulting from upstream impoundment of such surface water is a significant uncompensated economic loss. The other commenter pointed out that recreational uses of a stream

displaced by a project can be a significant and usually uncompensated economic loss.

Response: The portion of the proposed rule entitled "Uncompensated Economic Losses" has been changed. The term used in the Manual is "external diseconomies," which is defined as "uncompensated net losses in economic outputs (not transfers) that can be quantified." A procedure is now provided for the measurement of external diseconomies. One example given is the measurement of the loss of recreation displaced by the project; this loss is a direct cost attributable to the project and is normally not compensable.

Comment: Several commenters believe that all funds expended for mitigating the adverse impacts of a project should be charged to the project under the NED account as should the value of all uncompensated losses after mitigation. Another commenter stated that should the cost of mitigating adverse effects cause the benefit-cost ratio to fall below one, this would not mean that mitigation is uneconomic but simply that the project is unjustified in economic terms. Another commenter agreed with the Council that uncompensated losses after mitigation must be evaluated but stated that correct evaluation of these adverse effects has seldom been performed by the Federal construction agencies; for example, when mitigation has been evaluated in terms of land equivalents, market land values have not been adjusted (or have been improperly adjusted).

Three commenters objected for different reasons to the proposed requirement that mitigation of fishery losses be displayed on a monetary value scale. One commenter considered this attempt shortsighted and doomed to failure because there is no widely accepted way of converting environmental factors into monetary units.

Another commenter stated that the portion of the proposed rule dealing with mitigation was not pertinent to NED cost evaluation but constituted instruction in plan formulation procedures and should be deleted. Another urged removal of the tables, stating that they violated the Fish and Wildlife Coordination Act by interferring with the consultation process required by the Act; the commenter said that the Council had not defined the manner in which the opportunity costs included in the table were to be determined. The latter point was stressed by another commenter, who drew attention to the difficulty of obtaining the opportunity costs in terms of values foregone for fishery losses as set out in the table.

Response: The costs of mitigation and the uncompensated NED net losses in economic outputs are stipulated in the Manual as component costs of total project costs. The conclusion reached by the commenter who pointed out that mitigation costs may cause total costs to outweigh total benefits is correct. There is ample flexibility in the rule (§ 713.2003) to adjust "market values" by the use of surrogate values.

The monetary value scale set out in the proposed rule has been deleted from the final rule for the reasons given by the commenter.

Comment: One commenter stated that the Manual should include evaluation procedures to measure option and existence values associated with undeveloped ecological assets to remedy the inadequate treatment of uncertainty and irreversibility attaching to these assets.

Another commenter, urged the Council to consider such values for similar reasons, noting that while option value has been well defined in the theory, methods of estimation are in their infancy. A third commenter objected to the inclusion of option and existence values in the Manual, stating that they are speculative and not quantifiable given available measurement techniques.

Response: While option and existence values are valid in concept and theory, the accepted methods for their measurement are not available; consequently all reference to these values has been deleted in the Manual.

Comment: One commenter objected to the inclusion of the concepts of willingness to sell or to accept compensation as the basis for determining option and existence values, since these concepts are highly controversial, ambiguous, and not quantifiable.

Response: References to willingness to sell or to accept compensation have been deleted from this portion of the Manual because reliable empirical methods for estimating such willingness have not been developed.

Comment: One commenter stated that surrogate values should receive treatment equal to that given market prices, since surrogate values are the only vehicle to value the nonmarket environmental services.

Response: In the final rule, the role of surrogate value in measuring the full opportunity costs of resource use in the public sector is amply recognized and stipulated when applicable.

Comment: One commenter stated that the costs section of the Manual should encourage water conservation and multiple and successive use of water, that this section did not adequately promote water policies related to wastewater reclamation and water conservation and reuse.

Response: The cost section of the Manual addresses the evaluation of NED costs. Its sole purpose is to define a valid concept of costs and to translate that concept into accurate methods for measuring NED costs. The costs as enumerated and categorized in the rule are applicable to wastewater reclamation projects and water conservation measures. This is not to say that water conservation and water reuse policies and strategies are unimportant.

Comment: The conceptual basis for costs was considered inadequate by one commenter, who pointed out that the value of natural resources is not limited to the value of the resources in "use" but must also account for their "availability."

Response: The conceptual base has been broadened in the final rule to encompass the availability of a resource in accounting for its value.

Comment: Several commenters cautioned that market values are not likely to be good measures of costs where noncompetitive conditions exist, and asked what adjustments should be made to the wage rate established by the Davis-Bacon Act (Pub. L. 71-798).

Response: The conceptual basis of the rule now contains adequate flexibility to account for distortion in prices in noncompetitive markets and the necessary adjustment that must be made in the form of surrogate values to reflect the total opportunity cost of such resources.

Comment: One suggestion was that inconsistent funding should be included under construction contingencies as an example of an unforeseen problem.

Response: Construction contingency costs refer strictly to the effects of unforeseen conditions on estimates of construction costs. Inconsistent funding can certainly contribute to increased construction costs. However, such funding would be classified with such items as inflation and omission of work items that are known to be required, in which case it would not be included in construction contingency costs.

Comment: Several commenters emphasized the need to expand the Manual to give greater consideration to the values of wildlife, wildlife habitat, and the environment. These values, when they were addressed in the proposed rule, were restricted to

recreation uses. Even then the Manual dealt only with fishing and hunting, which are poor examples of environmental services. The concentration on recreation aspects serves to understate the value of environmental amenities, many of which are unique and irreplaceable natural resources. The Council should develop estimates of the dynamic opportunity costs associated with these scarce resources.

Response: The opportunity costs associated with unique, increasingly scarce, and irreplaceable natural resources would provide valuable insights and aids to decisionmakers in their consideration of the preservation or development of these environmental assets. However, measurement methods are not sufficiently advanced to be reliable and ready for application in the field at this time.

The evaluation procedures in the Manual account for the private and public, market and nonmarket uses of water and related physical and biological resources. The Council encourages the development of measurement methods in the complex area of valuing environmental services and amenities.

Comment: One commenter stated that comprehensive measurement of the costs of environmental impacts warranted the development not only of the private market costs and the noneconomic descriptive displays of these impacts, but also indices commensurable with the economic accounts. Project planners could use the environmental impact statements to construct such indices. Estimates of economic values would be qualified according to the difficulty of measurement, and the descriptive displays now required would be supplemented by information illustrating a scarcity index for qualitatively unique environmental characteristics and explicit incorporation of a national preservation plan into the project.

Response: These suggestions will be fully considered in the preparation of the environmental quality evaluation procedure now under development by the Council.

4. Rule Promulgation

Accordingly, the Water Resources Council amends 18 CFR by adding Part 713 as follows:

PART 713—PROCEDURES FOR EVALUATION OF NATIONAL ECONOMIC DEVELOPMENT (NED) BENEFITS AND COSTS IN WATER RESOURCES PLANNING (LEVEL C)

Subpart A—Purpose

Sec.
713.1 Authority and relationship to the Principles and Standards.
713.3 Agency activities covered by the Manual.
713.5 Responsibility for application of the Manual.
713.7 Schedule for application of the Manual.
713.9 Modification of the Manual.

Subpart B—General

713.21 Calculation of net benefits.
713.23 Conceptual basis.
713.25 Calculating net NED benefits in present value terms.
713.31 Risk and uncertainty—sensitivity analysis.
713.33 Conceptual basis.
713.35 Planning setting.
713.37 Evaluation procedure: General.
713.39 Evaluation procedure: Problems in application.
713.41 Report and display procedures.
713.51 Project scaling using net benefit analysis.
713.61 Project design flood.
713.71 Dam failure [Reserved].
713.81 Display of project interaction.
713.91 Definitions.

Subpart C—NED Benefit Evaluation Procedures—Municipal and Industrial (M&I) Water Supply

713.101 Introduction.
713.103 Conceptual basis.
713.105 Planning setting.
713.107 Evaluation procedure: General.
713.109 Evaluation procedure: Identify the study area.
713.111 Evaluation procedure: Estimate future M&I water supplies.
713.113 Evaluation procedure: Project future M&I water use.
713.115 Evaluation procedure: Identify the deficit between future water supplies and use.
713.117 Evaluation procedure: Identify alternatives without Federal plan.
713.119 Evaluation procedure: Rank and display the alternative plans based on least cost analysis.
713.121 Evaluation procedure: Identify the most likely alternative.
713.123 Evaluation procedure: Compute M&I water supply annual benefits.
713.125 Evaluation procedure: Problems in application.
713.127 Report and display procedures.

Subpart D—NED Benefit Evaluation Procedures: Agricultural Floodwater, Erosion, and Sedimentation

713.201 Introduction.
713.203 Conceptual basis.
713.205 Planning setting.
713.207 Evaluation procedure: Agricultural flood prevention or control—crops.
713.209 Evaluation procedure: Erosion prevention—crops.
713.211 Evaluation procedure: Sediment reduction—crops.
713.213 Evaluation procedure: Agricultural flood prevention or control—other agricultural properties.
713.215 Evaluation procedure: Erosion prevention—other affected properties.
713.217 Evaluation procedure: Sediment reduction—other agricultural properties.
713.219 Evaluation procedure: Intensification benefits.
713.221 Evaluation procedure: Data sources.
713.223 Report and display procedures.

Subpart E—NED Benefit Evaluation Procedures: Agricultural Drainage

713.301 Introduction.
713.303 Conceptual basis.
713.305 Planning setting.
713.307 Evaluation procedure: General.
713.309 Evaluation procedure: Calculate intensification and reduced production cost benefits.
713.311 Evaluation procedure: Data sources.
713.313 Report and display procedures.

Subpart F—NED Benefit Evaluation Procedures: Agricultural Irrigation

713.401 Introduction.
713.403 Conceptual basis.
713.405 Planning setting.
713.407 Evaluation procedure: General.
713.409 Evaluation procedure: Calculate intensification and reduced production cost benefits—project area.
713.411 Evaluation procedure: Data sources.
713.413 Report and display procedures.

Subpart G—NED Benefit Evaluation Procedures: Urban Flood Damage

713.501 Introduction.
713.503 Conceptual basis.
713.505 Planning setting.
713.507 Evaluation procedure: General.
713.509 Evaluation procedure: Step 1—delineate affected area.
713.511 Evaluation procedure: Step 2—determine floodplain characteristics.
713.513 Evaluation procedure: Step 3—project activities in affected area.
713.515 Evaluation procedure: Step 4—estimate potential land use.
713.517 Evaluation procedure: Step 5—project land use.
713.519 Evaluation procedure: Step 6—determine existing flood damages.
713.521 Evaluation procedure: Step 7—project future flood damages.
713.523 Evaluation procedure: Step 8—determine other costs of using floodplain.
713.525 Evaluation procedure: Step 9—collect land market value and related data.
713.527 Evaluation procedure: Step 10—compute NED benefits.
713.529 Evaluation procedure: Problems in application.
713.531 Evaluation procedure: Data sources.
713.533 Report and display procedures.

Subpart H—NED Benefit Evaluation Procedures: Power (Hydropower)

713.601 Introduction.
713.603 Conceptual basis.
713.605 Planning setting.
713.607 Evaluation procedure: General.
713.609 Evaluation procedure: Identify system for analysis.
713.611 Evaluation procedure: Determine need for future generation.
713.613 Evaluation procedure: Determine most likely non-Federal alternative.
713.615 Evaluation procedure: Compute benefits.
713.617 Evaluation procedure: Data sources.
713.619 Report and display procedures.

Subpart I—NED Benefit Evaluation Procedures: Transportation (Inland Navigation)

713.701 Introduction.
713.703 Conceptual basis.
713.705 Planning setting.
713.707 Evaluation procedure: General.
713.709 Evaluation procedure: Step 1—identify the commodity types.
713.711 Evaluation procedure: Step 2—identify the study area.
713.713 Evaluation procedure: Step 3—determine current commodity flow.
713.715 Evaluation procedure: Step 4—determine current costs of waterway use.
713.717 Evaluation procedure: Step 5—determine current cost of alternative movement.
713.719 Evaluation procedure: Step 6—forecast potential waterway traffic by commodity.
713.721 Evaluation procedure: Step 7—determine future cost of alternative modes.

713.723 Evaluation procedure: Step 8—determine future costs of waterway use.
713.725 Evaluation procedure: Step 9—determine waterway use, with and without the project.
713.727 Evaluation procedure: Step 10—compute NED benefits.
713.729 Evaluation procedure: Problems in application.
713.731 Report and display procedures.

Subpart J—NED Benefit Evaluation Procedures: Transportation (Deep Water Navigation) [Reserved]

Subpart K—NED Benefit Evaluation Procedures: Recreation

713.901 Introduction.
713.903 Conceptual basis.
713.905 Planning setting.
713.907 Evaluation procedure: General.
713.909 Evaluation procedure: Define the study area.
713.911 Evaluation procedure: Estimate recreation resource.
713.913 Evaluation procedure: Forecast potential recreation use in the study area.
713.915 Evaluation procedure: Determine the without-project condition.
713.917 Evaluation procedure: Forecast recreation use with project.
713.919 Evaluation procedure: Estimate value of use with the project.
713.921 Evaluation procedure: Forecast recreation use diminished with the project.
713.923 Evaluation procedure: Estimate value of recreation use diminished with the project.
713.925 Evaluation procedure: Compute net project benefits.
713.927 Report and display procedures.
Appendix 1—Travel Cost Method
Appendix 2—Contingent Valuation (Survey) Methods
Appendix 3—Unit Day Value Method

Subpart L—NED Benefit Evaluation Procedures: Commercial Fishing and Trapping [Reserved]

Subpart M—NED Benefit Evaluation Procedures: Increases in Output Resulting From External Economies

713.1101 Introduction.
713.1103 Conceptual basis.
713.1105 Planning setting.
713.1107 Evaluation procedure: General.
713.1109 Evaluation procedure: Problems in application.
713.1111 Evaluation procedure: Data sources.
713.1113 Evaluation procedure: Risk and uncertainty.
713.1115 Report and display procedures.

Subpart N—NED Benefit Evaluation Procedures: Unemployed or Underemployed Labor Resources

713.1201 Introduction.
713.1203 Conceptual basis.
713.1205 Planning setting.
713.1207 Evaluation procedure.
713.1209 Report and display procedures.
Appendix 1—Occupational Tables

Subparts O-U [Reserved]

Subpart V—National Economic Development (NED) Cost Evaluation Procedures

713.2001 Introduction.
713.2003 Conceptual basis.
713.2005 Planning setting.
713.2007 Evaluation procedure: General.
713.2009 Evaluation procedure: Project outlays.
713.2011 Evaluation procedure: Associated costs.
713.2013 Evaluation procedure: Other direct costs.
713.2015 Evaluation procedure: External diseconomies.
713.2017 Evaluation procedure: Problems in application.
713.2019 Evaluation procedure: Data sources.
713.2021 Report and display procedures.

Subparts W-Z [Reserved]

Authority: Sec. 103, Pub. L. 89-80; 79 Stat. 245; 42 U.S.C. 1962a-2.

Subpart A—Purpose

§ 713.1 Authority and relationship to the principles and standards.

On July 12, 1978, President Carter directed the Water Resources Council (WRC) and its Member agencies to "carry out a thorough evaluation of current agency practices for making benefit and cost calculations" and "publish a planning manual that will ensure that benefits and cost are estimated using the best current techniques and calculated accurately, consistently and in compliance with the Principles and Standards and other applicable economic evaluation requirements." This Manual of Procedures supplements and implements the Principles and Standards established by the Water Resources Council (WRC) pursuant to Section 103 of the Water Resources Planning Act (Pub. L. 89-80; 42 U.S.C. 1962a-2).

§ 713.3 Agency activities covered by the manual.

(a) These procedures shall be used for the evaluation of beneficial and adverse effects of Federal and federally assisted water resources projects covered in the Standards, Section I.B.2. of the Principles and Standards for Planning Water and Related Land Resources. The procedures apply to all Level C (project) planning subject to the Principles and Standards, including (1) projects that may be approved by agency administrators, (2) projects requiring congressional authorization, and (3) authorized projects or separable features of authorized projects not yet under construction for which agencies currently prepare postauthorization planning documents. For the purposes of this Manual, a project shall be considered "under construction" when funds have been appropriated by the Congress or budgeted by the President for land acquisition or physical construction activity. Projects for which postauthorization planning documents are not required shall be considered under construction when authorized for construction.

(b) The Secretaries of Departments shall retain the discretion to review those projects not under construction and may, under their discretionary authority, wholly exempt a project from complying with this Manual of Procedures or partially exempt a project and direct expedited additional planning to meet specific procedures. This discretionary authority applies to those projects not yet authorized for which preauthorization planning is now complete or will be complete by the end of FY 1980 and to those authorized projects requiring postauthorization planning if such planning is now complete or will be complete by the end of FY 1980. For purposes of applying this Manual, preauthorization or postauthorization planning shall be considered complete when the appropriate planning documents have been approved by the responsible agency's field office. Secretarial authority to exempt projects from the procedures of this Manual is provided to prevent undue loss of time or expenditure of public funds in those cases in which the Secretary judges additional planning to be unnecessary. This discretionary authority may not be exercised after July 31, 1981.

(c) Authorized projects exempted from complying with the Principles and Standards are also exempted from complying with the procedures in this Manual.

§ 713.5 Responsibility for application of the manual.

The administrator of each covered Federal or federally assisted program is responsible for applying the procedures covered in this Manual.

§ 713.7 Schedule for application of the manual.

The responsible agency administrators shall adopt these procedures within 30 days of the date of publication in the Federal Register.

§ 713.9 Modification of the manual.

The Water Resources Council will revise these procedures periodically as experience, research, and planning conditions require in order to ensure the use of the best current techniques and accurate and consistent calculations.

Subpart B—General

§ 713.21 Calculation of net benefits.

Water resource management plans often take several years to install. During the installation period, costs are often incurred without immediate benefits. Once installation is complete, however, there is a time stream of future benefits and costs. This section provides guidance for calculating net benefits in recognition of the variation in timing of project costs and benefits.

§ 713.23 Conceptual basis.

Project NED benefits and costs must be compared at a common point in time. The following information is required:

(a) *Installation period*—the number of years required for installation of the plan. If staged installation is proposed over an extended period of time, the installation period shall be limited to the time needed to install the first phase.

(b) *Installation expenditures*—the dollar expenses expected to be incurred during each year of the installation period.

(c) *Period of analysis*—the time horizon for project benefits, deferred installation costs, and operation, maintenance, and replacement (OM&R) costs, beginning at the end of the installation period and extending up to 100 years into the future. For purposes of NED analysis, the period of analysis is further restricted to the lesser of (1) the period of time over which the project would serve a useful purpose; or (2) the period of time after which further discounting of beneficial and adverse effects would have no appreciable impact.

(d) *Benefit stream*—the pattern of expected benefits over the period of analysis.

(e) *OM&R costs*—the expected costs over the period of analysis for operation, maintenance, and replacement necessary to maintain the benefit stream and agreed-upon levels of mitigation of losses to fish and wildlife habitats.

(f) *Discount rate*—the rate published annually by the Water Resources Council for use in evaluating Federal water projects.

§ 713.25 Calculating net NED benefits in present value terms.

Net NED benefits of the plan are calculated in present value terms. To perform this calculation, the benefit stream, deferred installation costs, and OM&R costs shall be discounted to the beginning of the period of analysis using the applicable project discount rate. Installation expenditures shall be brought forward to the beginning of the period of analysis by charging compound interest at the project discount rate from the date the costs are incurred.

§ 713.31 Risk and uncertainty—Sensitivity analysis.

This section provides guidance for the evaluation of risk and uncertainty in the formulation of water resources management and development plans.

§ 713.33 Conceptual basis.

(a) *Risk.* Situations of risk are conventionally defined as those in which the potential outcomes can be described in reasonably well known probability distributions. For example, if it is known that a river will flood to a specific level on the average of once in 20 years, a situation of risk, rather than uncertainty, exists.

(b) *Uncertainty.* In situations of uncertainty, potential outcomes cannot be described in objectively known probability distributions. Uncertainty is characteristic of many aspects of water resources planning. Because there are no known probability distributions to describe uncertain outcomes, uncertainty is substantially more difficult to analyze than risk.

(c) *Sources of risk and uncertainty.* (1) Risk and uncertainty arise from measurement errors and from the underlying variability of complex natural, social, and economic situations. If the analyst is uncertain because the data are imperfect or the analytical tools crude, the plan is subject to measurement errors. Improved data and refined analytic techniques will obviously help minimize measurement errors.

(2) Some future demographic, economic, hydrologic, and meteorological events are essentially unpredictable because they are subject to random influences. The question for the analyst is whether the randomness can be described by some probability distribution. If there is an historical data base that is applicable to the future, distributions can be described or approximated by objective techniques.

(3) If there is no such historical data base, the probability distribution of random future events can be described subjectively, based upon the best available insight and judgment.

(d) *Dimensions of risk and uncertainty.* The degree of risk and uncertainty generally differs among various aspects of a project. It also differs over time, because benefits from a particular purpose or costs in a particular category may be relatively certain during one time period and uncertain during another. Finally, the degree of uncertainty differs at different stages of the analysis—for example, between rough screening and final detailed design, when more precise analytic methods can be applied.

(e) *Attitudes.* The attitudes of decisionmakers toward risk and uncertainty will govern the final selection of projects and of adjustments in design to accommodate risk and uncertainty. In principle, the government can be neutral toward risk and uncertainty, but the private sector may not be. These differences in attitudes must be taken into account in estimating the potential success of projects.

(f) *The role of the planner.* (1) The planner's primary role in dealing with risk and uncertainty is to characterize to the extent possible the different degrees of risk and uncertainty and to describe them clearly so that decisions can be based on the best available information. The planner should also suggest adjustments in design to reflect various attitudes of decisionmakers toward risk and uncertainty. If the planner can identify in qualitative terms the uncertainty inherent in important design, economic, and environmental variables, these judgments can be transformed into or assigned subjective probability distributions and encoded by a knowledgeable interpreter. A formal model characterizing the relationship of these and other relevant variables may be used to transform such distributions to exhibit the uncertainty in the final outcome, which again is represented by a probability distribution.

(2) At all stages of the planning process, the planning shall incorporate any changes in project features that, as a result of information gained at that stage, could lead to a reduction in risk and uncertainty at a cost consistent with improvement in project performance.

§ 713.35 Planning setting.

(a) Some risk and uncertainty are assumed in nearly every aspect of a water resources project. Some types of risk and uncertainty are dealt with in terms of national planning parameters—for example, ranges of population projections and other principal economic and demographic variables. Other types of risk and uncertainty are dealt with in terms of project or regional estimates and forecasts. When projects are related to other projects and programs in their risk and uncertainty aspects (e.g., interrelated hydrologic systems), reasonable attempts should be made to see that the same analyses and presumed probability distributions are used for all of them.

(b) The risk and uncertainty aspects of projects are likely to be seen and analyzed differently as planning proceeds from rough screening to detailed project proposals. An effort should be made, therefore, to relate the techniques used in characterizing and dealing with risk and uncertainty to the stage of the planning process.

(c) The resources available for analyzing aspects of risk and uncertainty should be allocated to those assessments that appear to be the most important in their effects on project and program design. Rather than assuming in advance that one or another variable is a more important source of risk and uncertainty, the planner should make a thorough effort to determine which variables will be most useful in dealing with measurement errors and natural sources of risk and uncertainty.

§ 713.37 Evaluation procedure: General.

(a) The aspects of project evaluation that can be characterized by a probability distribution based on reasonably firm data, such as hydrologic risk, shall be treated by standard methods of risk evaluation developed by Federal agencies and others.

(b) Most risk and uncertainty aspects of projects cannot be characterized by probability distributions based on well established empirical data. A first step in dealing with this problem is to describe why the project or specific aspects of it are uncertain, as well as the time periods in which different degrees of uncertainty are likely. A range of reasonably likely outcomes can then be described by using sensitivity analysis—the technique of varying assumptions as to alternative economic, demographic, environmental, and other factors, and examining the effects of these varying assumptions on outcomes of benefits and costs. In some cases and in some stages of planning, this approach, when accompanied by a careful description of the dimensions of uncertainty, will be sufficient. It can be accompanied by design adjustments representing various attitudes toward uncertainty.

(c) It may be appropriate in some cases to characterize the range of outcomes with a set of subjective probability estimates, but the project report must make clear that the numerical estimates are subjective. Moreover, subjective probability distributions must be chosen and justified case by case, and some description of the impact on design of using other subjective distributions must be given. Design alternatives reflecting various attitudes toward uncertainty may be suggested.

(d) Utility functions may be used in conjunction with assessments of uncertainty to explore design adaptations relevant to various types of utility or preference. Public preferences, if well known, may be used to illustrate to decisionmakers what the best design would be, given the uncertainties and preferences in a particular case. If public preferences are not well known, justification should be given for the selection of various utility functions, which may be used only to illustrate the effects on design of various preferences.

(e) At every level of analysis, the planner shall take into account the differences in risk and uncertainty among project purposes and costs, among various time periods, and among different stages of planning.

(f) One guide to the use of the techniques discussed here is displayed in Table 713.37–1. In general, more complex techniques are used as planning proceeds from initial development and the screening of alternatives to the analysis and presentation of the final set of alternative plans. For example, sensitivity analysis—testing the sensitivity of the outcome of project evaluation to variation in the magnitude of key parameters—may be most useful and applicable in the early stages of planning, when the concern is to understand single factors or relatively general multiple-factor relationships. Multiple-factor sensitivity analysis, in which the joint effects or correlations among underlying parameters are studied in greater depth, may be much more important in the detailed analytic stage than in the screening stage.

(g) Similarly, analysis of risk and uncertainty using objective or subjective probability distributions is more appropriate in the detailed analytic stage than in the early screening stage. Although hydrologic and economic probabilities may be used in the screening stage, the full use of independent and joint probability distributions, possibly using computer simulation methods to describe expected values and variances, should be primarily reserved for the detailed stage.

Table 713.37–1 — PLANNING TASKS AND APPROACHES TO RISK AND UNCERTAINTY

	PLANNING TASKS		
	Screening Alternatives	Detailed Analysis of Projects	Final Presentation of Alternatives
Sensitivity Analysis	X	X	
Use of Objective and Subjective Probability Distributions		X	
Illustrative Application of Public Preferences and Decisionmakers' Attitudes		X	X

(h) Although decisionmakers' attitudes and decision rules can be used to give perspective on alternative designs throughout the planning process, they are most important at the stage of displaying alternative designs responsive to specific attitudes toward risk and uncertainty.

§ 713.39 Evaluation procedure: Problems in application.

(a) *Distinguishing among assessments of risk and uncertainty, design adaptations, and attitudes.* The differences among the underlying degrees of risk and uncertainty, the design adaptations to them, and the preferences of decisionmakers should be kept clear throughout the analysis. The first two depend primarily on technical expertise; the last is the set of preferences based on various attitudes toward risk and uncertainty.

(b) *General and specific adjustments.* Adjustments to risk and uncertainty in project evaluation can be characterized as general and specific. General adjustments include the addition of a premium rate to the interest, overestimation of costs, underestimation of benefits, and limitations on the period of analysis. Such general adjustments are usually inappropriate for public investment decisions because they tend to obscure the different degrees of uncertainty in different aspects of projects and programs. Specific adjustments—including explicit assessments of different degrees of risk and uncertainty in specific aspects of a project or program and specific adjustments to them—are preferable.

§ 713.41 Report and display procedures.

The assessment of risk and uncertainty in project evaluation shall be reported and displayed in a manner that makes clear to the decisionmaker the types and degrees of risk and uncertainty believed to characterize the project; the adjustments in project design that could be made to modify the degree of risk and uncertainty; and the gains and losses in various dimensions that might accrue from these various adjustments. The report and display sections shall, when feasible, describe the types of risk and uncertainty thought to characterize each aspect and time period of the project.

§ 713.51 Project scaling using net benefit analysis.

(a) The maximization of net benefits approach prescribed in the Principles and Standards shall continue to be used for scaling the level of development for the national economic development (NED) plan. An alternative other than the NED plan may be recommended for implementation, however, to (1) achieve a greater level of service to the environmental quality objective; or (2) satisfy other project scaling criteria (such as those used to determine project design flood).

(b) If an alternative to the NED plan is recommended, the economic, environmental, and social impacts of the recommended alternative project shall be displayed against those of the NED alternative in a way that permits comparison of the tradeoffs. Other alternative plans that are important to the selection of the recommended alternative shall be displayed for purposes of comparison.

§ 713.61 Project design flood.

(a) Structural and nonstructural flood hazard reduction components may be scaled to protect against inundation by floods of various magnitudes. Design sizes to protect against larger floods achieve greater economic benefits and provide greater safety for the lives and property of the people protected, but they do so at a greater cost and sometimes greater environmental and social disruption.

(b) Project scaling as related to design flood is the process of determining the design level of protection that achieves the best balance between a project too small to achieve acceptable benefits and safety and a project so large that it is an unnecessary burden to the taxpayer and to the natural and social environments. In project scaling, the criterion of economic efficiency is one approach to resolving the design flood issue. This approach provides a basis for identification of the design flood that maximizes project net benefits. The theoretical soundness of departures from this approach depends on whether or not the specific criteria being used are legitimate, and whether the optimality of these criteria varies from economic optimality. A common example of the criteria used in flood control project scaling is the personal safety and peace of mind of residents in flood-prone areas; determining the soundness of such departures from economic optimality requires empirical information on how economic benefits, hazards to life, and other objectives are handled in project scaling.

(c) If a project design flood level differs from the level of protection at which net economic benefits are maximized, there shall be a display and comparison of the plan that maximizes net economic benefits and the plan that departs from maximization of net economic benefits. The economic, environmental, and social effects of each plan shall be displayed in a manner that permits comparison of the tradeoffs involved in choosing either alternative.

§ 713.81 Display of project interaction.

In addition to the displays described in Subparts C through V, each NED analysis shall include a display, in matrix form, of all existing or expected Federal and non-Federal projects or facilities having significant economic, environmental, or physical interactions with the alternative plans in the analysis, together with a brief narrative description of these interactions.

§ 713.91 Definitions.

Terms used in this regulation are defined as follows:

Agricultural drainage. (1) The rehabilitation and improvement of existing drainage systems or the construction of new drainage systems to improve the efficiency of cropland, woodland, and grassland by lowering the water level in areas in which agricultural production has been limited by naturally high water tables, normal precipitation or normal tide action, seepage, or excess irrigation water.

(2) Drainage projects include measures for surface drainage, the removal of excess water above the surface of the ground; and subsurface drainage, the removal of excess water below the surface of the ground. Drainage projects involve watershed or subwatershed areas composed in whole or in part of lands drained or proposed to be drained. The boundaries of the water problem area may consist of artificial barriers that prevent the inflow of water originating outside of the area.

Agricultural flood damage reduction. The adjustment in land use and the structural and nonstructural measures designed to reduce hazard from floodwater, erosion, and/or sediment. Reduction of sediment on agricultural land will normally serve the single purpose of flood damage reduction. Reduction of sediment in channels or reservoirs may serve other purposes as well (i.e., navigation, water supply, power) and should be identified accordingly. To differentiate flood damage reduction from agricultural and rural drainage of flatlands, flood damage reduction is defined as any measure undertaken to reduce or prevent damages from surface water caused by abnormally high direct precipitation, stream

overflow, or floods caused or aggravated by wind or tidal effects.

Flood. A general and temporary condition of partial or complete inundation of normally dry land from the overflow of inland or tidal waters, or the unusual and rapid accumulation or runoff of surface waters from any source.

Nonstructural measure. A modification in public policy, an alteration in management practice, a regulatory change, or a modification in pricing policy that provides a complete or partial alternative to traditional structural measures for addressing water resources problems and needs.

Separable feature. A project element that can be implemented or constructed independently of other features and that does not depend on other features for its structural (or other) viability.

Urban drainage. (1) The adjustment in land use and storm sewer systems designed to collect runoff from rainfall or snowmelt in an urban area and convey it to natural water courses or to previously modified natural waterways. Storm sewer systems include storm drains, inlets, manholes, pipes, culverts, conduits, sewers and sewer appurtenances, onsite storage and detention basins, curbs and gutters, and other small drainageways that remove or help to manage runoff in urban areas.

(2) Storm sewer systems are designed to solve urban storm drainage problems, which are typified by excessive accumulations of runoff in depressions, overland sheet flow resulting from rapid snowmelt or rainfall, and excessive accumulation of water in one or more components of a storm sewer system.

Urban flood damage reduction. The adjustment in land use and the structural and nonstructural measures designed to reduce flood damages in urban areas from overflow or backwater due to major storms and snowmelt. The measures include structural and other engineering modifications to natural streams or to previously modified natural waterways. Urban flood damage reduction is accomplished by modifying temporary conditions of inundation of normally dry land from the overflow of rivers and streams or from abnormally high coastal waters due to severe storms.

Water conservation. Actions to (1) reduce the demand for water; (2) improve efficiency in water use and reduce losses and waste; and (3) improve land management practices to conserve water. The term does not encompass any storage facilities for the development of new water supplies.

Water supply. The water that becomes available for consumptive and nonconsumptive uses either through increases in quantity or improvements in quality of existing supplies. The uses include but are not limited to municipal and industrial, agricultural, hydropower, navigation, recreation, and fish and wildlife habitat.

Subpart C—NED Benefit Evaluation Procedures—Municipal and Industrial M&I Water Supply

§ 713.101 Introduction.

This section provides procedural guidance for the evaluation of national economic development (NED) benefits of municipal and industrial (M&I) water supply features of water resource projects and plans. The procedures presented apply to both structural and nonstructual elements of such plans.

§ 713.103 Conceptual basis.

(a) The conceptual basis for evaluating the benefits from municipal and industrial water supply is society's willingness to pay for the increase in the value of goods and services attributable to the water supply. Where water is priced at its marginal cost, that price shall be used to calculate willingness to pay for additonal water supply. In the absence of such direct measures of marginal willingness to pay, the benefits from a water supply plan shall be measured instead by the resource cost of the alternative most likely to be implemented in the absence of that plan.

(b) The benefits from nonstructural measures are also computed using the cost of the most likely alternative. However, the net benefits of certain nonstructural measures that alter water use cannot be measured effectively by the alternative cost procedure for the following reasons: (1) Structural measures and many nonstructural measures (except those that alter use) result in similar plan outputs, whereas use-altering measures (e.g., revised rate structures) may change levels of output; and (2) use-altering measures may have fewer direct resource costs than measures based on higher levels of output. Recognizing this lack of comparability, the benefit from such use-altering nonstructural measures shall not be based on the cost of the most likely alternative. Attempts to measure the benefits of use-altering nonstructural measures on the basis of willingness to pay are encouraged, although the display of such benefits is not required.

§ 713.105 Planning setting.

(a) *Without-project condition.* The without-project condition is the most likely condition expected to exist in the future in the absence of the proposed water supply plan, including any known changes in law or public policy. Several specific elements shall be included in the without-project condition:

(1) *Existing water supplies.* Existing water supplies shall be included in the without-project condition. Adjustments shall be made to account for anticipated changes in water supply availability because of the age of facilities or changed environmental requirements.

(2) *Institutional arrangements.* Existing and expected future water systems and water management contracts and operating criteria shall be considered part of the without-project condition unless revision of these systems, contracts, or criteria is one of the alternative plans being studied.

(3) *Additional water supplies.* The without-project condition shall include water supplies that are under construction or authorized and likely to be constructed during the forecast period.

(4) *Probability of water supply.* Calculation and specification of the probability of delivery for each source of water supply shall be included in the analysis.

(5) *Water quality.* Water use is based on both the quanity and the quality of water supply. Different uses may require different qualities as well as quantities of water. Supplies also vary according to quality and quantity. Because water quality is a critical factor in water supply, it shall be specified in any consideration or presentation related to water quantity. The degree of detail used to describe water quality shall be suitable to permit differentiation among water sectors or available water supply sources.

(6) *Nonstructural measures and conservation.* The without-project condition shall include the effects of implementing all reasonably expected nonstructural and conservation measures, including those required or encouraged by Federal, State, and local policies.

(b) *With-project condition.* The with-project condition is the most likely condition expected to exist in the future with the Federal water supply plan under consideration. The five elements and assumptions addressed in the without-project condition shall also be addressed in the with-project condition. Nonstructural water supply measures may be used alone or in combination with structural measures. If the proposed measures are already in the process of

implementation, they shall be considered part of the without-project condition. Nonstructural measures to be considered include, but are not limited to:

(1) Reducing the level and/or altering the time pattern of demand by metering, leak detection and repair, rate structure changes, regulations on use (e.g., plumbing codes), education programs, drought contingency planning;

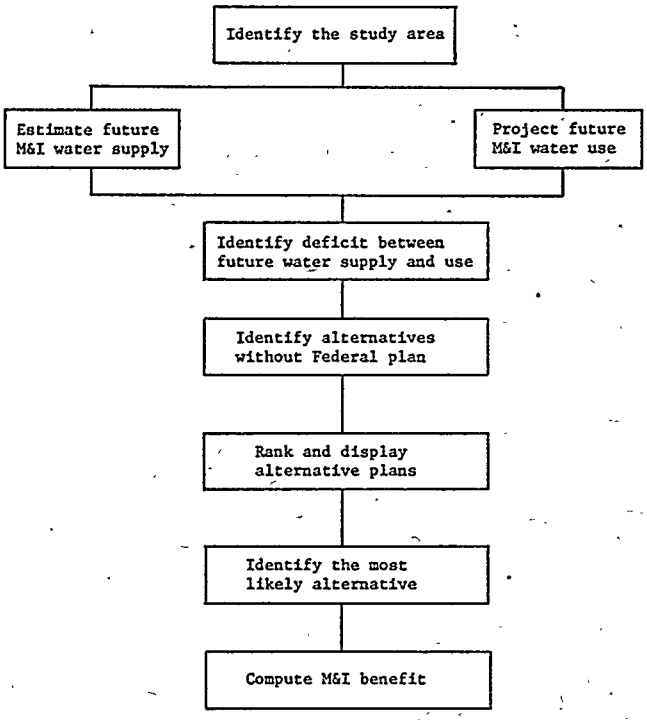
(2) Modifying management of existing water development and supplies by recycling, reuse, and pressure reduction; and

(3) Increasing upstream watershed management and conjunctive use of ground and surface waters.

§ 713.107 Evaluation procedure: General.

The steps described in §§ 713.109 through 713.125 are necessary to estimate NED benefits that would accrue to one or more alternative plans for providing an M&I water supply (see Figure 713.107-1). The level of effort expended on each step depends on the nature of the proposed development, the state of the art for accurately refining the estimate, and the sensitivity of project formulation and justification to the estimate.

Figure 713.107-1 - Flowchart of M & I Evaluation Procedures



§ 713.109 Evaluation procedure: Identify the study area.

The study area is the area within which significant project impacts will accrue from the use of M&I water supplies, including areas that will receive direct benefits and/or incur costs from the provision of M&I water supply.

§ 713.111 Evaluation procedure: Estimate future M&I water supplies.

An analysis of all sources of supply expected to be available to the M&I water user shall be prepared. Data may be obtained from various sources, including water utilities, State and local planning agencies, and State water resources agencies. This analysis shall be by time period and include existing water supplies, institutional arrangements, additional water supplies, probability of water supply, and water quality.

§ 713.113 Evaluation procedure: Project future M&I water use.

Future water use shall be projected by sector, in consideration of seasonal variation, and shall be based on an analysis of those factors that may determine variations in levels of water use. Projections shall include the effects of implementing all expected nonstructural and/or conservation measures required or encouraged by Federal, State, and local policies, and by private actions. Care shall be taken to verify that the expected implementation will take place, and to ascertain the probable time of implementation.

(a) *Sector analysis.* Project future water use for the same time periods as for the supply projections for each of the following sectors: Residential (include indoor use and outdoor uses such as lawn irrigation and car washing); commercial (include water use for retail and wholesale trade, offices, hospitals, schools, medical laboratories, restaurants, service industries, etc.); industrial (include all water used by manufacturing industries as an input in the production process); and additional uses (include public service use—for example, fire protection—and unaccounted-for losses).

(b) *Analysis by time of use.* Identify seasonal variations in use for each of the above sectors and maximum day use for the system for each season.

(c) *Related factors analysis.* (1) Identify the determinants of demand for each sector. Use such determinants as price of water and sewer service; income; number and type of housing units and population per unit; industrial mix; and level of economic activity. The variable projection of these factors as well as the extent to which they influence projection of water use in various sectors shall be explained.

(2) Determine the relationship expected to exist between future levels of water use and the relevant determinants of water demand. Develop and use a forecast or forecasts of future levels of the determinants to project alternative future water use by sector and explain the choice of the particular forecast used.

(d) *Aggregation of projections.* Aggregate separate projections for each sector to a single projection by time period. (This shall not, however, be viewed as a deterrent to meeting the needs of each sector by separate alternatives.)

§ 713.115 Evaluation procedure: Identify the deficit between future water supplies and use.

Projected water use shall be compared with future water supplies to determine whether any deficits exist in the study area. An analysis shall be made of the intensity, frequency, and duration of the expected deficits. Deficits shall be addressed in three basic options: (a) Reduce projected water use by implementation of nonstructural or conservation measures that are not part of the without-project condition; (b) increase and/or more efficiently use water supplies through structural measures; and (c) accept and plan to manage water supply shortages. Plans generally are formulated to include some or all of these options.

§ 713.117 Evaluation procedure: Identify alternatives without Federal plan.

Alternative plans that are likely to be implemented by communities and/or industries in the absence of any Federal alternative shall be identified. Various alternatives to the Federal plans must be tested for acceptability, effectiveness, efficiency, and completeness as defined in the Principles and Standards. These plans shall be identified through analysis of the total water resources of the region, allowing for present and expected competing uses.

(a) Consideration of alternative plans shall not be limited to those that would completely eliminate the projected gap between supply and demand. Plans that do not completely satisfy water supply objectives shall also be considered. Such plans shall include measures to minimize and allocate shortages when they occur (drought management measures). The increased risk of occasional shortages shall be balanced against the savings from lower investments that would increase the probability of occasional shortages. The costs of shortages shall include the costs of implementing drought management measures and the costs of related public health and safety measures.

(b) Alternative plans need not be based on the development of a single source of supply at one time. They may consist of the development of a single source or the conjunctive development of several sources with increments phased to match anticipated growth in water use.

(c) If political or institutional obstacles to implementation are noted, the plan may still be considered likely if the barriers are substantially within the power of the affected water users to correct. If an alternative is eliminated because of institutional or political obstacles, a sensitivity analysis shall be performed to determine whether the Federal project is economically justified when the rejected alternative is used as the basis of the benefit calculation. If this analysis indicates that the project would not remain justified, and explanation shall be given for recommending a Federal project over the more economical rejected alternative. A detailed description of the political or institutional obstacles shall be included, with a discussion of the basis for the conclusion that the obstacles cannot be overcome.

§ 713.119 Evaluation procedure: Rank and display the alternative plans based on least cost analysis.

(a) All of the alternatives shall be ranked in order from the highest cost alternative to the lowest. The annualized costs of the alternatives shall be calculated on the basis of the service (depreciable) life of the facility or the period of analysis, whichever is less.

(b) Costs of the alternatives shall be calculated on the following basis: (1) All costs charged to the alternative shall be annualized on the basis of the Federal discount rate; (2) no costs for taxes or insurance shall be charged to the alternative; and (3) all other assumptions and procedures used in calculating the costs of the alternatives, including external diseconomies, shall be parallel to those employed in calculating the costs for the proposed Federal project.

§ 713.121 Evaluation procedure: Identify the most likely alternative.

The one alternative most likely to be implemented in the absence of the Federal project shall be selected. Consideration of likely alternatives shall begin with the least costly. If an alternative with a lesser cost is passed over for a more expensive one, justification for not selecting the lower cost plan shall be presented.

§ 713.123 Evaluation procedure: Compute M&I water supply annual benefits.

(a) Annualized benefits of the Federal water supply plan are equal to the cost of the most likely alternative. When applicable, the evaluation shall reflect differences in treatment, distribution, and other costs compared to the most likely alternative.

(b) The alternative cost of providing a water supply for smaller communities (population of 10,000 or less) may be extremely expensive on a per capita basis because these communities lack the efficiencies of large scale development. If such communities are not able to afford an alternative water supply comparable to the Federal water supply plan as identified in the procedure described above, that alternative may not be used as the basis for evaluating the benefits of the Federal water supply plan. In this case, the benefit shall be equal to the cost of the separable M&I facilities plus an appropriate share of the remaining joint cost of the project. Documentation of the without-project condition shall be provided.

§ 713.125 Evaluation procedure: Problems in application.

(a) Two major problems exist in the application of this procedure. The first is identification of the value of conservation and other nonstructural measures. The Water Resources Council (WRC) can coordinate development of interagency guidelines for estimating nonstructural measures and management strategies. These guidelines will give examples of conservation strategies, pricing methods, and drought management measures.

(b) A second major problem will arise over the disaggregation of water use by sectors. Some communities do not collect water use data by sectors. Where the system is fully metered, such data can be obtained by coding customer accounts and accumulating data on use for at least one year. Water use by unmetered customers may be estimated by extrapolating experience with similar metered systems, recognizing that unmetered customers face a price of zero. Data and/or forecasts obtained from all sources shall be verified as reliable and reasonable.

§ 713.127 Report and display procedures.

Tables 713.127–1, 2, and 3 are suggested presentations for reports that include municipal and industrial water supplies. Tables 1 and 2 summarize by time period (and season, if applicable) the projected use by sector, projected supply by source, and the difference between the two for average day and maximum day, respectively. Table 3 shows the costs of alternative plans and the quantity supplied under each alternative by time period (and season, if applicable).

Table 713.127-1 — M&I WATER SUPPLIES - WITHOUT-PROJECT CONDITION - AVERAGE DAY USE AND CAPACITY

	Time Period b/			
Projected Average Day Water Use a/	P_1	P_2	P_3 ...	P_N
Residential (mgd)	—	—	—	—
Commercial (mgd)	—	—	—	—
Industrial (mgd)	—	—	—	—
Additional (includes public services and unaccounted for losses) (mgd)	—	—	—	—
TOTAL	—	—	—	—
Average Day Water Supply Capacity Without a Plan				
Source 1 (mgd)	—	—	—	—
Source 2 (mgd)	—	—	—	—
Source 3 (mgd)	—	—	—	—
Source N (mgd)	—	—	—	—
TOTAL (mgd)	—	—	—	—
Difference Between Projected Average Day Water Use and Supply Without a Plan (mgd)	—	—	—	—

a/ Include effects of nonstructural and conservation measures.
b/ Show by time period and season where there are seasonal variations, e.g.,

W S P_1 S F

Table 713.127-2 — M&I WATER SUPPLIES - WITHOUT-PROJECT CONDITION - MAXIMUM DAY USE AND CAPACITY

	Time Period b/			
Projected Maximum Day Water Use a/	P_1	P_2	P_3 ...	P_N
Residential (mgd)	—	—	—	—
Commercial (mgd)	—	—	—	—
Industrial (mgd)	—	—	—	—
Additional (includes public services and unaccounted for losses) (mgd)	—	—	—	—
TOTAL	—	—	—	—
Maximum Day Water Supply Capacity Without a Plan				
Source 1 (mgd)	—	—	—	—
Source 2 (mgd)	—	—	—	—
Source 3 (mgd)	—	—	—	—
Source N (mgd)	—	—	—	—
TOTAL (mgd)	—	—	—	—
Difference Between Projected Maximum Day Water Use and Supply Without a Plan (mgd)	—	—	—	—

a/ Include effects of nonstructural and conservation measures.
b/ Show by time period and season where there are seasonal variations, e.g.,

W S P_1 S F

Table 713.127-3 — M&I Water Supply Alternatives (Period of Analysis, Price Level, Discount Rate) (Month, Year)

	Annualized Cost	Quantity Supplied (mgd) Time Period a/			
	($1000)	P_1	P_2	P_3 ...	P_N
Alternatives					
Most Likely Alternative (NED Plan)	—	—	—	—	—
Recommended Plan	—	—	—	—	—
Primarily Nonstructural Plan	—	—	—	—	—
Other Plans	—	—	—	—	—

a/ Show by time period and season where there are seasonal variations.

Subpart D—NED Benefit Evaluation Procedures: Agricultural Floodwater, Erosion, and Sedimentation

§ 713.201 Introduction.

This section provides procedural guidance for the evaluation of national economic development (NED) benefits to agricultural flood protection and erosion and sediment control features of water resource projects and plans.

§ 713.203 Conceptual basis.

(a) *Resource problems in agricultural production.* There are three economic problems associated with water and the use of land and water resources in agricultural production:

(1) *The cost of damage to crops, pasture, and range by water inundation, drought, sedimentation, and erosion.*

(2) *Costs associated with using water and land resources that are subject to variation with the application of various water management practices or the installation of water control measures.* These costs include some crop production costs and water management and control costs. For example, future conditions without the project may result in poor soil drainage situations that may require more cultivation and more horsepower; or future water conditions without the project may require the continuation of costly drainage systems, inefficient and costly water supply systems, expensive water or water quality control systems, and high maintenance and replacement costs for irrigation, drainage, or flood protection systems.

(3) *Impaired productivity or use of the land resource.* This constraint may restrict yields or restrict cropping patterns to crops that are tolerant of drought, flood, erosion, or wet soil conditions.

(b) *National economic development benefit.* The NED benefit of water management practices or water control measures is the reduction in the economic significance of the three problems described above. The benefit is measured as the increased value of agricultural output to the Nation or the reduced cost of maintaining a given level of output. The benefits include but are not limited to reductions in production costs, in associated costs, and in damage costs from floods, erosion, sedimentation, or drought; the value of increased production of crops; and the locational economic efficiency of increasing the production of other crops in the project area.

(c) *Evaluation components.* The evaluation of each of the three problem categories and the impact of water management practices or control measures on them must consider the following components:

(1) *Cropping patterns.* The most probable cropping patterns expected to exist with and without the project shall be projected for the with- and without-project conditions. If project measures are designed to reduce damage or associated cost problems without changing cropping patterns, the current cropping pattern shall be determined and projected into the future for both with- and without-project conditions. If project measures are designed to change the cropping pattern in a project area by alleviating impaired productivity, the current cropping pattern shall be determined and projected as a constant for the without-project condition; for the with-project condition, the expected cropping pattern shall be projected.

(2) *Prices.* Prices for most crops will be issued by the Water Resources Council and used to evaluate NED agricultural benefits; adjustments may be made to reflect quality changes caused by floods or drought. For other crops, State average prices over the three previous years may be used.

(3) *Production costs.* (i) Production costs that can be expected to vary between the without- and with-project conditions shall be analyzed. These may include the costs of equipment ownership and operation; production materials; labor and management; system operation, maintenance, and replacement (OM&R); and interest payments. If costs associated with project measures (e.g., on-farm drainage or water distribution costs) are included in the project cost analysis, they shall be excluded from production costs.

(ii) Purchased inputs shall be valued at current market prices. All labor, whether operator, family, or hired, shall be valued at prevailing farm labor rates. Management shall be valued at 10 percent of the variable production cost (excluding the cost of land and added capital improvements), and interest at project discount rates.

(iii) Current production costs shall be projected to the selected time periods; any changes are to reflect only changes in crop yields or physical conditions. Current production costs shall include the OM&R costs of flood prevention and drainage or irrigation systems needed to produce the projected yields.

(4) *Crop yields.* Current yields in the project area with average management shall be determined and projected to selected time periods. Future yields may be adjusted to reflect relevant physical changes—erosion, drainage, water supply, and floodwater runoff—in soil and water management conditions. Increases in yields due to future improvements in technology shall not be included in the evaluation of intensification benefits, since the cost of the technology is unknown; such costs would normally be fixed at the time of damage (i.e., flood), and the increased yields may be included in damage analysis. All projections of changes in yields, both with and without the project, shall be consistent with the water management and production practices accounted for in the production cost analysis.

§ 713.205 Planning setting.

(a) Since no single water resource management project or program will have a calculable effect on national agricultural product prices, the benefit standard is the willingness-to-pay value of the project to the direct user. The change is measured by net agricultural income to the Nation with the project compared to without the project. The net return to fixed factors of production shall be determined for various conditions or levels of land and water quantity and/or quality use. (Other resources associated with changes in land and water quantity and/or quality shall be included.) The level of use to be evaluated initially is the without-project condition. Other levels of use to be evaluated will depend on the number of alternative projects selected for analysis. The difference in net income between each of the alternative projects and the without-project condition is the benefit.

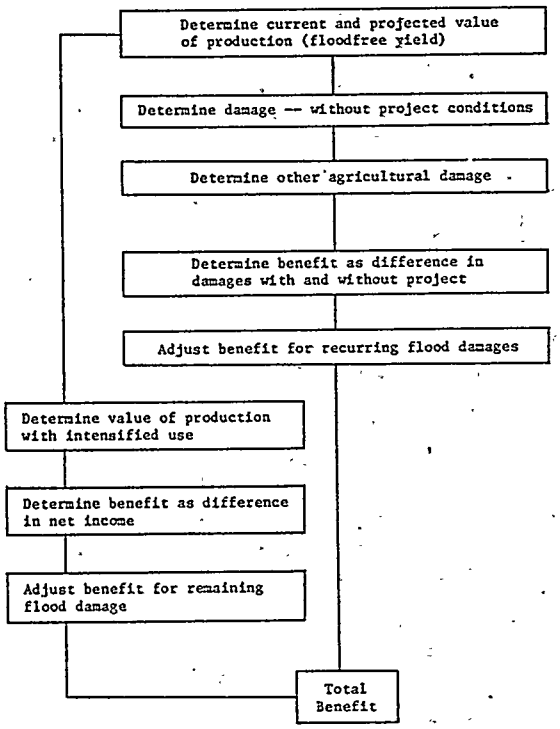
(b) The without-project condition, including nonstructural measures, is the condition expected to exist in the future in the absence of the floodwater, erosion, or sediment reduction project or any change in law or public policy.

(c) The with-project condition is the condition expected to exist in the future with a given structural or nonstructural floodwater, erosion, or sediment reduction project.

§ 713.207 Evaluation procedure: agricultural flood prevention or control—crops.

The following procedures are presented for the evaluation of inundation damages to crops that would be grown without the project (see Figure 713.207–1). The level of detail to be attained in each step is dependent on the economic significance of the problem.

Figure 713.207-1 — Flowchart of Agricultural Floodwater Procedures



(a) *Identify current and projected land use and cropping patterns.* This information is generally developed for floodplain reaches that represent segments of the floodplain with significantly different cropping patterns and/or hydraulic characteristics.

(b) *Establish current and projected floodfree yields.* These are current and projected yields in the floodplain in years in which no flood occurs. Interviews with floodplain farmers, agronomists, soil scientists, and others will provide needed information. These yields should reflect other factors that may affect production, such as the threat of floods, hail, drought, soil fertility, and production practices.

(c) *Calculate damageable value.* Determine the gross value of the floodfree yield for each crop. While this value may not reflect the maximum loss that would be incurred in complete destruction by a single flood, it shall be used as the damageable value to which flood damage factors are applied.

(d) *Develop periodic flood damage factors for the intervals that match the hydrologic data.* (1) Gather historical flood damage information through interviews with floodplain farmers. Data needs include areas flooded, flood depth and/or duration, yield reduction, added expenses due to the flood, production costs saved on the flooded crop, and substitute crops and their yields. Crop damage shall then be computed for a given flood depth and/or duration; the following shall be included: value of yield reduction and quality reduction of flooded crop, added expenses on flooded crop, production costs saved on flooded crop, and net return from substitute crop. A damage factor value for a given depth or duration shall be computed by dividing the crop damage for each interval and for each depth and/or duration by the damageable value for that crop.

(2) If insufficient data are available in a given project area to develop damage factors for all intervals, crops, depths, or durations, data from other floodplains in the region or proxy values generated by using crop budgeting techniques may be used. The intervals for which crop damage is computed will depend on the variation by interval in the likelihood of flooding and damage.

(3) Because of the difficulty of obtaining complete damage data for a given project, information from similar projects in an area shall be aggregated. This will increase the credibility of the damage factors used for project evaluation. Standardized interview techniques and questions shall be used to minimize sampling errors.

(e) *Develop weighted flood damage factors.* Each flood damage factor for a given crop and a given flood depth or duration shall be appied to the historical probability of floods occurring during the particular interval. The probability information is usually calculated from stream gauge analysis. The sum of products from these calculations represents a weighted flood damage factor.

(f) *Calculate flood damages for each crop.* Flood damages shall be computed for a given flood depth or duration for each crop, using the following calculation: (Yield × price × damage factor percentage). A composite acre (a mix of various crops within a given floodplain reach expressed in percentages) may be used in determining flood damages to crops; if this approach is used, the floodplain should be stratified, using different composites, if a significantly different mix of crops in a given reach is flooded for each flood frequency.

(g) *Determine average annual damages.* Damage factors can now be integrated with hydrologic data (i.e., flood frequency, acres flooded, flood depth or duration) to determine average annual damages. In this process, the damage from all probable flood events during the evaluation period shall be averaged to each year in the period, adjusted to avoid double counting in the event of recurrent flooding in a given year. Estimates of current average annual damages shall be based on current hydrology, current land use and cropping patterns, costs and commodity prices, and yields in the project floodplain areas under average management. Estimates of future damages shall be determined for relevant

time periods considering the physical conditions for each time period.

(h) *Calculate the benefits.* In the case of a structural measure, the damage reduction benefit is the reduction of damage. In the case of a nonstructural plan that removes a given land use from the floodplain, the benefit is the cost saving to other economic sectors plus the net returns to the new use of the land.

§ 713.209 Evaluation procedure: Erosion prevention—Crops.

Erosion may be classified as gully, streambank, floodplain scour, and sheet erosion. Benefits are measured as net income maintenance or recovery on agricultural lands. The following discussion identifies key analysis steps in the evaluation of each type of benefit. The level of detail required for the evaluation will depend on the economic significance of the problem, the availability and reliability of data, and the degree of refinement needed for project formulation and evaluation. If benefits are attributable to both flood and erosion prevention, they must be allocated to each, using techniques similar to those provided for drainage and flood prevention.

(a) *Identify areas with erosion problems.* Erosion problems shall be identified and classified with respect to (1) type of problem; (2) extent of area; (3) projected rate of change of affected area; (4) present and future impacts on soil productivity; (5) potential for recovery; and (6) projected rate of recovery. This information shall be developed for relevant time periods as needed to reflect the dynamic nature of the problems.

(b) *Compute benefits to agricultural land from reduced gully and streambank erosion.* (1) Benefits may accrue from reduced gully and streambank erosion through reduced land voiding (total destruction of the productivity of the land for agricultural use); reduced production losses on adjacent areas; and efficiency gains on interdependent areas.

(2) Production losses on adjacent areas may be caused by a lowering of water tables; increased costs of production due to irregular field patterns, etc.; and less intensive land use. Efficiency gains on interdependent areas occur when the elimination of gully erosion provides a stable outlet for land treatment measures upstream, thereby permitting a more intensive farming operation.

(3) Benefits in each case shall be determined by annualizing projected net income flows over the evaluation period at the project discount rate without and with the project. Associated land treatment costs, e.g., expenditures required in addition to project measures to achieve beneficial effects, shall be deducted from with-project net income when computing an efficiency gain on an interdependent area. Benefits shall be computed as the difference in net income with the project compared to without the project.

(c) *Compute benefits to agricultural land from reduced floodplain scour.* The potential for scour erosion is related to the depth and velocity of floodwater and the resistance of the soil material to erosion. Benefits shall be determined in the same manner as for gully and streambank erosion, with the exception that in projecting the net income flow with the project an allowance shall be made to account for recoverable productivity. Adjustments of inundation damages to crops may be necessary if floodplain scour damages have been evaluated for the same area.

(d) *Compute benefits to agricultural land from reduced sheet erosion.* Benefits shall be calculated in the same way as for gully and streambank erosion reduction benefits.

§ 713.211 Evaluation procedure: Sediment reduction—Crops.

Sediment damages occur from overbank deposition of infertile soils, impairment of drainage systems resulting in raised water tables (swamping), and channel filling. Benefits shall be measured as increased net income for agricultural crops. The discussion that follows identifies key analysis in the evaluation of each type of benefit. The level of detail required for evaluation depends on the economic significance of the problem, the availability and reliability of data, and the degree of refinement needed for project formulation and evaluation. If benefits are attributable to both flood and sediment reduction, they shall be allocated to each using techniques similar to those provided for drainage and flood prevention.

(a) *Identify areas with sedimentation problems.* The procedure is the same as for erosion (§ 713.209(a)).

(b) *Compute benefits to agricultural land from reduced overbank deposition and swamping.* Benefits shall be determined by annualizing projected net income flows, including the elimination of income losses due to crop losses caused by overbank deposition and swamping, over the evaluation period at the project discount rate without and with the project. Benefits shall be computed as the difference in net income with the project compared to without the project.

§ 713.213 Evaluation procedure: Agricultural flood prevention or control—Other agricultural properties.

The term "other agricultural properties" includes physical floodplain improvements associated with various farm enterprises and the agricultural community. Benefits to such properties shall be measured through reductions in inundation damages in the future with the project compared to without the project. The following discussion identifies key analysis steps needed for evaluation. Benefits accrue through alterations in flood flows or in the susceptibility of the property to damage (e.g., relocation, floodproofing, etc.).

(a) *Inventory damageable floodplain improvements.* Identify the location, type, number, and value of other agricultural properties within the floodplain that are subject to flood damage. This information is most easily obtained through interviews of floodplain farmers and field reconnaissance. Data shall be gathered by floodplain reaches.

(b) *Determine damages to floodplain improvements.* Gather historical data by floodplain reach and flood depth on damages to other agricultural properties, such as equipment, improvements, agricultural enterprises, and irrigation. Calculate these historical damages in current dollars and project them by relevant time periods throughout the evaluation period.

(c) *Determine average annual damages to floodplain improvements.* The depth-damage relationships for each reach shall be integrated with hydrologic data to develop average annual damages without and with the project. This procedure is the same as for agricultural crops (§ 713.207(h)) except that seasonal occurrence of flooding is generally not an important consideration, nor is the adjustment of damages for recurrent flooding in a given year.

(d) *Determine average annual damage to associated agricultural enterprises.* Damages of this type shall be evaluated as reduced net income under without-project and with-project conditions. Interruption of irrigation deliveries is the most common example.

(e) *Calculate average annual benefits.* The damage reduction benefit from structural measures is the reduction of that damage. In the case of a nonstructural plan that removes a given land use from the floodplain, the benefit is the cost saving to other economic sectors.

§ 713.215 Evaluation procedure: Erosion prevention—Other affected properties.

Erosion in its various forms often damages roads, bridges, fences, buildings, etc. Damages without the project shall be determined by adding the annualized value of any loss of production of goods and services to either the annualized cost of relocating the property or assuming total loss of the property at some future time. In the latter case, damages shall be based on a depreciated current replacement cost, discounted to a present worth and amortized. Annual damages with the project shall then be computed, based on total avoidance of or delay in the loss creditable to the project. Benefits shall be determined by subtracting with-project damages from without-project damages.

§ 713.217 Evaluation procedure: Sediment reduction—Other agricultural properties.

Average annual sediment damages shall be determined by adding the costs in constant dollars of removing sediment from roads, culverts, channels, etc., over a representative period of time and dividing by the years of record. The difference in damages with and without the project is the benefit. Extending the useful life of an existing reservoir is another type of sediment reduction benefit. The extension shall be discounted to current values and amortized over the project life. The increased cost of providing goods and services (e.g., additional treatment costs for removing sediment from municipal water) can also be used to evaluate damages. Reductions in the costs of sediment removal or water treatment provide the basis for assessing benefits with the project.

§ 713.219 Evaluation procedure: Intensification benefits.

In situations in which there is no change in cropping pattern other than increased acreages of rice, cotton, corn, soybeans, wheat, milo, barley, oats, hay, or pasture, intensification benefits shall be computed as the difference in net income with the project and net income from floodfree yields without the project. Increased acreages of other crops shall be evaluated as the efficiency gained in the project area compared to typical lands in the WRC assessment subarea (ASA). Intensification benefits may accrue when reduced flooding reduces the time required to perform a farm operation or permits the profitable investment of additional labor and capital in a particular crop enterprise. The following discussion identifies steps necessary for the evaluation.

(a) *Step 1.* Identify the land use, cropping patterns, and floodfree crop yields (see § 713.207 (a) and (b)) that could be expected with various levels of flood protection. If data are not readily available for an array of various levels, determine only the without- and with-project conditions. Project the cropping pattern to selected time periods to reflect changes in physical conditions. Determine the value of production on current crop acreages and/or increased acreage of rice, corn, wheat, cotton, pasture, hay, soybeans, milo, oats, or barley. Collect data on cropping patterns and yields from areas with soils and flood conditions similar to the various flood protection levels being projected.

(b) *Step 2.* Determine the variable production costs, including nonproject system OM&R and associated drainage costs, for each alternative level of flood protection.

(c) *Step 3.* Compute the benefit as the change in net income from floodfree yields in the without-project condition to the with-project condition less the remaining damage to the more intensive crop for current acreages of all crops and/or increased acreages of rice, corn, wheat, cotton, pasture, hay, soybeans, milo, oats, or barley.

(d) *Step 4.* Identify cropland areas in which increased acreages of other crops will occur due to project measures. The proportion of these crops in the project areas shall not exceed their proportion in the protected floodplains in the ASA. The NED benefit is the difference between the cost of producing output in the project area and the cost of producing the same output on protected floodplain elsewhere in the ASA.

(1) Identify the characteristics such as length of growing season, quantity and quality of water available, and soil fertility that are superior to those in other areas of the ASA now producing the crop(s) on which benefits are claimed.

(2) Determine the projected increased acreage and production of other crops in the project area.

(3) Determine the average variable production costs of other crops in the project area.

(4) Identify within the same ASA as the project an area in which significant acreage of these crops is currently being grown and whose yields represent the average for the ASA.

(5) Determine the average variable production costs in the area identified in paragraph (d)(4) of this section for the volume of production of the same crops.

(6) Determine the net income in the area identified in paragraph (d)(4) of this section if the cropping pattern shifted to a composite of the ten major crops.

(7) Calculate the benefits as the difference between the cost of producing the crops in the area identified in paragraph (d)(4) of this section and the cost of producing them in the project area plus the difference in net income in the area identified in paragraph (d)(6) of this section and in the project area without the project.

§ 713.221 Evaluation procedure: Data sources.

(a) *Interviews.* Interviews with farmers and other watershed residents are important for most of the categories to be evaluated. Interviews should not be confined to floodplain farmers. Data collected outside the floodplain can serve as a basis for establishing floodfree yields and production inputs for comparison with yields and inputs on the floodplain. Only forms approved by the Office of Management and Budget shall be used, and each individual survey shall be a part of the supporting data.

(b) *Physical specialists.* Agronomists and soil scientists can provide data to establish floodfree yields by soils and the effects on production of soil depletion or sediment deposition. Data collected by soil scientists of the Department of Agriculture's Soil Conservation Service (SCS) provide yields for various erosion phases.

(c) *Universities and Federal agencies.* Most universities as well as the Department of Agriculture's Economic, Statistical, and Cooperative Service (ESCS) and SCS have developed typical enterprise budgets that can be modified to reflect conditions in the area being studied.

§ 713.223 Report and display procedures.

A clear presentation of the study results will facilitate review. Table 713.223–1 is a suggested presentation.

Table 713.223-1 -- FLOODWATER DAMAGE EVALUATION

Item	Current	Base Year	Year a/	Year a/	Year a/	Year a/	Year a/	Current Capitalized Value b/
Without Project								
Acres - soybeans								
pasture								
Yield - soybeans								
pasture								
(-) Value of production								
(+) Variable production cost								
(+) Floodwater damage								
Crop pasture								
Other agricultural								
With Project								
Acres - soybeans								
cotton								
corn								
Yield - soybeans								
cotton								
corn								
(+) Value of production								
(-) Variable production cost								
(-) Floodwater damage								
Crop pasture								
Other agricultural								
BENEFITS								

a/ Average annual value for given year.
b/ Capitalized at interest rate of _____ percent.

Subpart E—NED Benefit Evaluation Procedures: Agricultural Drainage

§ 713.301 Introduction.

This section provides guidance for the evaluation of national economic development (NED) benefits to agricultural drainage features of water resource projects and plans.

§ 713.303 Conceptual basis.

See 18 CFR Part 713, Subpart D, § 713.203.

§ 713.305 Planning setting.

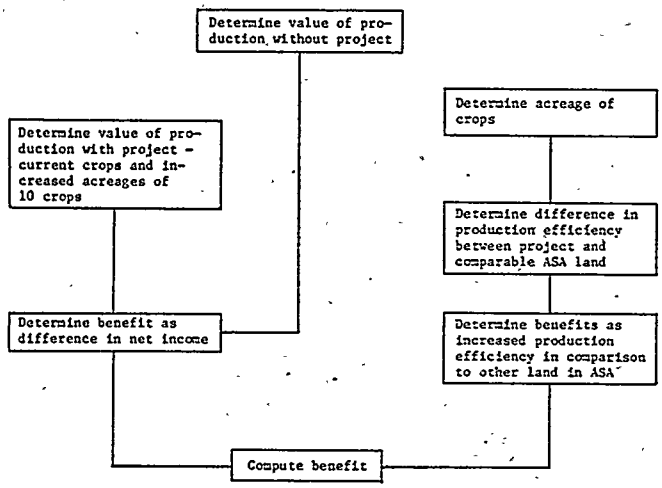
See 18 CFR Part 713, Subpart D, § 713.205.

§ 713.307 Evaluation procedure: General.

(a) Drainage problems on flatland areas are generally interrelated with inundation damages. Benefits in these cases are evaluated jointly and assigned to specific project purposes after the evaluation is completed. If flood damages are related to the frequency of stage discharges, flood prevention and drainage benefits are evaluated by different methods and are separable. If flood damages are caused by direct precipitation and beneficial effects result from removing a volume of water in a given time period, drainage and flood prevention benefits are evaluated jointly and then allocated, 50 percent to drainage and 50 percent to flood prevention. Deviations from this arbitrary allocation may be used if physical data support a more accurate division.

(b) National economic development (NED) benefits from drainage elements of water projects are computed as the increased net returns resulting from reduced production cost or intensification benefits from increased production of current crops and increased acreages of rice, cotton, pasture, corn, oats, soybeans, wheat, milo, barley, or hay (see Figure 713.307–1). The intensification benefits are computed as the difference in net income with compared to without the project. Increased acreages of other crops are evaluated as the efficiency gained in the project area compared to typical lands in the WRC assessment subarea (ASA). The level of detail required for each evaluation will depend on the economic significance of the problems, the availability and reliability of data, and the degree of refinement needed for project formulation and evaluation.

Figure 713.307–1 — Flowchart of Agricultural Drainage Evaluation Procedures



§ 713.309 Evaluation procedure: Calculate intensification and reduced production cost benefits.

(a) *Step 1.* Identify the land use, cropping patterns, and crop yields that could be expected with various levels of drainage. If data are not readily available to analyze an array of drainage conditions, only data relative to conditions without and with the project should be developed. The cropping pattern shall be projected to selected time periods to reflect changes in physical conditions. The value of production on current crop acreages and/or increased acreage of rice, corn, wheat, cotton, pasture, hay, soybeans, milo, oats, or barley shall be determined. Data on cropping patterns and yields shall be collected from areas with soils and drainage conditions similar to the various levels being projected.

(b) *Step 2.* Determine the variable production costs for the crops listed above, including nonproject system OM&R costs, for each alternative drainage level, including the without-project level.

(c) *Step 3.* Compute the benefit as the change in net income from the without-project condition to the with-project condition for current crop acreages and/or increased acreages of rice, corn, wheat, cotton, pasture, hay, soybeans, milo, oats, or barley.

(d) *Step 4.* Identify cropland areas in which increased acreages of other crops will occur due to project measures. The proportion of these crops in the project areas shall not exceed their proportion in the comparably drained lands of the ASA. The NED benefit is the difference between the cost of producing output in the project area and the cost of producing the same output on comparably drained land elsewhere in the ASA.

(1) Identify the characteristics such as length of growing season, quantity and quality of water available, and soil fertility that are superior to those in other areas of the ASA now producing the crop(s) on which benefits are claimed.

(2) Determine the projected increased acreage and production of other crops in the project area.

(3) Determine the average variable production costs of other crops in the project area.

(4) Identify within the same ASA as the project an area in which significant acreage of these crops is currently being grown and whose yields represent the average for the ASA.

(5) Determine the average variable production costs in the area identified in paragraph (d)(4) of this section for the volume of production of the same crops.

(6) Determine the net income in the area identified in paragraph (d)(4) of this section if the cropping pattern shifted to a composite of the ten major crops.

(7) Calculate the benefits as the difference between the cost of producing the crops in the area identified in paragraph (d)(4) of this section and the cost of producing them in the project area plus the difference in net income in the area identified in paragraph (d)(6) of this section and in the project area without the project.

§ 713.311 Evaluation procedure: Data sources.

See 18 CFR Part 713, Subpart D, § 713.221.

§ 713.313 Report and display procedures.

A clear presentation of the study results will facilitate review. Table 713.313–1 is a suggested presentation.

Table 713.313-1 -- DRAINAGE PROJECT EVALUATION

Item	Current	Base Year	Year a/	Year a/	Year a/	Year a/	Current Capitalized Value b/
Without project							
Soil capability classification ____ (indicate class number)							
Acres: row crop							
pasture							
Yield/Acres: row crop							
pasture							
(-) Value of production							
(-) Variable production cost							
(-) System OM&R cost							
Soil capability classification ____ (indicate class number)							
Acres: row crop							
pasture							
(-) Value of production							
(-) Variable production cost							
(-) System OM&R cost							
With project							
Soil capability classification ____ (indicate class number)							
Acres: row crop							
pasture							
Yield/Acres: row crop							
pasture							
(-) Value of production							
(-) Variable production cost							
(-) Remaining system OM&R							
Soil capability classification ____ (indicate class number)							
Acres: row crop							
pasture							
Yield/Acres: row crop							
pasture							
(-) Value of production							
(-) Variable production cost							
(-) Remaining system OM&R							
BENEFIT							

a/ Average annual value at given year.
b/ Capitalized @ _____ percent interest rate over evaluation period.

Subpart F—NED Benefit Evaluation Procedures: Agricultural Irrigation

§ 713.401 Introduction.

This section provides procedural guidance for the evaluation of national economic development (NED) benefits to agricultural irrigation features of water resource projects and plans.

§ 713.403 Conceptual basis.

See 18 CFR Part 713, Subpart D, § 713.203.

§ 713.405 Planning setting.

(a) See 18 CFR Part 713, Subpart D, § 713.205(a).

(b) The without-project condition is the condition expected to exist in the future in the absence of the irrigation project. The without-project condition shall include the effects of implementing all reasonably expected nonstructural and conservation measures, including those required or encouraged by Federal, State, and local policies.

(c) The with-project condition is the condition expected to exist with structural and/or nonstructural measures for a given irrigation project. If the proposed nonstructural measures are already in the process of implementation, they shall be considered part of the without-project condition. Nonstructural measures to be considered include, but are not limited to:

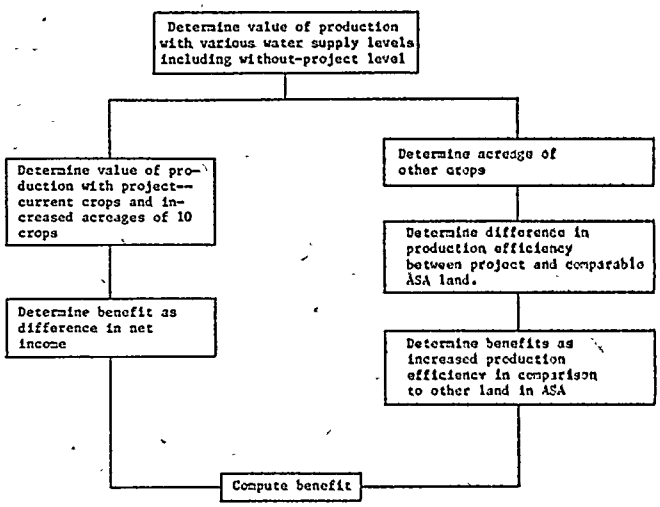
(1) Reducing the level and/or altering the time pattern of use through irrigation scheduling, modified water rate structures, leak detection and repair, recycling, and reuse; and

(2) Modifying management of existing water development and supplies by tailway recovery and phreatophyte control.

§ 713.407 Evaluation procedure: General.

National economic development (NED) benefits from irrigation elements of water resource projects are computed as the increased net returns that would result from reduced production cost, or intensification benefits through production of current crops and increased acreages of rice, cotton, pasture, corn, oats, soybeans, wheat, milo, barley, or hay. The intensification benefits are computed as the difference in net income with compared to without project. Increased acreages of other crops are evaluated as the efficiency gained in the project area compared to typical lands in the WRC assessment subarea (ASA). (See Figure 713.407–1.) The level of detail required for each evaluation will depend upon the economic significance of the problems, the availability and reliability of data, and the degree of refinement needed for project formulation and evaluation.

Figure 713.407-1 — Flowchart of Agricultural Irrigation Evaluation Procedures



§ 713.409 Evaluation procedure: Calculate intensification and reduced production cost benefits in project area.

(a) *Step 1.* Identify the land use, cropping patterns, and crop yields that could be expected with various water supply levels. Project the cropping pattern to selected time periods to reflect changes in physical conditions and the application of all water conservation measures that could reasonably be applied without the project. Determine the current crop acreages and/or increased acreage of rice, corn, wheat, cotton, pasture, hay, soybeans, milo, oats, or barley adjusted to reflect the application of reasonable water conservation measures. Data on cropping patterns and yields shall be collected from areas with soils and water supplies similar to the various supply levels being projected.

(b) *Step 2.* Determine the variable production costs, including nonproject system OM&R and associated drainage costs, for each alternative water supply level.

(c) *Step 3.* Compute the benefit as the change in net income from the without-project water supply level as adjusted to reflect reasonable water conservation measures, to the project supply level for current crop acreages and/or increased acreages of rice, corn, wheat, cotton, pasture, hay, soybeans, milo, oats, or barley. Since it would rarely be

feasible to provide a full season water supply for all acreages even in the driest years, the benefit analysis shall be adjusted to account for the effect of short supply years and the value of excess project water in wet years. This can be done by including the value of greater or lesser supply according to their probability as evaluated in steps 1 and 2 above.

(d) *Step 4.* Identify cropland areas in which increased acreages of other crops will occur due to project measures. The proportion of these crops in the project areas shall not exceed their proportion in the irrigated lands of the ASA. The NED benefit is the difference between the cost of producing output in the project area and the cost of producing the same output on irrigated land elsewhere in the ASA.

(1) Identify the characteristics such as length of growing season, quantity and quality of water available, and soil fertility that are superior to those in other areas of the ASA now producing the crop(s) on which benefits are claimed.

(2) Determine the projected increased acreage and production of other crops in the project area.

(3) Determine the average variable production costs of other crops in the project area.

(4) Identify within the same ASA as the project an area in which significant acreage of these crops is currently being grown and whose yields represent the average for the ASA.

(5) Determine the average variable production costs in the aeas identified in paragraph (d)(4) of this section for the volume of production of the same crops.

(6) Determine the net income in the area identified in paragraph (d)(4) of this section if the cropping pattern shifted to a composite of the ten major crops.

(7) Calculate the benefits as the difference between the cost of producing the crops in the area identified in paragraph (d(4) of this section and the cost of producing them in the project area plus the difference in net income in the area identified in paragraph (d)(6) of this section and in the project area without the project.

§ 713.411 Evaluation procedure: Data sources.

See 18 CFR Part 713, Subpart D, § 713.223.

§ 713.413 Report and display procedure.

A clear presentation of the study results will facilitate review. Table 713.413–1 is a suggested presentation.

Table 713.413-1 -- IRRIGATION PROJECT EVALUATION

Item	Current	Base Year	Year a/	Year a/	Year a/	Year a/	Year a/	Current Capitalized Value b/
Without Project								
Acres: irrigated								
alfalfa								
barley								
Yield: alfalfa								
barley								
(-) Value of production								
(+) Variable production cost								
(+) System OM&R cost								
With Project								
Acres: irrigated								
alfalfa								
barley								
Yield: alfalfa								
barley								
(+) Value of production								
(-) Variable production cost								
(-) Remaining nonproject system OM&R cost								
BENEFIT								

a/ Average annual value at the given year.
b/ Capitalized @ _____ percent interest rate.

Subpart G—NED Benefit Evaluation Procedures: Urban Flood Damage

§ 713.501 Introduction.

This chapter presents the procedure to be followed in measuring the beneficial contributions to national economic development (NED) associated with the urban flood hazard reduction features of water resource plans and projects.

§ 713.503 Conceptual basis.

(a) *General.* Benefits from plans for reducing flood hazards accrue primarily through the reduction in actual or potential damages associated with land use.

(b) *Benefit categories.* While there is only one benefit standard, there are three benefit categories, reflecting three different responses to a flood hazard reduction plan.

(1) *Inundation reduction benefit.* If floodplain use is the same with and without the plan, the benefit is the increased net income generated by that use. If an activity is removed from the floodplain, this benefit is realized only to the extent that removal of the activity increases the net income of other activities in the economy.

(2) *Intensification benefit.* If the type of floodplain use is unchanged but the method of operation is modified because of the plan, the benefit is the increased net income generated by the floodplain activity.

(3) *Location benefit.* If an activity is added to the floodplain because of a plan, the benefit is the difference between aggregate net incomes (including economic rent) in the economically affected area with and without the plan.

(c) *Types of flood damage.* Flood damages are classified as physical damages or losses, income losses, and emergency costs. Each activity affected by a flood experiences losses in one or more of these classes.

(1) *Physical damages.* Physical damages include damages to or total loss of buildings or parts of buildings; loss of contents, including furnishings, equipment, decorations, raw materials, materials in process, and completed products; loss of roads, sewers, bridges, power lines, etc.

(2) *Income loss.* Loss of wages or net profits to business over and above physical flood damages usually results from a disruption of normal activities. Estimates of this loss must be derived from specific independent economic data for the interests and properties affected. Prevention of income loss results in a contribution to national economic development only to the extent that such loss cannot be compensated for by postponement of an activity or transfer of the activity to other establishments.

(3) *Emergency costs.* Emergency costs include those expenses resulting from a flood that would not otherwise be incurred, such as the costs of evacuation and reoccupation, flood fighting, and disaster relief; increased costs of normal operations during the flood; and increased costs of police, fire, or military patrol. Emergency costs shall be determined by specific survey or research and shall not be estimated by applying arbitrary percentages to the physical damage estimates.

§ 713.505 Planning setting.

(a) *General.* The benefit of flood hazard reduction plans shall be based on a careful analysis of the with- and without-project conditions.

(b) *Without-project condition.* The without-project condition is the land use and related conditions likely to occur under existing improvements, laws, and policies. There are three significant assumptions inherent in this definition:

(1) *Existing and authorized plans.* Existing flood hazard reduction plans shall be considered to be in place, with careful consideration given to the actual remaining economic life of existing structures. Flood hazard plans authorized for implementation but not yet constructed shall be evaluated according to the relative likelihood of actual construction. If there is a high likelihood of construction, the authorized plan shall be considered in place.

(2) *Flood Disaster Protection Act.* The adoption and enforcement of land use regulations pursuant to the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) is assumed.

(i) *Regulation certified or near certification.* If the local land use regulation has been or will be certified, partially waived, or adjusted by the Flood Insurance Administration (FIA) as adequate under 24 CFR 1910.3 (c) and/or (d) and 24 CFR 1910.5, that regulation shall define the without-project condition.

(ii) *Regulation not yet certified.* It is assumed that the local jurisdiction will adopt in the near future land use regulations certifiable to FIA under the without-project condition as a datum and under the with-project condition if a residual hazard will remain. This applies to floodplains regulated under 24 CFR 1910.3 (a) and (b); to floodplains regulated by local ordinances independent of FIA; and to floodplains with no flood regulation in effect. For riverine situations, the following two crucial features are included: no future confinement or obstruction of the regulatory floodway, as defined by the WRC *Floodplain Management Guidelines* (43 FR 6030); and no future occupancy of the flood fringe, as defined by the WRC *Floodplain Management Guidelines* unless residences are elevated to or above the 100-year flood level and nonresidences are floodproofed to that level.

(iii) *Application.* It is assumed that flood proofing costs will be incurred if an activity decides to locate in the floodplain.

(3) *Floodplain Management Guidelines.* The adoption and enforcement of the Water Resources Council (WRC) *Floodplain Management Guidelines for Implementing E.O. 11988,* as well as E.O. 11990, *Protection of Wetlands,* is assumed.

(4) *Individual actions.* In addition to the three assumptions stated in paragraphs (b) (1), (2), and (3) of this section, the analyst shall consider the likelihood that individuals will undertake certain flood hazard reduction measures, such as flood proofing, when the cost of such measures is reasonable compared to the costs of potential flood damages.

(c) *With-project condition.* The with-project condition is the most likely condition expected to exist in the future if a specific project is undertaken. There are as many with-project conditions as there are alternative projects.

(1) In projecting a with-project condition, the analyst must be sensitive to the relationship between land use and the characteristics of the flood hazard for the alternative project being analyzed.

(2) The same assumptions underlie the with-project and without-project conditions, including E.O. 11988, E.O. 11990, and Pub. L. 93–234.

(3) Full and equal consideration shall be given to structural and nonstructural alternatives and to alternatives incorporating a mix of structural and nonstructural measures. Nonstructural measures to be considered include but are not limited to:

(i) Reducing susceptibility to flood damage by land use regulations, redevelopment and relocation policies, disaster preparedness, flood proofing, flood forecasting and warning systems, floodplain information, floodplain acquisition and easements;

(ii) Reducing the adverse burden of flooding through flood insurance and flood emergency relief programs; and

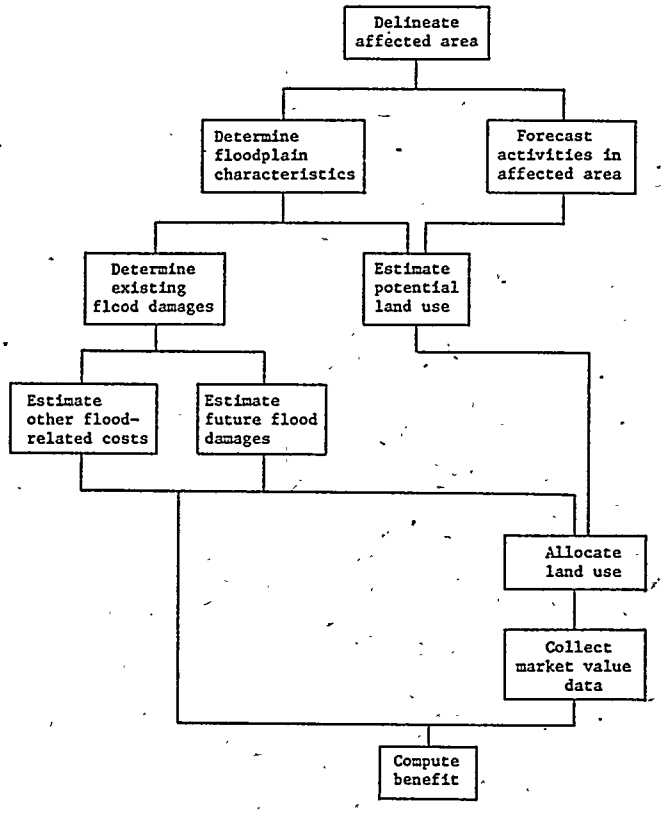
(iii) On site detention of flood waters by protection of natural storage areas such as wetlands in man-made areas such as building roofs and parking lots.

(4) Since project alternatives can differ in their timing as well as in their physical characteristics, the optimal timing of projects and of individual project features shall be considered in project formulation.

§ 713.507 Evaluation procedure: General.

Ten steps shall be completed in computing benefits (see Figure 713.507–1). The steps are designed primarily to determine land use and to relate use to the flood hazard from a NED perspective. The level of effort expended on each step depends on the nature of the proposed improvement and on the sensitivity of project formulation and justification to further refinement. The first five steps result in a determination of future land use; emphasis is on evaluating the overall reasonableness of local land use plans with respect to (a) OBERS and other larger area data, and (b) recognition of the flood hazard.

Figure 713.507-1 - Flowchart of Urban Flood Damage Evaluation Procedures



§ 713.509 Evaluation procedure: Step 1—Delineate affected area.

The area affected by a proposed plan consists of the floodplain plus all other nearby areas likely to serve as alternative sites for any major type of activity that might use the floodplain if it were protected; one example of a major activity-type is commercial. If the potential use of the floodplain includes industrial use within a standard metropolitan statistical area (SMSA), the entire SMSA is the affected area; for residential use, even within an SMSA, a much smaller area may be designated the affected area.

§ 713.511 Evaluation procedure: Step 2—Determine floodplain characteristics.

The existing characteristics of the floodplain must be determined before its actual use can be estimated; therefore, an inventory of the floodplain shall be undertaken to determine those characteristics that make it attractive or unattractive for the land use demands established in steps 3 and 4, with emphasis on those characteristics that distinguish the floodplain from other portions of the affected area. The following categorizations shall be used as a guide:

(a) *Inherent characteristics of a floodplain.* Most floodplains have the following characteristics: Flooding; floodway and natural storage; natural and beneficial values, including open space, recreation, wildlife, and wetlands; transportation; and other.

(1) *Flooding.* A description of the flood situation shall be presented, including a designation of high hazard areas. The description shall include characteristics of the flooding, such as depths, velocity, duration, and debris content; area flooded by floods of selected frequencies, including 100-year frequency; historical floods, and, where applicable, larger floods.

(2) *Floodway, natural storage.* A description and delineation shall be presented of those areas which, if urbanized or structurally protected, would affect natural storage, velocity, or stage, or would affect flood flows elsewhere.

(3) *Natural and beneficial values, including open space, recreation, wildlife, and wetlands.* Many floodplains, particularly those near urban areas, are potential recreation, open space, wetland, or wildlife preserves. The potential of the floodplain for these purposes shall be recognized and presented.

(4) *Transportation.* Floodplains near navigable streams have inherent attractiveness for industries that demand water-oriented transportation. Floodplains also serve as sites for railroads, highways, pipelines, and related facilities that are not susceptible to serious flood damage and have a tendency to attract industry to the area.

(5) *Other attributes.* Other inherent attributes of floodplains may include soil fertility, reliability of water supply, waste disposal, and sand, mineral, and gravel deposits.

(b) *Physical characteristics.* Pertinent physical characteristics shall be described, including slope, soil types, and water table.

(c) *Available services.* Most activities require some or all of the following services: Transportation (highway and rail),

power, sewerage, water, labor, and access to markets. The availability of such services in or near the floodplain shall be indicated, including comparisons with similar services available in other portions of the affected area.

(d) *Existing activities.* The inventory of the floodplain shall include a list of existing activity-types, the number of acres, and the density, age, and value of structure for each activity-type by flood hazard zone.

§ 713.513 Evaluation procedure: Step 3—Project activities in affected area.

Economic and demographic projections shall be based on the most recent available studies and shall include at least the following: population, personal income, recreation demand, and manufacturing, employment, and output. Additional projections may be necessary for any given area, depending on the potential uses of the floodplain and the sensitivity of the plan to these projections. Projections shall be based on assessment of trends in larger areas and appropriate data (e.g., OBERS); the relationship of historical data for the affected area to trends projected for larger areas; and consultation with knowledgeable local officials, planners, and others. The basis for the projections shall be clearly specified in the report.

§ 713.515 Evaluation procedure: Step 4—Estimate potential land use.

Potential land use within the affected area shall be obtained by converting demographic projections to acres. The conversion factors can normally be derived from published secondary sources, from agency studies of similar areas, or from empirical and secondary data available in the affected area. The categories of potential land use need be only as detailed as necessary to reflect the incidence of the flood hazard and to establish the benefits derived from a plan.

§ 713.517 Evaluation procedure: Step 5—Project land use.

Land use demand shall be allocated to floodplain and non-floodplain lands for the without-project condition and for each alternative floodplain management plan.

(a) *Basic factors.* The allocation shall be based on a comparison of the floodplain characteristics, the characteristics sought by potential occupants, and the availability of sought-after characteristics in the non-floodplain portions of the affected area.

(b) *Criteria.* The floodplain shall not be used unless it has characteristics that give it a significant economic advantage to the potential user over all other available sites within the affected area. If such advantages exist, the analyst shall determine whether they overcome potential flood losses, potential flood proofing costs, and the costs of other related hazards. Flood losses and costs shall be specific to the zone of the floodplain being considered.

§ 713.519 Evaluation procedure: Step 6—Determine existing flood damages.

Existing flood damages are the potential average annual dollar damages to activities affected by flooding at the time of the study. Existing damages are those expressed for a given magnitude of flooding or computed in the damage frequency process. No projection is involved. The basis for the determination of existing damages shall be losses actually sustained in historical floods; therefore, the analyst shall specify the year and month of all significant recorded discharges above zero point of damage and indicate the damages actually sustained by reach or zone and type of property and activity. Historical data are often incomplete; urbanization and other changes will have occurred over the years. Many streams and reaches do not have gaging stations. Therefore, data on historical flood losses shall be carefully scrutinized and supplemented by appraisals, use of area depth-damage curves, and an inventory of capital investment within the floodplain. Further, estimates of damages under existing conditions shall be computed for floods of magnitude that have not historically occurred. Average annual losses shall be estimated by using standard damage-frequency integration techniques and computer programs that relate hydrologic flood variables such as discharge and stage to damages and to the probability of occurrence of such variables. Annual hydrologic data are normally sufficient for urban drainage estimates. Flood damages shall be assessed by activity-type and by whether they are borne by the owner or by the public at large.

§ 713.521 Evaluation procedure: Step 7—Project future flood damages.

Future flood damages are the dollar damages to economic activities identified in step 3 that might use the floodplain in the future in the absence of a plan. This step shall be used iteratively with step 5 (land use) to determine land use and associated damages for each future with-project and without-project condition. "Future" is any time period after the year in which the study is completed; in order to relate costs ultimately to benefits, however, future damages must be discounted to the base year. Future flood damages shall be determined on the basis of losses sustained both by the floodplain occupant and by others through insurance subsidies, tax deductions for casualty losses, disaster relief, etc.

(a) *Hydrologic changes.* Changes in basin land use may result in major alteration of drainage characteristics, particularly surface runoff; such hydrologic changes shall be projected for the planning period. Average future hydrologic conditions shall not be used, since they obscure situations in which the level of protection afforded by a project may be significantly different from average conditions by the end of the planning period.

(b) *Economic changes.* Economic changes can be expected to result in a change in the level of future flood losses. A benefit-cost ratio for the existing condition shall always be shown. If the ratio is greater than 1:1, the projection of future benefits may be accomplished in abbreviated form unless it would distort the comparison of alternative projects or the cost allocation and cost sharing in multiple-purpose projects. In the latter situation, the detail and accuracy of the estimates of flood control benefits should be comparable to the estimates of benefits for other water resources purposes.

(c) *Projection of physical damages.* Measurement and projection of flood damages shall be based on the establishment of actual, observed relationships between damages, flood characteristics, and those indicators used for measurement and projection. These relationships shall be modified as appropriate by consideration of constraints that change the historically derived relationship between flood damages and a given indicator. The relationships shall be made explicit in the analysis and their accuracy and representativeness shall be supported, to the extent possible, by empirical evidence. Three steps shall be used in measuring flood damages for a future year: estimate the number and size of physical units; estimate the future value of units; and determine the damage susceptibility of units.

(1) *Physical units.* The first step in measuring flood damages for a future year is to determine from step 2 (§ 713.511) the number and size of physical units with potential to use the floodplain by hazard zones for each activity-type. Care must be taken to determine whether existing structures will continue to occupy the floodplain

over the period of analysis and, if not, the future land use and damage potential of new structures.

(2) *Value per physical unit.* This step involves estimating future unit value. Increases in the value of property in the floodplain may result from the expansion of existing facilities or the construction of new units. The following rules applying to content value are derived from an empirical study of flood-prone property; no deviation is permitted.

(i) *Existing development.* The OBERS regional growth rate for per capita income shall be used as the basis for increasing the real value of residential contents in the future.

(ii) *Future development.* The value of contents within new residential structures shall be projected from the year each unit is added.

(iii) *Translation to future flood damages.* The projected rate of increase in the value of flood-susceptible household contents shall be used as the basis for increasing the future unit flood damage to household contents.

(iv) *Limit.* The value of contents may not exceed 75 percent of the structural value of the residence unless an empirical study proves that a special case exists (e.g., trailer parks), nor may the increase in value of household contents be projected beyond project year 50.

(v) *Commercial and industrial property.* The procedure described for residential contents does not apply to commercial and industrial categories.

(3) *Damage susceptibility.* The third step in measuring future flood damages is to determine the damage susceptibility of units. Once the number of physical units and the value associated with each unit are known, possible future changes, if any, in damage susceptibility relationships shall be examined as a function of the total value of each physical unit and the stream's flood characteristics, such as velocity, depth, duration, volume, debris load, and salinity. Some of the determinants of damage susceptibility are type of activity, vertical development, location within the floodplain, nature of flood proofing, construction material used, and individual response.

(d) *Projection of income losses.* Income losses may be projected to increase on the basis of projected land use. Increases in physical losses shall not be used to project income losses.

(e) *Projection of emergency costs.* Emergency costs encompass a wide variety of programs. Some, such as emergency shelter and food, are primarily a function of occupancy of the floodplain but not of the value of development in the floodplain. Emergency costs shall not be be projected to increase as a direct function of physical losses.

§ 713.523 Evaluation procedure: Step 8—Determine other costs of using the floodplain.

The impact of flooding on existing and potential future occupants is not limited to flood losses. Some of the impacts are intangible but some can be translated into NED losses. These latter include the following:

(a) *Flood proofing costs.* High flood hazards lead to high flood costs. Therefore, the flood proofing costs of different activity-types and different flood hazard zones shall be computed.

(b) *National flood insurance costs.* A national cost of the flood insurance program is its administration. The cost of servicing flood insurance policies in effect at the time of the study shall be determined based on the average cost per policy, including agent commission, and the costs of servicing and claims adjusting. FIA should be contacted to obtain these costs.

(c) *Modified use.* In some cases, the flood hazard has caused structures to be used less efficiently than they would be with a project. For example, the first floor of garden apartments may not be rented because of a flood hazard, or property may be configured in a different way with compared to without a plan.

§ 713.525 Evaluation procedure: Step 9—Collect land market value and related data.

If land use is different with and without the project, the difference in income for the land shall be computed. This is generally accomplished by using land market value data. Supporting data are required in the situations described in paragraphs (a) through (d) of this section.

(a) *Land use is different with project.* If land use is different with compared to without the project, the following data shall be collected as appropriate to complete step 10.

(1) *Comparable value.* If the plan does not result in a major addition to the supply of land in the area, the value with protection is the market value of comparable flood-free land. If the plan results in a major addition to the supply of land, the effect on the price of land shall be taken into account in estimating the value of floodplain lands with protection. The flood-free land shall be comparable in terms of physical and infrastructural characteristics.

(2) *Existing value.* The value of nearby floodplain sites shall be used or, as appropriate, the current value of the floodplain. In either case, the current and, if available, past market values of the floodplain shall be reported. Actual market values, not capitalized income values, shall be used. Therefore, it shall not be assumed that the value of land being used for agriculture in an urban or urbanizing situation is the capitalized value of agricultural returns or that any value higher than that is due to speculation that a Federal project will be constructed or lack of knowledge. On the contrary, without-project land values in excess of agricultural land values are to be expected, reflecting the probability of future use as well as existing and anticipated infrastructural investments.

(3) *Net income data.* the net income (earned) with a project may be estimated directly based on an analysis of a specific land use with the project. This approach would be used, for example, for lands to be developed for recreation; the projected recreation benefits would constitute the gross income earned on the floodplain and would be shown as a project benefit.

(4) *Encumbered title market value.* The market value of land with an encumbered title shall be estimated for inclusion as a benefit in step 10 in situations in which the floodplain is to be evacuated, no specific public use is planned, and the land could be resold with an encumbered title (which would assure that future uses would be consistent with Executive Order 11988—*Floodplain Management*, May 24, 1977).

(b) *Land use is same but more intense with project.* If land use is the same but more intense, as when an activity's use of the floodplain is modified as a result of the project, determination of the increase in income shall be based on increased land values or direct computation of costs and revenues.

(c) *Evacuation plan.* In the case of an evacuation plan, changes in market value of properties adjacent to a restored floodplain may reflect recreation or open-space benefits to occupants of those properties. Such benefits must meet the test of any NED benefit and thus must be documented by empirical evidence. Care must also be taken to avoid double counting of benefits.

(d) *Market value is lowered by flood hazard.* If the market value of existing structures and land is lower because of the flood hazard, restoration of the market value represents a quantification of otherwise intangible benefits. In such cases,

the benefit is the difference between increased market value and that portion of increased market value attributable to reductions in flood damages. Careful attention should be given to assuring that factors not related to the flood hazard are not included as project benefits.

(e) *Use of projected increase in market value prohibited.* Projected increase in the market value of land over the project life with and without a plan shall not be used to measure flood hazard reduction benefits because the current market value of land theoretically captures the expected stream of income over time.

§ 713.527 Evaluation procedure: Step 10—Compute NED benefits.

At this point in the analysis, enough information is available to compute NED benefits for structural and nonstructural measures. Table 713.527–1 displays the types of benefits claimable for three of the major flood hazard reduction measures and the steps in this procedure that provide the necessary data. The table applies generally; specific cases may vary. All benefits shall be discounted and annualized at the appropriate discount rate to the beginning of the period of analysis. Benefits are categorized in the following way:

TABLE 713.527–1 — GUIDE TO TYPES OF BENEFITS

Type of Benefit (and Step)	Structural	Flood Proofing	Evacuation
Inundation			
Externalized flood damages (step 6)	Claimable	Claimable	Claimable
Internalized flood damages (step 6)	Claimable	Claimable	Not claimable
Flood proofing costs reduced (step 7)	Claimable	Not claimable	Not claimable
Reduction in insurance overhead (step 7)	Claimable	Claimable	Claimable
Restoration of land value (step 9)	Claimable	Claimable	Not claimable
Intensification (steps 7 and 9)	Claimable	Claimable	Not claimable
Location			
Difference in use (step 9)	Claimable	Claimable	Not claimable
New use (step 9)	Not claimable	Not claimable	Claimable
Encumbered title (step 9)	Not claimable	Not claimable	Claimable
Open space externality (step 9)	Not claimable	Not claimable	Claimable

(a) *Inundation reduction benefits.* To the extent that step 5 indicates that land use is the same with and without the project, the benefit is the difference in flood damages with and without the project (step 7), plus the reduction in flood proofing costs (step 8), plus the reduction in insurance overhead (step 8), plus the restoration of land values in certain circumstances (step 9). To the extent that step 5 indicates a difference in land use for an evacuation plan, the benefit is the reduction in externalized costs of floodplain occupancy that are typically borne by taxpayers or firms providing services to floodplain activities. Examples of such costs are subsidized flood insurance; casualty income tax deductions; flood emergency costs; and flood damages to utility, transportation, and communciation systems. Reduction of costs not borne by the floodplain activities may be a major benefit of projects to evacuate or relocate floodplain activities. Reduction of flood damages borne by floodplain activities shall not be claimed as a benefit of evacuation or relocation because they are already accounted for in the fair market value of floodplain properties.

(1) *Benefit from saving insurance costs.* One category of costs that can be avoided by a removal plan is public compensation for private flood damages through the subsidized Federal Flood Insurance Program. Expressing savings in these externalized costs as project benefits is appropriate for properties in communities that participate in the Federal Flood Insurance Program or are expected to participate under the without-project condition. This benefit shall be based on reduction of insurable flood damages projected over the life of the project with careful attention to the projected without-project condition.

(2) *Insurable flood damages.* The projection of insurable flood damages shall be based on traditional depth-damage-frequency relationships used in projecting total flood damages. However, projected total damages shall be reduced by subtracting: Losses that are noninsurable either because they are in noninsurance loss categories or because they exceed the coverage limits of the subsidized program; the deductible portion of each expected flood damage event; and the annual cost of the insurance premium paid by the policyholders. For this benefit calculation, it shall be assumed that all eligible parties purchase subsidized insurance. This assumption is appropriate because the market value of properties, which determines project costs, reflects the availability of the program, not the extent of its utilization by current floodplain occupants.

(b) *Intensification benefits.* If step 5 indicates that land uses are the same with and without the project but activity is more intense with the project, the benefit shall be measured as the increase in market value of land from step 9 or changes in direct income from step 6. Care must be taken to avoid double counting.

(c) *Location benefits.* If step 5 indicates that land use is different with and without the project, the benefit shall be measured by the change in the net income or market value of the floodplain land and certain adjacent land where, for example, the plan creates open space (step 9).

§ 713.529 Evaluation procedure: Problems in application.

There are four major problem areas in computing flood hazard reduction benefits:

(a) *Income losses.* The loss of income by commercial, industrial, and other business firms is difficult to measure because of the complexity involved in determining whether the loss is recovered by the firm at another location or at a later time. Direct interview and empirical post-flood studies are the most appropriate data sources for analyzing whether a real resource loss, such as idle capital or decaying inventories, is involved. The loss of income because of idle

labor may be measured from the point of view of the firm or the household, but care must be taken to avoid double-counting. Loss of income because of idle labor must be net of income to labor employed in cleanup and repair of damages; unemployment compensation and other transfer payments to idle labor are not income from an NED perspective.

(b) *Intensification benefits.* This category of benefits is theoretically applicable to urban situations, but there are to date few documented case studies. This benefit may not exceed the increased flood damage potential when the existing activity is compared to the intensified activity (without the proposed plan).

(c) *Risk.* The analysis of response to a flood hazard is based on a probability weighting of floods of various magnitude. This implies that floodplain occupants are risk-neutral, but many occupants, individually or as a group, either avert or accept risk. Therefore, responses to actual and potential flood damages shall be viewed broadly in determining land use, mode of conducting business, and even benefits. The analyst shall explain any significant deviations from expected behavior based on actual or potential flood damages computed on a risk-neutral basis.

(d) *Sensitivity analyses.* The report will contain sensitivity analyses that present a range of benefit levels representing data and assumptions about which reasonable persons might differ. The reported benefit level shall be the level that is most probable; other levels shall be presented for public information. The following specific analysis must be conducted and presented for the final array of alternative plans:

(1) *Break-even years.* There are two significant break-even years: The project year in which undiscounted annual benefits first exceed annual charges; and the project year in which discounted benefits exceed annual charges, assuming no further increases in benefits. As used here, annual charges for multiple-purpose projects are based on allocated costs.

(2) *Discount rate.* For authorized projects, the effect of using the current Federal discount rate shall be presented.

(3) *Value per structure.* Increases in future damages are related to increases in the number of structures and in the value of structures and contents. If increases in damages are based on increases in value, a sensitivity analysis shall be conducted under the alternate assumption that there is no increase in the average value of structure or contents and that increases in damages are due solely to increases in the number of structures and/or shifts from one type of structure to another.

§ 713.531 Evaluation procedure: Data sources.

The following summarizes problems associated with two key data sources:

(a) *Interviews.* The primary use of personal interviews is to collect flood damage data, but interviews may also be used to collect other necessary data not available from secondary sources. Only interview forms approved by the Office of Management and Budget shall be used. Statistically sound techniques shall be used for selecting the interview sample and for devising the questions. The questionnaire and a summary of responses shall be compiled and displayed in the final report in a way that protects the source of individual disclosures. The errors and uncertainty inherent in the sampling methods and responses shall be described.

(b) *Local land use plans.* Local land use plans and zoning ordinances are valuable guides to future land use in the floodplain, but caution must be exercised in the use of such plans and ordinances. First, the demographic implications of local plans and ordinances must be consistent with, or convincingly distinguished from, trends in a larger area, e.g., OBERS. Second, a local plan is not an acceptable projection for the without-project condition if it ignores the flood hazard. Third, the status, date, and likelihood of change of local plans vary. Finally, local plans may not contain sufficiently detailed information to be of direct use in benefit analysis.

§ 713.533 Report and display procedures

The report shall include enough data to enable the reviewer to follow the key steps above and, most important, the underlying rationale for the project.

(a) *Report procedures for risk and uncertainty.* To assist reviewers in assessing their own response to risk (and as basic data for later use in the social well-being account), the following shall be summarized separately and displayed in tabular form:

(1) *Remaining flood damage situations: Categorizations.* The remaining damages are those expected to occur even with a floodplain management plan in operation. Remaining damages include:

(i) Damages to activities that would occupy the floodplain with as well as without the plan;

(ii) Damages to activities that would occupy the floodplain only with the plan; and

(iii) Increased damages to activities outside the protected area with and without the plan. This includes downstream flooding, if any, caused by the plan or project.

(2) *Flood with two-tenths of 1 percent chance of occurrence.* The flood with two-tenths of 1 percent chance of occurrence (500-year frequency) shall be fully described with and without the plan. The report will contain, for example, two-tenths of 1 percent flood damages; the number of people and towns affected; the number of structures and acres by land-use type; disruption of essential services (water, power, fire protection, and sanitary services) and distance to unaffected essential services; anticipated warning time; flood depths, velocity, duration, debris content, etc.; and other indicators pertinent to catastrophic flooding.

(b) *Summary tables.* Summary tables 713.533–1 through 4 are suggested presentations for all reports that include flood hazard reduction as a purpose. Other summary tables, such as the specific display requirements presented in §§ 713.509 through 713.529, may be necessary and pertinent. The summary tables shall include pertinent land use for computing not only NED benefits, but also environmental, social, and regional impacts. Other floodplain data pertinent to the evaluation shall also be presented on one or more maps: Flood limits and depths with and without the project; current and future land use; and 100-year and other flood limits and depths.

TABLE 713.533-1 — SUMMARY OF ANNUALIZED NED BENEFITS AND COSTS FOR ALTERNATIVE PROJECTS

Applicable Discount Rate: ___

	Alternatives			
	1	2	3	N
Flood Hazard Reduction Benefits				
Inundation				
Physical				
Income				
Emergency				
TOTAL				
Intensification				
Location				
Floodplain				
Off Floodplain				
TOTAL				
TOTAL BENEFITS				
Benefits from Other Purposes				
TOTAL PROJECT BENEFITS				
PROJECT COSTS				
NET BENEFITS				

TABLE 713.533-2 — FLOOD DAMAGES BY DECADE ALTERNATIVE PROJECTS

Applicable Discount Rate: ___

Project a/	Time Period b/			
	P0	P10	P20, etc.	AAE c/
# 1				
# 2				
# 3				
N				

a/ Projects in system of accounts.

b/ The designations P10 and P20 identify the 10th and 20th years, respectively, of project life.

c/ Average annual equivalent.

TABLE 713.533-3 — FLOOD DAMAGES BY DECADE WITHOUT PROJECT

Applicable Discount Rate: ___

Property Type	Time Period a/						
	P-10	P-20, etc.	Existing	P0	P10	P20	AAE b/
Residential							
a (Subclassification of residential)							
b							
c							
Commercial							
Industrial							
Other							
TOTAL							

a/ The designations P10 and P20 identify the 10th and 20th years, respectively, of project life. P-10 is 1969, P-20 is 1959, etc.

b/ Average annual equivalent.

TABLE 713.533-4 -- NUMBER OF ACRES (OR STRUCTURES)
Flood Plain Without Project a/

	Acres						
	Existing	Time Period b/					
Property Type		P0	P10	P20	P30	P40	P50	P100
Residential								
a (Subclassification of residential units)								
b								
c								
Commercial								
Industrial								
Semipublic								
Transportation								

a/ Comparable tables shall be made for all alternatives, if pertinent.

b/ The designations P10 and P20 identify the 10th and 20th years, respectively, of project life.

Subpart H—NED Benefit Evaluation Procedures: Power (Hydropower)

§ 713.601 Introduction.

(a) This chapter describes procedures for the evaluation of national economic development (NED) benefits of hydropower features of water resources projects and plans. These features include single-purpose hydropower, the inclusion of hydropower as a function in new multipurpose projects, addition of power-generating facilities to existing water resource projects, and expansion of existing hydropower plants.

(b) For the purpose of ensuring efficiency in the use of planning resources, simplifications of the procedures set forth in this subpart are permitted in the cases of single purpose small scale hydropower projects (25 MW or less) proposed at existing dams and other facilities (e.g., irrigation canals), or at undeveloped sites, if no significant adverse environmental impacts would result from the installation and operation of power generating facilities, if these simplifications lead to adequate approximations of NED benefits and costs. For example, an analysis of marketability may be substituted for determination of need for future generation. In addition, an alternative that is primarily nonstructural is not required for the small scale hydropower projects described above.

§ 713.603 Conceptual basis.

(a) The conceptual basis for evaluating the benefit from energy produced by hydroelectric powerplants is society's willingness to pay for these outputs. Where energy from electric powerplants is priced at its marginal cost, this price shall be used to calculate willingness to pay. In the absence of such direct measures of marginal willingness to pay, the benefit from energy produced by hydroelectric powerplants will be measured instead by the resource cost of the most likely alternative to be implemented in the absence of the hydroelectric powerplant.

(b) The benefits from nonstructural measures are also computed using the cost of the most likely alternative. However, the net benefits of certain nonstructural measures that alter the electric power load cannot be measured effectively by the alternative cost procedures for the following reasons: (1) Structural measures and many nonstructural measures (except those that alter the load) result in similar plan outputs, whereas load-altering measures (e.g., revised rate structures) may change levels of output; and (2) load-altering measures may have fewer direct resource costs than measures based on higher levels of output. Recognizing this lack of comparability, the benefits from such load-altering nonstructural measures shall not be based on the cost of the most likely alternative. Attempts to measure the benefits of load-altering nonstructural measures on the basis of direct willingness to pay are encouraged, although the display of such benefits is not required.

§ 713.605 Planning setting.

(a) *Without-project condition.* The without-project condition is the most likely condition expected to exist in the future in the absence of a project, including any known changes in law or public policy. The following specific assumptions shall be included:

(1) *Existing resources.* Existing generating resources are part of the without-project condition. Adjustments shall be made to account for anticipated plant retirements and changes in plant output due to age or environmental restrictions associated with existing policy and regulations.

(2) *Existing institutional arrangements.* Existing and reasonably expected future power system and water management contracts, treaties, and nonpower river operating criteria are part of the without-project condition unless revision of these arrangements is one of the alternative plans being studied. In that case, the new arrangement (revised contract, criteria, etc.) would be one of the alternatives considered in the with-project condition.

(3) *Alternative actions anticipated or underway.* The without-project condition includes those generating resources that can reasonably be expected to be available in the forecast period.

(4) *Nonstructural measures and conservation.* The without-project condition shall include the effects of implementing all reasonably expected nonstructural and conservation measures, including those required or encouraged by Federal, State, and local policies.

(b) *With-project condition.* (1) The with-project condition is the most likely condition expected to exist in the future with the plan under consideration. Examples of alternative plans include: Alternative combinations of projects in a basin study; alternative sites in a reach study; alternative plant sizes at a specific site; alternative reservoir sizes at a reservoir site; use of reregulation and/or pumpback to increase firm capacity; and reallocation of storage to increase firm energy output.

(2) Nonstructural alternatives to hydropower may be used alone or in combination with structural measures. If the proposed nonstructural measures are already in the process of implementation, they shall be considered part of the without-project condition. Nonstructural measures to be considered include but are not limited to reducing the level and/or time pattern of demand by time-of-day pricing; utility-sponsored loans for insulation; appliance efficiency standards; education programs; inter-regional power transfers; and increased transmission efficiency.

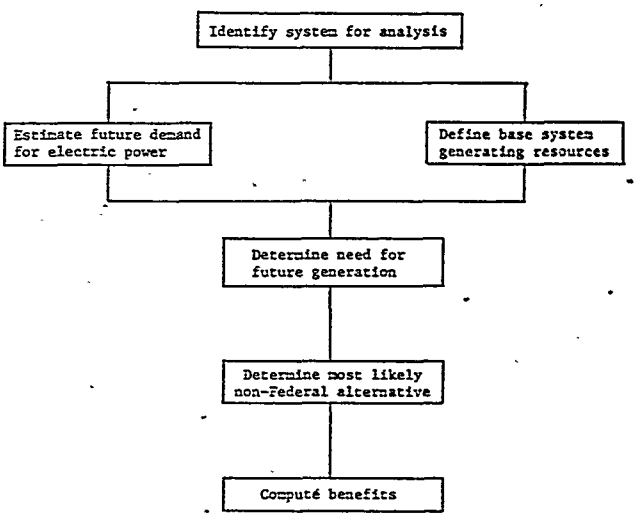
§ 713.607 Evaluation procedure: General.

Given one or more alternative plans for hydropower projects, the following steps are necessary to estimate NED benefits that would accrue to these projects. (See Figure 713.607–1.) The level of effort expended on each step depends upon the nature of the proposed development, the state of the art for accurately refining the estimate, and the likely effect of further refinement on project formulation and justification.

§ 713.609. Evaluation procedure: Identify system for analysis.

Because of the trend toward interconnection and coordination among utilities and power systems, it is most appropriate to evaluate NED benefits for hydropower on a system basis, rather than on the needs of an individual utility or local area. The size of the system would depend on the situation but could consist of a power pool, a National Electric Reliability Council (NERC) regional area, the marketing area of a Federal power marketing administration, or other geographic region.

Figure 713.607-1—Flowchart of Hydropower Evaluation Procedures



In some cases, physical or institutional constraints may limit the analysis to a smaller area, but care must be taken to ensure that benefits are not misstated by such analysis.

§ 713.611 Evaluation procedure: Determine need for future generation.

(a) *Estimate future demand for electric power.* Forecasts of electric power loads shall be made in terms of annual and monthly energy (including peak) demands. Weekly load shapes shall also be forecast to represent a minimum of three periods in the year (e.g., typical summer, winter, and spring/fall days) to assist in determining the type of load that a hydropower project could carry. Load forecasts should reflect the effects of all load management and conservation measures that, on the basis of present and future public and private programs, can reasonably be expected to be implemented during the forecast period. Load forecasts should be made and analyzed by sectoral use (residential, industrial, governmental, institutional, etc.) if an adequate forecasting model exists and is in use in the potential project market area. Load estimates shall be made, at increments of no more than 10 years, from the present to a time when the proposed plant will be operating in a state representative of the majority of its project life. In the case of staged hydropower development, or where generation system resource mixes may change markedly, load forecasts may be required for 20 years or more beyond the initial operation date. Estimates shall account for system exports and reserve requirements.

(b) *Define base system generating resources.* Project future generating resources and imports at various points in time without the proposed plan or any alternative plan. Resource estimates shall be made for the time periods stated in § 713.611(a). Information shall be provided both on the average annual energy production and on peaking capability. Data are readily available on projected system resources for about 10 years. Projected resource additions beyond that time shall be based on system studies. Retirement of older plants shall be accounted for, as well as the reduction of output of some plants due to age or environmental constraints.

(c) *Evaluate need for additional generation.* Compare the loads identified under § 713.611(a) with the resources identified under § 713.611(b) to determine: (1) When generating resource deficits will occur, (2) the magnitude of these deficits, and (3) what portion of these deficits could be met by the hydropower project. If nonstructural measures are components of an alternative plan and these measures reduce system loads, the amount of such reduction shall be considered to contribute to meeting system deficits. Some hydropower sites can be developed to provide either a base load, mid-range, or peaking service. The system demand for each class of hydropower generation shall be evaluated. Simple tabulation of annual peak and energy loads and resources is generally adequate for preliminary studies, but

system load-resource models that account for load characteristics and generating plant operating capabilities shall be used, if available, to evaluate accurately the usability of specific projects.

§ 713.613 Evaluation procedure: Determine the most likely non-Federal alternative.

(a) *General.* The one alternative most likely to be implemented in the absence of the proposed Federal project shall be selected. Consideration of the likely alternatives shall begin with the least costly. If an alternative with a lesser cost is passed over for a more expensive one, justification for not selecting the lower cost plan shall be presented.

(b) *Screen alternatives.* The alternatives to a specific hydropower project must be viable in terms of engineering, environmental quality, and other national policy considerations. Engineering viability limits thermal alternatives to commercially available electric powerplants. Environmental viability implies that plant costs include all equipment required to meet environmental quality criteria. National policy considerations include factors such as legal limitations on the use of oil, natural gas, and other "scarce" fuels for electric power generation. Each alternative need not in itself deliver service similar in kind to the hydropower project, but the total power system with the alternative must deliver service similar in kind to the system with the hydropower project. If nonstructural measures or conservation are components of an alternative plan and these measures reduce the need for additional capacity or for additional power, the amount of such reduction shall be considered provision of service similar in kind; this is done so that evaluation procedures will not be biased against the selection of an alternative that utilizes nonstructural measures.

(c) *Identify the most likely alternative.* (1) The system with hydropower must be compared with other alternatives capable of meeting system loads within established criteria of system reliability. The comparison shall be made on the basis of cost and other factors to determine the most likely alternative, i.e., the structural or nonstructural alternative that will be implemented if the project under consideration is not implemented.

(2) If political or institutional obstacles to implementation are noted, an alternative plan may still be considered the most likely if the barriers are substantially within the power of the affected users to correct. If an alternative is eliminated because of institutional or political obstacles, a sensitivity analysis shall be performed to determine whether the Federal project is economically justified when the rejected alternative is used as the basis of the benefit calculation. If this analysis indicates that the project would not remain justified, an explanation shall be given for recommending a Federal project over the more economical rejected alternative. A detailed description of the political or institutional obstacles shall be included, with a discussion of the basis for the conclusion that the obstacles cannot be overcome.

(3) If the most likely alternative is a thermal plant, that plant's capacity costs (including amortized investment costs, transmission costs, interim replacement costs, and fixed operating and maintenance (O&M) costs) shall be used as the measure of the value of the hydropower project's generating capacity, and the thermal plant's energy costs (primarily variable O&M costs and fuel costs) shall be used as the measure of the value of the hydropower project's energy production.

§ 713.615 Evaluation procedure: Compute benefits.

(a) *Compute hydropower plant annual benefits.* Annualized benefits based on the costs of the most likely alternative shall be computed for each hydropower development and installation component.

(1) *Alternative costs.* (i) The calculation of alternative costs to be used as a measure of NED benefits shall be on the following basis: (A) All interest and amortization costs charged to the alternative shall be calculated on the basis of the Federal discount rate; (B) no costs for taxes or insurance shall be charged to the alternative; and (C) all other assumptions and procedures used in calculating the costs of the alternatives, including external diseconomies, shall parallel those used in calculating the costs of the proposed project.

(ii) In many cases, benefits may vary over the life of a project. This may be due to such factors as staged development of the hydropower project, changes in operation of the hydropower project resulting from changes in the resource mix in the total generating system, and real escalation in fuel costs (if the most likely alternative is a thermal plant). Project benefits shall be computed by time intervals and discounted to derive annualized power benefits.

(iii) When applicable, the evaluation shall reflect differences in the cost of transmission, distribution, and other facilities compared to the most likely alternative.

(iv) Occasionally, the initial output of a hydropower project is large compared to annual growth in system load, and two or more years may be required to fully absorb its output into the load. In these cases credit (benefit) shall be adjusted to reflect the generating capacity and energy actually used in the load in the early years of project life.

(2) *Energy value adjustment.* The effect on system production expenses shall be taken into account when computing the value of hydroelectric power. Adding the structural or nonstructural plan to a system instead of adding an alternative power source may result in greater or lesser system production expenses than if a particular thermal capacity were added; the effect on production expenses can be determined by performing a system analysis. If there is a difference in system production expenses, an adjustment to the energy value shall be made in the economic analysis of the plan. If the alternative plan would lower system production costs, the adjustment would be negative. If the alternative plan would increase system production expenses, the adjustment would be positive. System production expenses shall be considered in determining the most likely alternative.

(3) *Capacity value adjustment.* The physical operating characteristics of hydropower projects differ significantly from alternative thermal plants. Appropriate credit may be given to hydropower projects to reflect their greater reliability and operating flexibility. When the value of these characteristics cannot otherwise be quantified, an adjustment can be made to the alternative plant capacity costs. Typically, the adjustment per kilowatt of capacity ranges from 5 to 10 percent of the cost per kilowatt of thermal capacity, depending on the operating characteristics of the hydropower project and alternatives that include thermal capacity. The adjustment may be applied by increasing the capacity cost of the most likely alternative by the appropriate percentage determined by the Federal Energy Regulatory Commission (FERC).

(4) *Intermittent capacity adjustment.* The dependable capacity of a hydropower project is based on the load-carrying capability of the project under the most adverse combination of system loads, hydrologic conditions, and plant capabilities. This very conservative approach is

unrelated to the dependable capacity of a hydropower project's alternative if thermal capacity is included, and given no credit for the value of capacity that is available a substantial amount of the time. When power system operation studies show that there is an intermittent capacity value to the system, a capacity adjustment shall be made.

(5) *Price relationships.* Relative price relationships and the general level of prices prevailing during the planning study will be assumed to hold generally for the future, unless specified studies and considerations indicate otherwise. Examples of the latter include escalation of relative fuel cost (e.g., due to increasing scarcity), or increased capital costs expected to result from changed environmental or safety criteria. Fuel costs used in the analysis should reflect economic prices (market clearing) rather than regulated prices.

(b) *Compute benefits of nonstructural measures.* The average annual benefits of nonstructural alternatives shall be computed using the cost of the most likely alternative identified above, except as specified in § 713.603(b).

§ 713.617 Evaluation procedure: Data sources.

Data on existing and planned resources, loads, marketability criteria, and alternative costs are available from various agencies and groups, including the Department of Energy, NERC regional councils, FERC regional offices, Federal power marketing administrations, State energy agencies, utility companies, and regional planning groups. If specific operating characteristics of individual plants are not available, generalized data can be obtained from other sources, including the Electric Power Research Institute. Load-resources models based on simulated system operation may be used if available. Some of these models are available from various sources, including FERC, Federal power marketing administrations, and a number of consulting services.

§ 713.619 Report and display procedures.

(a) Tables 713.619–1 through 713.619–3 are suggested for presentation for all reports that include hydropower measures. Table 713.619–1 summarizes the output of all plans by peaking capacity and system load factor, and presents the costs of each alternative plan. Tables 713.619–2 and 3 summarizes the output of the structural component of each alternative, the benefits of the structural components, and the resource costs of all structural and nonstructural components of each alternative plan. The number of benefit categories included will vary from project to project. Not all projects will have intermittent capacity, for example, and in some cases it will be appropriate to account separately for firm and secondary energy. System energy cost impacts are sometimes included in the unit energy values and in those cases would not have to be accounted for separately.

(b) Table 713.619–3 is suggested if the nature or magnitude of hydropower benefits changes substantially over time. Examples are: staged construction of the hydropower project; change in the role of hydropower in the system over time; and situations in which several years are required to absorb a large project into the system.

Table 713.619-1 — ELECTRIC POWER SUPPLY ALTERNATIVES

(Period of Analysis, Price Level, Discount Rate)

(month/year)

Alternatives	Annualized Cost c/	Peak Power Supplied, Conserved, and System Load Factor (%) a/ Time Period b/			
	($1000)	P_1	P_2	P_3 ...	P_x
Most Likely Alternative					
Recommended Plan					
Primarily Nonstructural (NS) Plan					
Other Plans Analyzed					

a/ For example, for the summer season, an entry "90 10 .6" would represent meeting the 100 MW deficit in the summer peak use identified in the without-project condition by supplying 90 MW and reducing the quantity used by 10 MW; the system load factor for the entire system for the summer would be .6.
b/ Show by time period and season where there are seasonal variations.
c/ Annual equivalent cost includes system adjustment costs.

TABLE 713.619-2 -- SUMMARY OF ANNUALIZED NED BENEFITS FOR STRUCTURAL MEASURES AND NED COSTS FOR STRUCTURAL AND NONSTRUCTURAL MEASURES a/
(Thousands of month, year dollars)
Applicable Discount Rate: _____

	Alternative			
	P_1	P_2	P_3	P_N
Plant Data				
Installed capacity, MW				
Dependable capacity, MW				
Intermittent capacity, MW				
Average annual energy, gWh				
Average annual capacity factor (percent)				
Benefits				
Unit capacity value ($/kW-yr)	( )	( )	( )	( )
Dependable capacity benefits				
Intermittent capacity benefits				
Unit energy value (mills/kWh)	( )	( )	( )	
Energy benefits				
Unit system energy cost adjustment (mills/kWh)	( )	( )	( )	( )
System energy cost adjustment				
Real fuel cost escalation rate (percent)	( )	( )	( )	( )
Period of real fuel cost adjustment (years)	( )	( )	( )	( )
Real fuel cost adjustment				
TOTAL HYDRO BENEFITS				
Other purpose benefits (list)				
Annualized Cost				
Structural Measures				
Nonstructural Measures				
Net Annual Benefits				

a/ Note that benefits from load-altering nonstructural measures are excluded. This table may be used for displaying the benefits of nonstructural measures that do not alter the load (See Section 713.603(b)).

TABLE 713.619-3 -- TIME DISTRIBUTION OF NED ELECTRIC POWER BENEFITS FOR STRUCTURAL MEASURES OF ALTERNATIVE _____ a/

Applicable Discount Rate: _____

	Time Period b/				
	P_1	P_2	P_3	P_N	AAE c/
Plant Data					
Installed capacity, MW	_____	_____	_____	_____	
Dependable capacity, MW	_____	_____	_____	_____	
Intermittent capacity, MW	_____	_____	_____	_____	
Average annual energy, gWh	_____	_____	_____	_____	
Average annual capacity factor (percent)	_____	_____	_____	_____	
Benefits					
Unit capacity value ($/kW-yr)	(_____)	(_____)	(_____)	(_____)	
Dependable capacity benefits	_____	_____	_____	_____	
Intermittent capacity benefits	_____	_____	_____	_____	
Unit energy value (mills/kWh)	(_____)	(_____)	(_____)	(_____)	
Energy benefit	_____	_____	_____	_____	
Unit system energy cost adjustment (mills/kWh)	(_____)	(_____)	(_____)	(_____)	
System energy cost adjustment	_____	_____	_____	_____	
Real fuel cost escalation rate (percent)	(_____)	(_____)	(_____)	(_____)	
Period of real fuel cost adjustment (years)	(_____)	(_____)	(_____)	(_____)	
Real fuel cost adjustment	_____	_____	_____	_____	
	_____	_____	_____	_____	
ANNUALIZED BENEFITS	_____	_____	_____	_____	

a/ Note that benefits from load altering nonstructural measures are excluded. This table may be used for displaying the benefits of nonstructural measures that do not alter the load (See Section 713.603(b)).

b/ Time periods selected depend on nature of project and power system.

c/ Average annual equivalent.

Subpart I—NED Benefit Evaluation Procedures: Transportation (Inland Navigation)

§ 713.701 Introduction.

This chapter presents the procedure to be followed in measuring the beneficial contributions to national economic development (NED) associated with the inland navigation features of water resource projects and plans.

§ 713.703 Conceptual basis.

The basic economic benefit of a navigation porject is the reduction in the value of resources required to transport commodities. Navigation benefits can be categorized as follows:

(a) *Cost reduction benefit (same origin-destination; same mode).* For traffic that uses a waterway both with and without a project, the benefit is the reduction in the economic cost of using the waterway. This reduction represents an economic efficiency or NED gain because resources will be released for productive use elsewhere in the economy; for example:

(1) Reductions in costs incurred from trip delays (e.g., reduced congestion by expanding lock sizes at congested facilities or by imposition of congestion fees).

(2) Reduction in costs because larger or longer tows can use the waterway(e.g., by channel straightening or widening).

(3) Reduction in costs by permitting barges to be more fully loaded (e.g., by channel deepening).

(b) *Shift of mode benefit (same origin-destination; different mode).* For traffic that would use a waterway with the project but uses a different mode, including a different waterway, without the project, the benefit is the difference between the costs of using the alternative mode without the project and the costs of using the waterway with the alternatives under consideration. The economic benefit of the waterway to the national economy is the savings in resources from not having to use a more costly mode.

(c) *Shift of origin-destination benefit.* If a project would result in a shift in the origin of a commodity, the benefit is the difference in total costs of getting the commodity to its place of use with and without the project. If a project would result in a shift in the destination of a commodity, the benefit is the difference in net revenue to the producer with and without the project. The shift of origin-destination benefit cannot exceed the reduction in transportation charges achieved by the project.

(d) *New movement benefit.* This benefit applies if a commodity or additional quantities of a commodity would be transported only because of lowered transportation charge with the project. The quantities are limited to increases in production and consumption resulting from lower transportation costs. An increase in waterway shipments resulting from a shift in origin or destination is not included. The new movement benefit is defined as the increase in producer and consmer surplus; practically, it can be measured as the delivered price of the commodity less all associated economic costs, including all of the costs of barge transportation other than those of the navigation project. This benefit, like the preceding one, cannot exceed the reduction in transportation costs achieved by the project.

(e) *Use of rates for benefit measurement.* It is currently more difficult to accurately compute the long-run marginal costs of particular rail movements on the basis of cost estimation studies than to determine the rates at which railroad traffic actually moves. In competitive markets, rates (prices) correspond to marginal cost, and, given market stability, prices will settle at long-run marginal costs. Moreover, the rates actually charged determine the distribution of traffic among modes. For these reasons, rates will be used to measure shift of mode benefits. Section 7a of the Department of Transportation (DOT) Act of 1966 (Pub. L. 89–670) requires the use of prevailing rates, as described in § 713.717(b). In the case of new waterways, this rate may or may not represent the best estimate of long-run marginal costs. In the case of existing waterways, prevailing competitive similar rates are the best available approximation of long-run marginal costs.

§ 713.705 Planning setting.

(a) *Without-project condition.* The without-project condition is the most likely condition expected to exist in the future in the absence of the navigation project or any change in law or public policy. The without-project condition includes any practice likely to be adopted in the private sector under existing law and policy, as well as actions that are part of a broader private and public planning to alleviate transportation problems. The following specific assumptions shall be built into the projected without-project condition:

(1) All reasonable nonstructural practices within the discretion of the operating agency, including helper boats and lock operating policies, shall be assumed to be implemented at the appropriate time. Substantial analysis is required to determine the best combination of nonstructural measures to ensure the most effective use of an existing waterway system over time. This analysis shall be documented in project reports to assure the reviewer that the best use of existing facilities will be made in the without-project condition and that the benefits of alternative with-project conditions are correctly stated. The criteria for the best utilization of the system are overall public interest concerns, including, but not limited to, safety, environmental impact, economic efficiency, and acceptability.

(2) User charges and/or taxes required by law are part of the without-project condition. Proposed or possible fees, charges, or taxes are not part of the without-project condition but are to be considered as part of the nonstructural alternatives in the with-project condition.

(3) The without-project condition assumes that normal operation and maintenance will be performed on the waterway system over the period of analysis.

(4) In projecting traffic movements on other modes (railroad, highway, pipeline, or other), the without-project condition normally will assume that the alternative modes have sufficient capacity to move traffic at current rates unless there is specific evidence to the contrary.

(5) Alternative modes will be analyzed as a basis for identifying the most likely route by which commodities will be transported in the future in the absence of waterway improvement.

(6) The without-project condition normally will assume that only waterway investments currently in place or under construction are in place over the period of analysis.

(b) *With-project condition.* The with-project condition is the most likely condition expected to exist in the future if a project is undertaken. The same assumptions as for without-project condition underlie the with-project condition. The following discussion relates to the alternatives to be considered under the with-project condition.

(1) Management of demand by the use of congestion or lockage fees is a nonstructural alternative, which alone or in combination with structural devices may produce an economic optimum in a congested waterway. Influencing marginal waterway users through a congestion fee can increase the net benefits of a waterway. Alternatives that influence demand shall be evaluated in light of the full range of the Principles and Standards (P&S) evaluation criteria on

an equal basis with supply-increasing (structural) alternatives.

(2) Additional nonstructural measures not within the current purview of the operating agency may be considered "supply managment" measures. One example is traffic management. These supply-increasing (nonstructural) alternatives, which can be used alone or in combination with other structural or nonstructural measures, shall be evaluated.

(3) Project alternatives can differ in their timing as well as in their physical characteristics. The optimal timing of projects and of individual project features shall be considered in project formulation, so as to maximize net benefits over time.

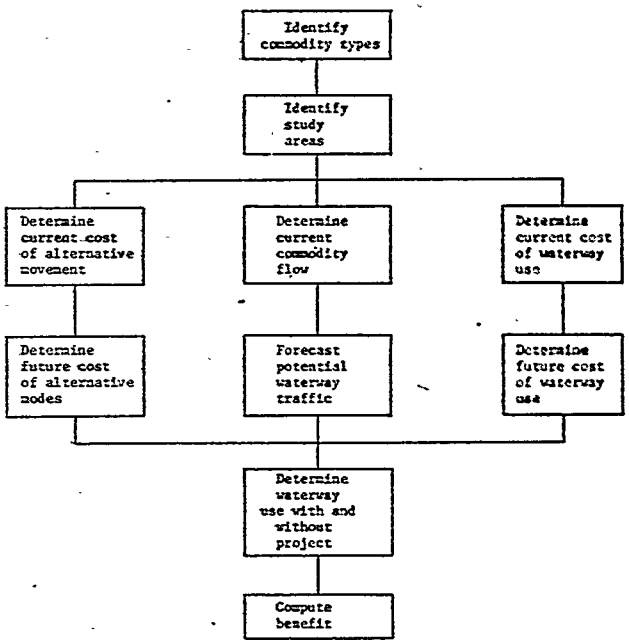
(4) Improvements in alternative transportation modes shall be considered part of the without-project condition only, as specified in § 713.705(a)(5).

(5) A change in the waterway system that is currently authorized but not yet under construction may be included if an appropriate share of its associated costs is included in the costs of the alternative under study and its incremental contribution to benefits is explicitly identified.

§ 713.707 Evaluation procedure: General.

The following 10 steps are necessary to estimate navigation benefits. (See Figure 713.707–1.) The level of effort expended on each step depends upon the nature of the proposed improvement, the state of the art for accurately refining the estimate, and the sensitivity of project formulation and justification to further refinement, especially as applied to steps 6, 7, and 8.

Figure 713.707–1 — Flowchart of Inland Navigation Evaluation Procedure



§ 713.709 Evaluation procedure: Step 1—Identify the commodity types.

The types of commodities susceptible to movement on the waterway segment under consideration shall be identified. The level of detail for each commodity is not prespecified; for example, in some cases "grains" is detailed enough, while in others "corn," "wheat" or "soybeans" is needed.

(a) *New waterways.* Commodity types shall be identified primarily by interviews of shippers and by resource studies. Interviews will identify primarily the benefit potentials of a shift of mode; resource studies will identify primarily the benefit potentials of shifts in origin-destination and in new movements.

(b) *Existing waterways.* Commodity types shall be identified primarily by analysis of data on existing use of the waterway segment under study; e.g., data from the Performance Monitoring System (PMS) and the Waterborne Commerce Statistical Center (WCSC).

§ 713.711 Evaluation procedure: Step 2—Identify the study area.

The study area is the area within which significant project impacts are incurred. The origins and destinations of products likely to use the waterway are normally included in the study area, broken out by river segments.

(a) *New waterways.* The origins and destinations shall be determined primarily by interviews of shippers and by resource studies.

(b) *Existing waterways.* Origins and destinations shall be determined by analysis of data on existing use of the waterway segment under study; e.g., PMS and WCSC traffic traced to its ultimate origin and destination.

§ 713.713 Evaluation procedure: Step 3—Determine current commodity flow.

Current data shall be gathered for commodity movements between origin-destination pairs susceptible to waterway movement as well as for commodities currently transported by waterway.

(a) *New waterways.* This step seeks to identify the total tonnage that could benefit from using the waterway. This information shall be obtained primarily by interviews of shippers. For benefits from shifts in origin and destination and from new movements, care must be taken to identify whether such movement would be likely to occur if waterway transportation were available; this information shall be based primarily on interviews. Particular attention shall be given to delivered price from substitute sources in the case of benefits from shifts in origin and destination, and to resource and market analysis in the case of benefits from new movements. Current transportation costs in the area shall be assessed.

(b) *Existing waterways.* This step seeks to identify uses beyond the existing use of the waterway; it seeks to identify potential commodities that might use the waterway in response to a reduced transportation charge.

§ 713.715 Evaluation procedure: Step 4—Determine current costs of waterway use.

This determination shall be made for all the tonnage identified in step 3. The waterway transportation cost shall include the full origin-to-destination costs, including handling, transfer, demurrage, and prior and subsequent hauls for the tonnages identified in step 3. The effect of seasonality on costs shall be considered in this step. In calculating the cost of prior and subsequent hauls, care must be taken to avoid inappropriate aggregations and averaging of the costs of movements in situations in which there is a wide geographic dispersion in ultimate origins and/or destinations, as in the case of grain traffic.

(a) *New waterways.* The current cost of the proposed waterway use represents the with-project condition; there are no without-project costs for waterway transportation.

(b) *Existing waterways.* Two arrays, one representing the without-project and one the with-project condition, shall be constructed. The difference between the two arrays shall reflect the reduction in current delays and any gains in efficiencies resulting from the alternative under consideration.

§ 713.717 Evaluation procedure: Step 5—Determine current cost of alternative movement.

This determination shall be made for all the tonnages identified in step 3. The cost shall include the full origin-to-destination costs, including costs of handling, transfer, demurrage, and prior and subsequent hauls. The effect of seasonality on costs shall be considered in this step. In calculating the costs of gathering or distribution prior or subsequent to the primary line haul, care must be taken to avoid inappropriate aggregations and averaging of the costs of movements in situations in which the ultimate origins and/or destinations are widely dispersed, as the case of grain traffic. This procedure requires use of price data when available as a proxy for the long-run costs of movement by other modes. This step, combined with steps 3 and 4, generates a first approximation of a demand schedule for waterway transportation given (1) the costs of transportation by alternative modes; (2) current levels of production; and (3) the distribution of economic activity.

(a) *New waterways.* In the case of rail, the prevailing rate actually charged for moving the traffic to be diverted to waterways shall be used. For traffic induced by the waterway, the rail rate shall be constructed as in step 5b.

(b) *Existing waterways.* Rate and other price data shall be used when available to estimate the cost of movement by alternative modes. In the case of rail movements, if the rate for that move is not now used, prevailing rates that are (1) competitive, and (2) for movements similar to the individual move that would occur without the project shall be used. The use of paper rates, i.e., rates at which no significant amount of traffic is actually moved, shall be avoided. A rate is "competitive" to the extent that it is for traffic for which there is intramodal or intermodal competition within the relevant markets. In identifying a "similar" movement, the factors considered may include geographic location, degree of use, characteristics of terrain, backhaul, contract division, seasonality, ownership of rolling stock, and physical rail connection to the shipper. It is the responsibility of the analyst to select rates that, in his or her view, best represent the long-run marginal costs of the movement. Cost estimates for particular moves may be useful in selecting the rate or rates that best meet the criteria of competitiveness and similarity. If more than one competitive and similar rate is identified, an average may be used. All water-compelled or water-competitive rates shall be assumed to be competitive and similar.

§ 713.719 Evaluation procedure: Step 6—Forecast potential waterway traffic by commodity.

Projections of the potential use of the waterway under study shall be developed for selected years from the time of the study until the end of the project life, over time intervals not to exceed 10 years. Commodity projections shall be set forth and documented for the commodity groups identified in step 3.

(a) The usual procedure for constructing commodity projections is to relate the traffic base to some type of index over time. Indices can be constructed by many different methods, depending on the scope and complexity of the issue under consideration and the availability of data and previous studies.

(b) Generally, OBERS projections are the demographic framework within which commodity projections shall be made. There are many instances, however, in which a direct application of OBERS-derived indices is clearly inappropriate. Frequently, there are circumstances that distort the relationship between waterway flows and the economy described by OBERS. Even when total commodity flows can be adequately described through the use of indices derived from OBERS projections, factors such as increasing environmental concerns, changes in international relations and trade, resource depletion, and other factors, may seriously alter the relationship between waterway commodity flows and the economy described by OBERS.

(c) If problems of the type described in paragraph (b) of this section are identified, the analyst shall undertake independent studies to ascertain the most appropriate method of projecting commodity flows. The assessment of available secondary data shall form the basis of these independent studies. These data will assist in delineating the bounds on the rate of increase for waterway traffic, as well as facilitate a better understanding of the problem. They shall be supplemented with (1) interviews of relevant shippers, carriers, and port officials; (2) opinions of commodity consultants and experts; and (3) historical flow patterns. Commodity projections can then be constructed on the basis of the results of the independent studies.

(d) Generally, specific commodity studies are of limited value for projections beyond approximately 20 years. Given this limitation, it is preferable to extend the traffic projections to the end of project life through the use of general indices on a regional and industry basis. Such indices can be constructed from the OBERS projections or other generally accepted multi-industry and regional models.

§ 713.721 Evaluation procedure: Step 7—Determine future cost of alternative modes.

(a) Future cost per unit of each commodity will normally be the same as current cost. As stated in § 713.705(a)(5), the without-project condition shall normally assume that the alternative modes have sufficient capacity to move traffic at current rates unless there is specific evidence to the contrary. This step combined with step 6 provides a time series of demand schedules specific to a particular commodity origin-destination pattern. The projection of any change in future prices shall be addressed as indicated below.

(b) A future rate shall be a prevailing rate as defined in step 5. It shall reflect exclusively a shift in rates because of projected changes in the volume of shipments on a given mode or a shift from one mode to another (e.g., from rail to pipeline). To support such a shift, the analyst shall show that the increase in volume is likely to lead to a change in rate; he may not assume, for example, that an increase in volume of traffic of a commodity from one area to another will automatically ensure a more favorable high-volume rate.

§ 713.723 Evaluation procedure: Step 8—Determine future cost of waterway use.

Two separate analyses are required for this step. First, the possibility of changes in the costs of the wateway mode for future years for individual origin-destination commodity combinations shall be analyzed. Second, the relationship between waterway traffic volume and system delay shall be analyzed. This second analysis shall be in the context of the total volume of traffic on the waterway segments being studied for with- and without-project conditions. This analysis will generate data on the relationship between total traffic volume and delay patterns as functions of the mix of traffic on the waterway; it may be undertaken iteratively with step 9 to produce a "best estimate."

§ 713.725 Evaluation procedure: Step 9—Determine waterway use, with and without project.

At this point the analyst will have a list of commodities that potentially might use the waterway segment under study, the tonnages associated with each commodity, and the costs of using alternate modes and the waterway, including system delay functions with and without the project over time. This information shall be used to determine waterway use over time with and without the project based upon:

(a) A comparison of costs for movements by the waterway and by the alternative mode, as modified by paragraph (b) of this section.

(b) Any changes in the cost functions and demand schedules comparing (1) the current and future without-project conditions and (2) the current and future with-project condition. Conceptually, this step should include all factors that might influence a demand schedule; e.g., impact of uncertainty in the use of the waterway; ownership of barges and special equipment; level of service; inventory and production processes; and the like. As a practical matter, the actual use of a waterway without a cost savings or nonuse of a waterway with a cost savings depends on the knowledgeable judgment of navigation economists and industry experts.

(c) The "phasing in" or "phasing out" of shifts from one mode to another shall be accounted for in the analysis. Diversion of traffic from other modes to the waterway, and from the waterway to other modes as the waterway becomes congested, shall be based on expected rate savings as adjusted by any other factors affecting the willingness of users to pay or the speed of the response mechanism to changes in the relative attractiveness of alternative modes. Specifically, diversions from congested waterways shall be determined in the order of the willingness of users to pay for waterway transportation. Users with the lowest willingness to pay shall be diverted first.

§ 713.727 Evaluation procedure: Step 10—Compute NED benefits.

Once the tonnage moving with and without a plan is known and the alternative costs and waterway costs are known, total NED navigation benefits can be computed using the applicable discount rate under Section 80 of the Water Resources Development Act of 1974 (Pub. L. 93-251), as follows:

(a) For cost reduction benefits, the benefit is the reduction in cost of using or operating the waterway; the cost of the alternative mode is a factor in determining whether the tonnage would move both with and without the project but is not a factor in computing benefits. Cost reduction benefits shall generally be limited to evaluation of existing waterways. The benefits for current and future cost reductions are reflected by the difference in waterway costs (steps 4 and 8) with and without the project. Waterway cost data (steps 4 and 8) shall be compared with the alternative mode costs (steps 5 and 7) in order to determine the traffic flow by mode over time (steps 3 and 6).

(b) For shift of mode benefits, the benefit is the reduction in costs when the alternative movement is compared with the waterway. These benefits apply to new or existing waterways. Cost differences between the alternative mode and the waterway mode (step 5—step 4 × step 3 and step 7—step 8 × step 6) will identify the shift of mode benefits over time.

(c) For shift of origin-destination benefits and new movement benefits, the benefit is the value of the delivered product less the transportation and production costs with the project. The transportation cost without the project (assuming the with-project movement would have occurred) is a factor in categorizing these benefits but is not a factor in computing them. The upper limit of these benefits can normally be determined by computing reduction in transportation charges achieved by the project. These can be a reduction in waterway costs (steps 4 and 8) with and without the project or changes in mode (step 5—step 4 and step 7—step 8).

§ 713.729 Evaluation procedure: Problems in application.

(a) *Changes in system delays.* Differences in system delays resulting from project alternatives are difficult to compute. An assessment of system delays within the state of the analytic art is necessary for a comprehensive benefit analysis. Delays at all points in the system shall be analyzed only to the extent that project formulation and evaluation are sensitive to such refinements, and to the extent that the state of the art permits accurate refinement of the estimate. Appropriate proxy measures may be used in lieu of individual assessments at each element in the system when evaluating system delays.

(b) *Interaction of supply and demand schedules.* The entire evaluation procedure (§§ 713.707 through 713.729) is based on an assumption that the supply and demand schedules are independent; in fact, they are not. This problem is most acute when considering the variance in delays at high levels of lock utilization. Essentially, shippers will face not an expected delay value but rather a highly uncertain delay value. Shippers' response to uncertainty (as reflected in the demand schedule) may be quite different from their response to an expected shipping cost (as reflected by the intersect of the supply and demand schedules).

(c) *User fee collection.* The incremental collection of user charges, fees, or taxes shall not be considered a NED benefit, but a transfer of resources between the private and public sectors of the economy, manifesting itself as resources committed to the proposed navigation system. The increased collection of these charges, fees, or taxes is therefore considered a decrease in the public sector's contribution to the proposed system.

(d) *Sensitivity analysis.* Project benefits are calculated on the basis of "the most probable" with-project and without-project conditions. However, risk and uncertainty must be addressed in the analysis of NED benefits and costs. In particular, major uncertainty exists in the proper measure of savings to shippers, namely the difference in long-run marginal costs. To the extent that rates or other prices vary from long run marginal costs, savings to shippers will contain a component of transfers varying from real resource savings. This element of uncertainty should always be identified or acknowledged in estimates of benefits. In dealing with uncertainty, three techniques may be used: establishing consistent sources of data; expanding the data-

gathering effort; and estimating the range of benefits. The following two specific approaches shall be used to implement the third technique, and the results in terms of their effects on project benefits shall be displayed in tabular form in the project report.

(1) *Prespecified sensitivity analysis.* The following shall be computed and included in the report:

(i) *Current tonnage, new waterway.* For new waterways, benefits for the recommended alternative shall be computed on the basis of current phased-in tonnage (steps 3 and 9c), current rates, and current fleet characteristics.

(ii) *Current rates, fleet.* For both new and existing waterways, benefits for the recommended alternative shall be computed on the basis of tonnage over time, current rates (step 3), and current fleet characteristics.

(iii) *Growth beyond 20-year period.* The benefits for alternatives carried forward for final display shall be computed assuming no growth in tonnage or changes in fleet characteristics or costs beyond 20 years in the future.

(iv) *Interest rate.* For projects whose interest rate is grandfathered under Section 80 of the 1974 Water Resources Development Act, annualized benefits shall be computed using the current discount rate as defined by Section 80.

(v) *User charges.* The effect on program benefits of two alternative levels of user charges shall be briefly investigated: Annualized benefits shall be computed assuming user charges in the form of fuel taxes to recover (A) 50 percent and (B) 100 percent of the average annual costs of the entire waterway system.

(2) *Other.* In addition, the report shall contain such other sensitivity analyses as are necessary to meet the objective of a clear, concise report presenting a range of benefit levels that represent data and assumptions about which reasonable persons might differ.

(e) *Data sources.* The following discussion summarizes key data sources, including problems in their use.

(1) *Interviews.* Interview data may be used in steps 1 through 9. (Only forms approved by the Office of Management and Budget shall be used.) Data not available from secondary sources shall be collected by personal interviews. Statistically sound techniques for selecting the interview sample and for devising the questions shall be used. The questionaire and a summary of responses shall be compiled and displayed in the final report in such a way as to prevent the disclosure of individual sources. The errors and uncertainty inherent in the sampling methods and responses shall be described.

(2) *Other.* The basic organizational source for systematically collected waterway data is the Office of the Chief of Engineers.

§ 713.731 Report and display procedures.

Clear presentation of study results, as well as documentation of key input data assumptions and steps in the analysis, will facilitate review of the report. Tables 713.731–1 through 4 are suggested presentations for all reports that include navigational objectives. (See §§ 713.705(a)(1) and 713.729(d) for additional reporting and display requirements.) As shown in the sample tables, the summary tables may present, in addition to detailed data on the NED benefits of a project, useful information on other aspects of the project such as its impact on commodity flows, on other modes of transportation, and on the location of economic activity.

TABLE 713.731-1 — SUMMARY OF ANNUALIZED NED BENEFITS AND COSTS FOR ALTERNATIVE PROJECTS

Applicable Discount Rate: _____

	Alternatives			
Navigation Benefits	1	2	3	N
Cost reduction benefits				
Shift of mode benefits				
Shift in origin-destination benefits				
New movement benefits				
TOTAL NAVIGATION BENEFITS				
Other Purpose Benefits (List)				
TOTAL PROJECT BENEFITS				
PROJECT COSTS				
NET BENEFITS				

TABLE 713.731-2 — TIME PHASING OF NED BENEFITS FOR RECOMMENDED PROJECT a/

Applicable Discount Rate: _____

	Time Period						
	Base Years (specify)	Decade b/ 1	2	3	4	5	AAE c/
Navigation Benefits							
Cost reduction benefit							
Traffic volume (10^3 tons/year)							
Benefits							
Shift of mode benefit							
Traffic volume (10^3 tons/year)							
Benefits							
Shift in origin-destination benefit							
Traffic volume (10^3 tons/year)							
Benefits							
New movement benefit							
Traffic volume (10^3 tons/year)							
Benefits							
TOTAL NAVIGATION BENEFITS							
Other Purpose Benefits							
TOTAL PROJECT BENEFITS							

a/ Comparable tables may be made for all detailed alternatives in the System of Accounts.
b/ Value for last year of decade.
c/ Average annual equivalent.

TABLE 713.731-3 — WATERWAY TRAFFIC AND DELAYS, WITHOUT PROJECT CONDITION

	Current	Base Year	Decade a/ 1	2	3	4	5	AAE b/
Waterway Traffic (10^3 tons/year)								
(By major commodity group)								
Delays (minutes/tow):								
Study site								
Critical constraints								
TOTAL SYSTEM								
Delays ($/ton)								
Study site								
Critical constraints								
TOTAL SYSTEM								

a/ Value for last year of decade.
b/ Average annual equivalent.

TABLE 713.731-4 — WATERWAY TRAFFIC AND DELAYS WITH RECOMMENDED PROJECT a/

	Time Period						
	Base Year	Decade b/ 1	2	3	4	5	AAE c/
Waterway Traffic (10^3 tons/year)							
(By major commodity group)							
Delays (minutes/tow):							
Study site							
Critical constraints							
TOTAL SYSTEM							
Delays ($/ton)							
Study site							
Critical constraints							
TOTAL SYSTEM							

a/ Comparable tables may be made for all detailed alternatives in the System of Accounts.
b/ Value for last year of decade.
c/ Average annual equivalent.

Subpart J—NED Benefit Evaluation Procedures: Transportation (Deep Water Navigation) [Reserved]

Subpart K—NED Benefit Evaluation Procedures: Recreation

§ 713.901 Introduction.

This subpart provides the procedures for evaluating the beneficial and adverse effects of water project recreation on national economic development (NED). The Federal Water Project Recreation Act of 1965 (Pub. L. 89–72) requires that full consideration be given to the opportunities that Federal multiple-purpose and other water projects afford for outdoor recreation and associated fish and wildlife enhancement.

§ 713.903 Conceptual basis.

(a) *General.* (1) Benefits arising from recreation opportunities created by a project are measured in terms of willingness to pay for each increment of supply provided. Willingness to pay includes entry and use fees actually paid for site use plus any unpaid value (surplus) enjoyed by consumers. (Payment for equipment, food, transportation costs, or lodging associated with recreation activity are not to be used as direct estimates of willingness to pay, because these payments are not specifically for site use.) The total willingness to pay is represented as the area under the demand curve between the old and new supply. Because most recreation is publicly provided, it is usually not possible to estimate demand directly from observed price-consumption data. This Manual describes procedures for estimating use and willingness to pay by means of travel behavior, user surveys, and other quantifiable measures.

(2) Many proposed projects subject to NED benefit-cost analysis involve both recreation gains and recreation losses. For example, stream and land-based recreation may be lost because of the project, or recreation may be transferred to the proposed site from a more distant site. Net recreation benefits are the value of the gains minus the value of the losses; benefits may be positive or negative. Since reliable empirical methods for estimating willingness to accept compensation for losses have not been developed, measures of willingness to pay shall be used to value both gains and losses. Evaluation procedures shall be based on sound economic rationale and have an empirical basis that permits an objective and reproducible analysis of benefits and costs.

(b) *Criteria for an acceptable evaluation procedure.* An acceptable evaluation procedure has the following characteristics:

(1) Evaluation is based on an empirical estimate of demand applied to the particular project.

(2) Estimates of demand reflect the socioeconomic characteristics of market area populations, qualitative characteristics of the recreation resources under study, and characteristics of alternative existing recreation opportunities.

(3) Evaluation accounts for the value of losses or gains to existing sites in the study area affected by the project (without-project condition).

(4) Willingness to pay projections over time are based on projected changes in underlying determinants of demand.

(c) *Description of evaluation methods.* The procedures described in this manual and its appendices incorporate three evaluation methods. They are the travel cost method (TCM), contingent valuation method (CVM), and unit day value (UDV) method. The use of any other method must be justified as conforming to the characteristics listed in § 713.903(b) and the selection process described in § 713.903(d).

(1) *Travel cost method.* The basic premise of the travel cost method is that per capita use of a recreation site will decrease as out-of-pocket and time costs of traveling to the site increase, other variables being constant. TCM consists of deriving a demand curve by using the variable costs of travel and the value of time as proxies for price. This method may be applied to a site-specific study or a regional model.

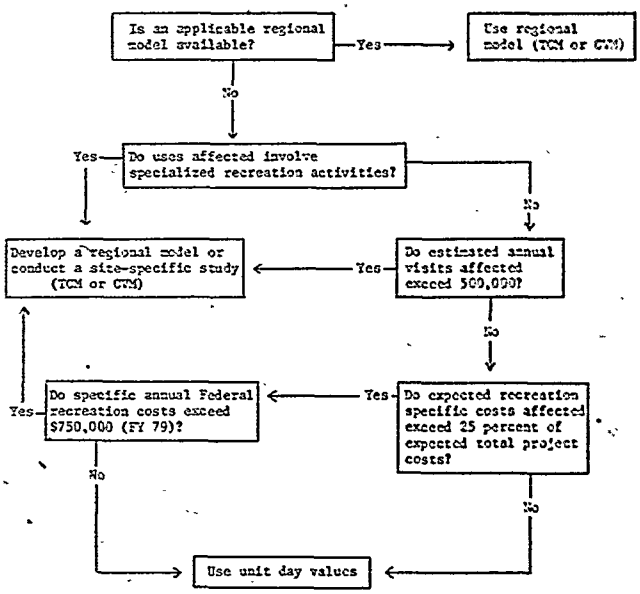
(2) *Contingent valuation method.* The contingent valuation method estimates NED benefits by directly asking individual households their willingness to pay for changes in recreation opportunities at a given site. Individual values may be aggregated by summing willingness to pay for all users in the study area. This method may be applied to a site-specific study or a regional model.

(3) *Unit day value.* The unit day value method relies on expert or informed opinion and judgment to estimate the average willingness to pay of recreation users. By applying a carefully thought-out and adjusted unit day value to estimated use, an approximation is obtained that may be used as an estimate of project recreation benefits.

(d) *Selection of evaluation procedure.* A procedure shall be selected for evaluating each of the categories of project-related use: total or gross expected use of project facilities, including transfers of use from other sites; and existing site use displaced or destroyed by project facilities. The criteria for selecting the appropriate procedure for each use category are set out in Figure 703.903–1. Application of the criteria may result in selection of different procedures for the two categories. The criteria given in Figure 703.903–1 consider several dimensions of project evaluation situations: Three measures of the absolute and relative size of the recreation benefit created, displaced, or transferred by the proposed project, and the nature of the recreation activities affected. If the use category involves more than 500,000 annual visits, either a regional model or site-specific study shall be used to evaluate benefits. If recreation is an important project component relative to other outputs and costs, or if specialized activities (those for which opportunities in general are limited, intensity of use is low, and users' skill,

knowledge, and appreciation is great) are affected, the criteria also require greater accuracy in benefit estimates. If both specialized activities and general recreation are affected by the project, the choice between a regional model and a more limited site-specific study will be at the discretion of the agency and will be based on a balance between the relative importance of the specialized activity, the advantages of the respective methods, and cost considerations.

Figure 703.903-1—Criteria for Selecting Procedures for Evaluating Project-Related Gross Benefits, or Displaced Benefits



294

§ 713.905 Planning setting.

(a) *General.* Changes in recreation use and value resulting from alternative plans shall be determined through analysis of without-project and with-project conditions in the study area over the prescribed period of analysis.

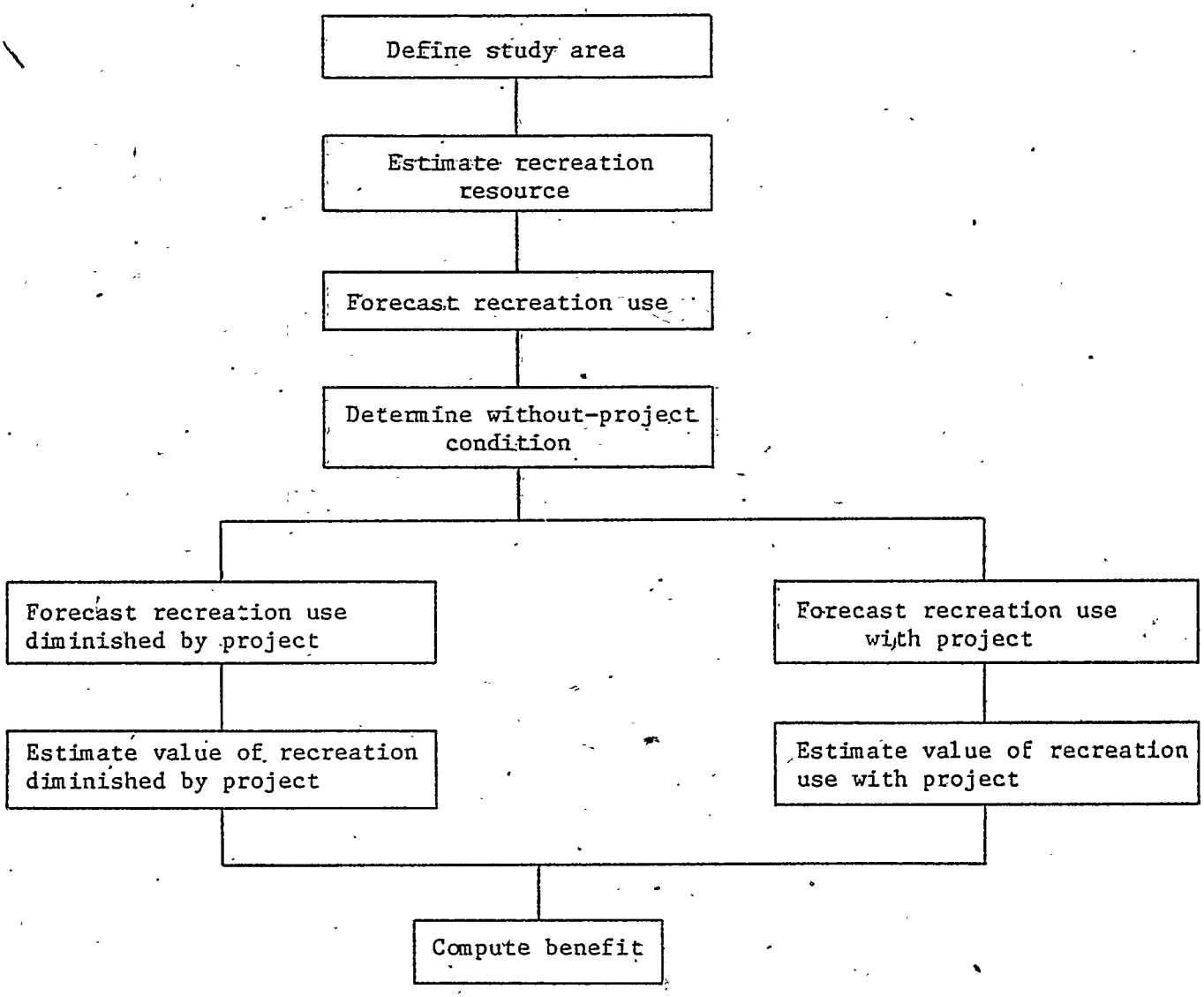
(b) *Without-project condition.* The without-project condition is the pattern of recreation activity expected to prevail over the prescribed period of analysis in the absence of the recreation project or plan. The without-project condition includes existing water and related land recreation resources, and projects and additional recreation resources currently being developed or both authorized and likely to be developed during this period.

(c) *With-project condition.* The with-project condition is the pattern of recreation activity expected to prevail over the prescribed period of analysis with a recreation plan or project. Recreation resources included in the without-project condition provide the basis for the with-project condition. Analysis of the with-project condition requires the consideration of recreation opportunities that will be diminished in quality or quantity because of project development and operation. This will be accomplished in assessing the use of the proposed recreation development.

§ 713.907 Evaluation procedure: General.

The following procedure shall be used to determine the benefit from recreation resource use with a plan or project. (See Figure 713.907–1.) The benefit is based on the gross value of recreation use of the resource for the with-project condition less the gross loss in recreation use caused by the project or plan. The following nine steps are necessary to estimate the recreation benefit. The level of effort expended on each step depends on the nature of the proposed improvement, the state of the art for accurately refining the estimate, and the sensitivity of project formulation and justification to further refinement.

Figure 703.907-1—Flowchart of Recreation Evaluation Procedures.



§ 713.909 Evaluation procedure: Define the study area.

Changes in recreation use and value resulting from alternative plans shall be determined through the analysis of without-project and with-project conditions in the study area over the prescribed period of analysis. The impacts shall relate to the geographical recreation "market" defined by the location of actual and potential user populations. Definition of the study area shall be justified with respect to the particular characteristics and quality of the site and the availability of similar alternative recreation opportunities. Reference to statistical evidence regarding the spatial distribution of trip generation is encouraged.

§ 713.911 Evaluation procedure: Estimate recreation resource.

(a) Estimates of the recreation resource capacity for the study area shall include all sites (see § 713.905(b)) that provide recreation activities similar to those displaced or provided by the project. The recreation resource in study area is the system of water and related land recreation sites that influence the demand for the proposed project which are influenced in turn by the demand at the existing site.

(b) The inventory of water and related land recreation sites in this study area shall include those Federal, State, county, local, and private sites that are in varying stages of development or that are authorized and likely to be developed in the forecast period.

(c) The ability of recreation alternatives to provide different recreation activities shall be identified and an assessment made of the quality of the alternative recreation experiences.

§ 713.913 Evaluation procedure: Forecast potential recreation use in the study area.

Potential use is the expected visitation at prevailing prices unconstrained by supply. Forecast of total recreation use in the study area shall be made for each activity currently provided at the project site and for each activity proposed in the plan or project. The potential use for a specified outdoor water and related land recreation activity will depend on the size and characteristics of the study area population and the availability of the specified recreation activity and other types of recreation in the study area.

(a) The recreation use of the site's resources will depend not only on the attributes of the site and its proximity to population centers, but also on its location in relation to the location of other water and related land resources providing similar or complementary types of recreation within the study area.

(b) Forecasting potential future participation in recreation activities for the study area involves four steps: (1) Collect data on explanatory variables that influence the demand for recreation activities; (2) Relate potential use to these variables by means of some use estimating techniques as described in § 713.917; (3) Forecast values of the explanatory variables over the period of analysis. All projections shall be justified and any simplifying assumptions explained. Reference to statistical evidence on trends is encouraged; (4) Calculate expected use for the study area using the values obtained in Step (3) and the relationships determined in Step (2).

§ 713.915 Evaluation procedure: Determine the without-project condition.

The without-project condition shall be determined for the study area on the basis of a comparison of the available recreation resources as specified in § 713.911 and the recreation resource use as specified in § 713.913 for each activity currently provided at the project site and each activity proposed in the plan or project. The capacities of all sites, including the site without the proposed project, to produce recreation activities shall be compared with the expected demand for each activity, using comparable units of measurement (see § 713.925).

§ 713.917 Evaluation procedure: Forecast recreation use with project.

(a) *General.* The recreation use with the project shall be forecast as a basis for estimating project recreation values. Use over time is projected by calculating the change in use induced by anticipated changes in the variables that determine use. Values employed for projecting future demand shall be justified and any simplifying assumptions explained. For the capacity method described in paragraph (b)(4) of this section, use is constant over time as determined by the capacity constraint. Use projections shall be justified and any simplifying assumptions explained. Reference to statistical projections of recreation participation is encouraged.

(b) *Use estimating techniques.* The use of one or more of the following approaches is authorized for estimating recreation use for the with-project and/or without-project conditions. The use of any other method must be justified as conforming to the characteristics listed in § 713.903(b).

(1) *Regional use estimating models.* Regional use estimating models are statistical models that relate use to the relevant determinants based on data from existing recreation sites in the study area. The use of regional models is encouraged to economize on resources required for site-specific studies. WRC will periodically publish a list of available regional models that may be used to evaluate proposed projects and will indicate the types of project, kinds of recreation activity, and region(s) of the country for which each of the models is appropriate. In the absence of a regional model, use shall be estimated by one of the site-specific methods described below. If a use estimating model has already been developed for the region in which a proposed project is to be located, use estimates shall be obtained by the following procedure:

(i) Delimit the areas of origin for the proposed project (use of counties or parts of counties as origin areas will facilitate gathering of data in subsequent steps).

(ii) Compute measures of the explanatory variables in the use equation for each origin area and for each year for which an estimate is required.

(iii) Calculate use from each area for each year.

(iv) Aggregate use from each area to get estimated annual use.

(2) *Site-specific use estimating models.* The preferred site-specific method of estimating use is a use estimating model (UEM) that relates use per 1,000 of origin population to distance traveled, socioeconomic factors, and characteristics of the site and alternative recreation opportunities. Use estimating models yield regression coefficients estimated from data gathered at a comparable existing site or cross section of existing sites. The coefficients are used to estimate visitation at a proposed site in the same way as described for regional models. Factors that influence demand for recreation, such as characteristics of user populations and availability of alternative opportunities, are explicitly taken into account by variables in the model. Because of the influence of congestion during heavy use periods, it is desirable to distinguish use during summer weekends and holidays. If data limitations do not permit disaggregation, treatment of seasonal use variation shall be justified and any simplifying assumptions explained. Reference to statistical estimates of variations in seasonal use is encouraged.

(3) *Application of information from a similar project.* (i) If a UEM is not available and cannot be estimated because of data limitations, use may be estimated by the similar project method. This method assumes that recreation demand for a proposed project can be estimated from observations of visitation patterns at one or more existing projects with similar resource, operations, and use characteristics. The alternatives under study are compared with water resource projects and recreation resource areas for which trip generation and other statistics are known. It is important to obtain as close a match as possible in type, size, and quality of project; market area demographic and socioeconomic characteristics; existence and location of competing recreation opportunities; and other variables that influence demand.

(ii) The most efficient and technically sound similar project procedure is based on per capita use curves (i.e., regression curves relating per capita rate of use to travel distance) from which use estimates are derived. The similar project method involves the following steps:

(A) Evaluate the characteristics of a proposed project or other area under study.

(B) Select a similar project or area by comparing characteristics of the proposed project with available information for existing sites; include evaluation and comparison of the respective recreation market areas.

(C) Adjust the per capita use curve to account for the differences between the similar project and the proposed project.

(D) Determine the county populations within the market area for the years in question, and derive per capita use rates for each county population by measuring road mile distance from the project to the center of the most populated city within the county (proxy for centroid of county population).

(E) Multiply each county per capita rate by county population, and sum to get total use.

(F) Determine the percentage of total use that the foregoing estimate represents; if 100 percent, use as is, if less, adjust accordingly.

(iii) All assumptions used to adjust or modify per capita use curves must be justified. Reference to statistical estimates of the effect of various use determining variables is encouraged.

(4) *Capacity method of determining use.* If data on use determining variables are unavailable and are not cost effective to obtain, and if it can be demonstrated that sufficient excess demand exists in the market area to accommodate the additional capacity supplied by a proposed project, use may be assumed to be equal to capacity. Since this method provides no information on trip generation, willingness to pay cannot be evaluated by the travel cost method.

§ 713.919 Evaluation procedure: Estimate value of use with the project.

As noted in § 713.903, three alternative methods can be used to estimate recreation benefits:

(a) *Travel cost estimate of willingness to pay based on use estimating model or per capita use curves*—(1) *Conditions under which TCM may not be used.* (i) Use was not estimated by a technique relating trip-generation to distance to the site;

(ii) There is insufficient variation in travel distances to allow parameter estimation (for example, urban sites); or

(iii) The project site is typically only one of several destinations visited on a single trip.

(2) *Construction of a TCM demand curve.* The area under a demand curve based on travel costs to a site approximates the willingness to pay for access to the recreation opportunities there. This estimate involves the following calculations:

(i) Convert round-trip distance from each origin into monetary values by using the most recent U.S. Department of transportation average variable costs in cents per mile to operate an automobile, plus the opportunity cost of leisure time spent in travel and on the site. If gas is rationed by some means other than price, travel costs must be adjusted to account for implicit costs of the rationing program to motorists. Time costs vary according to the alternative uses of time available to visitors and are correlated with income, age, education, occupation, time of year, and day of week. Values assigned to time shall be justified and any simplifying assumptions explained. Reference to statistical estimates of time costs is encouraged.

(ii) Construct a demand curve that relates "prices" to total visits. Given a relationship between travel costs and annual visitation from a use estimating model or a per capita use curve, construct a demand curve by gradually increasing travel cost and calculating the total visitation associated with each increase, until visitation falls to zero for all origins.

(iii) Compute the area under the demand curve plus any user charges or entrance fees. This value measures the annual total willingness to pay for recreation activities available at the site.

(iv) Discussion of travel cost method can be found in Appendix 1 of this subpart. Appendix 1 is provided for background information only. Adherence to material presented in this Appendix is not required, and shall not be considered binding. Development and use of more refined techniques than those presented in this Appendix are encouraged.

(b) *Contingent valuation (survey) estimate of willingness to pay*—(1) *Use of contingent valuation method for daily or annual values.* CVM may obtain either daily or annual estimates of willingness to pay. Daily estimates must be multiplied by annual use obtained previously. Annual estimates do not require use estimation except to demonstrate the net increase in recreation use in the market area.

(2) *Designing and using simulated markets to identify the value of recreational resources as if actual markets existed.* Five steps are involved:

(i) Establish a market to the respondent.

(ii) Permit the respondent to use the market to make trades and establish prices or values reflecting the respondent's individual evaluation of the recreation opportunities bought or sold.

(iii) Treat the values reported by the respondent of individual values for recreation, contingent upon the existence of the market.

(iv) Given willingness to pay bids from an unbiased sample of users in the market area, the socioeconomic characteristics of respondents, distance to the site, and available alternative recreation opportunities for each origin, obtain multiple regression estimates of average household value for the proposed change in recreation opportunities for households in each group.

(v) Multiply this value by the number of households in the group and sum the group values to estimate the aggregate willingness to pay if the average values are annual; multiply this value by estimated annual use if average values are daily.

(3) *Obtaining individual bids from personal interviews or mail surveys.* The preferred format is one in which the respondent is required to answer "yes" or "no" to questions asking if he or she is willing to pay a stated amount of

money to obtain a stated increment in annual recreation opportunities. The value is increased gradually until the highest amount that the respondent is willing to pay is identified. Examples of question formats and further discussion of survey techniques can be found in Appendix 2 of this subpart. Appendix 2 is provided for background information only. Adherence to material presented in this Appendix is not required, and shall not be considered binding. Development and use of more refined techniques than those presented in this Appendix are encouraged.

(4) *Developing regional contingent valuation models.* Regional models may be developed with CVM as well as use estimating models. Because of the expense of survey studies, regional CVM models should be developed, if possible, to economize on site-specific studies. All survey forms are subject to the clearance procedures of the Office of Management and Budget.

(c) *Unit day value approximation of willingness to pay*—(1) *Application of unit day values.* See § 713.903(c)(3).

(2) *Selection of value.* (i) If the UDV method is used for economic evaluations, a specific value shall be selected from the range of values provided in the most current schedule published by the Water Resources Council. The product of the selected value times the difference in estimated annual use over the project life relative to the without-project condition provides the estimate of recreation benefits.

(A) Departure from the published range of unit day values is not permitted. If evidence indicates a value outside the published range, a regional model or site-specific study is required. In every case the selection of any particular value within the published range shall be explained.

(B) To explain the selection of a specific value, a point rating method may be used to reflect quality, relative scarcity, ease of access, and esthetic features. Since the list of criteria and weights assigned may vary with the situation, public involvement should occur in the value determination process. Appropriate use should be made of studies of preferences, user satisfaction, and willingness to pay for different characteristics; particular efforts should be made to use estimates derived elsewhere from applications of the TCM and CVM techniques.

(ii) Choice of unit day value must account for transfers to avoid double counting of benefits. An example of a point rating table that does this and further discussion of unit day value selection can be found in Appendix 3 of this subpart. Appendix 3 is provided for background information only. Adherence to material presented in this Appendix is not required, and shall not be considered binding. Development and use of more refined techniques than those presented in this Appendix are encouraged.

§ 713.921 Evaluation procedure: Forecast recreation use diminished with project.

Using the appropriate method described in § 713.917, forecast the recreation resource uses that would be diminished due to physical displacement expected because of the plan or project.

§ 713.923 Evaluation procedure: Estimate value of recreation use diminished with project.

Using the appropriate methods described in § 713.919 and selected by the appropriate criteria described in § 713.903, estimate the value of the recreation uses that would be diminished by the physical displacement expected to occur as a result of the plan or project. Changes in recreation use of an existing resource and/or project as a result of transfers to the plan or project under study shall be accounted for in determining project net benefits, in accordance with § 713.917.

§ 713.925 Evaluation procedure: Compute net project benefit.

The project net benefit shall be computed as the difference between the gross value of recreation use as estimated in § 713.917 and the value of recreation use diminished as estimated in § 713.923. However, if excess capacity for any activity exists in the study area, benefits are limited to any user cost savings plus the value of any qualitative differences in recreation.

§ 713.927 Report and display procedures.

Tables 713.927–1 and 2 are suggested presentations for all reports that include recreation as a purpose.

Table 713.927-1—ANNUAL RECREATION CAPACITY AND USE

Without Project				With Project		
Capacity	Use	Surplus or Deficit		Capacity	Gross Use	Displaced Use
			Plan 1			
			Plan 2			
			Plan 3			
			Plan N			

Table 713.927-2—ANNUAL RECREATION BENEFITS, RECOMMENDED PLAN

Recreational Activity	Value of Gross Use	Value of Displaced Use	Net Value
Specialized			
General			
		315	

Appendix 1 to Subpart K—Travel Cost Method

Note.—*This appendix is provided for background information only. Adherence to material presented in this appendix is not required, and shall not be considered binding.*

The basic premise of the travel cost method (TCM) is that per capita use of a recreation site will decrease as the out-of-pocket and time costs of traveling from place of origin to the site increase, other things remaining equal. The method consists of deriving a demand curve for a recreation site by using the variable costs of travel and the value of time as proxies for price. Using data collected from users of existing sites, the travel cost method permits development of (1) estimated use of the proposed site; (2) a per capita demand function for recreation at the site; and (3) an estimate of the NED recreation benefits of the site. The travel cost procedure consists of two steps: estimating use, and deriving a demand curve.

(a) *Estimating use.*—(1) *Use estimating models.* (i) The preferred method for estimating use is a use estimating model (UEM) that relates use at a proposed site to distance traveled, socioeconomic factors, and characteristics of the site and alternative recreation opportunities. Use estimating models are based on data gathered at an existing site or on a cross section of existing sites with the resultant statistical coefficients used to estimate use at a proposed site. Factors that influence demand for recreation, such as characteristics of user populations and availability of alternative opportunities, are explicity taken into account by variables in the model.

(ii) Application of an existing UEM to a proposed site involves the following steps: (A) Identify the areas of origin for the proposed project (use of counties or parts of counties as origin areas facilitates gathering of data in subsequent steps); (B) compute measures of the explanatory variables in the use equation for each origin area and for each year an estimate is required; (C) calculate use from each area and for each year; and (D) aggregate use from each area to get estimated annual use.

(2) *Similar project use estimation.* (i) The similar project procedure is based on the concept that recreation demand for a proposed project can be estimated by observing the visitation patterns at one or more existing projects with similar resource, operation and anticipated recreation-use characteristics. The procedure involves the graphic or statistical matching of the recreation site alternatives under study with existing water resource projects and recreation resource areas for which use statistics and other information are known. The objective of the similar project procedure is to obtain as close a match as possible in type, size, and quality of project; market area demographic and socioeconomic characteristics; the existence and location of competing recreation opportunities; and other demand-influencing variables.

(ii) The most efficient and technically sound similar project procedure is based on per capita use curves (i.e., regression curve relating per capita rate of use to travel distance) from which use estimates are derived. Per capita use curves have been estimated for 52 existing reservoirs.[1] An overview of the methodology adapted from Brown et al. is provided below.

[1] Brown, R. et al., *Plan Formation and Evaluation Studies: Recreation, Vol. II, U.S. Army Engineer Institute for Water Research, 1974.*

(iii) Briefly stated, use of the similar project prediction method involves the following steps:

(A) Evaluate the characteristics of a proposed project or area under study.

(B) Select a similar project or area by comparing characteristics of the proposed project with available information for existing sites; include evaluation and comparison of the respective recreation market areas.

(C) Adjust the per capita use curve to account for the differences between the similar project and the proposed project.

(D) Determine the county populations within the market area for the year in question and derive per capita use rates for each county population by measuring road-mile distance from the project to the center of the most populated city within the county (proxy for centroid of county population).

(E) Multiply the contribution from each county per capita rate by county population, and sum to get total use.

(F) Determine the percentage of total use that the foregoing estimate represents. If 100 percent, use as is; if less, adjust accordingly.

(iv) A critical shortcoming of this similar project method is the subjectivity inherent in the manual adjustment of the per capita use curve required to account for demand factors other than travel distance. The reliability of the method can be enhanced through experience, but it cannot be expected to approach the reliability of the more sophisticated statistical models.

(b) *Deriving demand in the travel cost method.* (1) The travel cost method is based on the correspondence between increasing the distance from areas of origin to the site and increasing the cost or price of recreation at the site. The second step of the procedure consists of calculating total use at different incremental distances (prices); it is based directly on use estimator models or per capita use curves. The result is a demand curve for the site being evaluated that relates "prices" to total visits. Distances are converted to dollar values using per mile conversion factors reflecting both time and out-of-pocket travel costs. The area under the demand curve plus any user charges or entrance fees measures the recreation benefits attributable to the site. The procedure is described in detail below.

(2) The estimate of recreation use for a project derived from application of a per capita use curve or UEM model yields an initial point on a resource's demand curve. This point is the quantity of use that would be demanded at a zero price. For example, assume that the appropriate per capita use rates have been estimated as follows:

Origin	Population	Distance	Visits per Capita	Estimated Visitation
A	10,000	10	3	30,000
B	1,000	20	2	2,000
C	3,000	30	1	3,000
			TOTAL	35,000

(3) This estimate of 35,000 yields an initial point on the resource's demand curve. To find sufficient points to determine the entire demand curve, it is necessary to make

small incremental increases in the price of participation and to measure the quantity of use that would be demanded given these chances. This is equivalent to moving the project farther and farther from the potential users, requiring them to pay more and more in travel costs. As the simulated distance increases, use decreases, and for each increment in distance a new use estimate is computed using either the use estimating model or the per capita use curve. The new use estimates are the various quantities of recreation that would be demanded at increasing prices.

(4) For example, assume that an increment of 10 miles in travel distance is used to simulate an increase in cost for the proposed project described above. The use estimate of use would then be:

Origin	Population	Simulated Distance (Actual + 10)	Visits per Capita	Estimated Visitation
A	10,000	20	2	20,000
B	1,000	30	1	1,000
C	3,000	40	0	0
			TOTAL	21,000

(5) This would be a second point on the resource's demand curve; the quantity demanded (21,000 visits) at a price equivalent to the travel cost associated with an increment in distance of 10 miles. (A discussion of the proxy for price used to assign a dollar value to this increment is in paragraph (6)(i) of this appendix.)

(6) Remaining points on the resource demand curve are then estimated by making continued increments in the price (simulated increases in distance) until the anticipated visitation from all areas of origin is zero. In the example above using 10-mile increments, the visitation expected with simulated increases in distance would be:

Estimated Visitation

Origin	Simulated Increase in Mileage			
	0	10 Miles	20 Miles	30 Miles
A	30,000	20,000	10,000	0
B	2,000	1,000	0	0
C	3,000	0	0	0
TOTAL	35,000	21,000	10,000	0

(i) *Proxy for price.* (A) To determine the price at which the various quantities of use are demanded, the incremental increases in distance are simply converted into the costs that would be incurred by the recreation users if they were required to travel the additional mileage. The variable, or out-of-pocket, travel costs are used as the proxy for price, since these are the costs that potential users would be most aware of when making a decision about whether to visit a particular resource area.

(B) The conversion of mileage to price should use the most current published results of studies conducted periodically by the U.S Department of Transportation concerning the average cost of operating an automobile. As an example, average variable cost estimates for 1976 are summarized below (U.S. Department of Transportation, 1977).

Average Variable Costs, in Cents Per Mile, to Operate an Automobile

Variable Cost Category	Automobile Type			
	Standard	Compact	Subcompact	Average
Maintenance, Accessories, Parts, and Tires	4.2	3.4	3.1	3.6
Gasoline and Oil	3.3	2.5	1.8	2.5
Taxes on Gasoline, Oil, and Tires	0.9	0.6	0.5	0.7
TOTAL	8.4	6.5	5.4	6.8

(C) The variable cost reflects the average out-of-pocket cost per mile to operate various types of automobiles. It does not include such fixed costs as depreciation, insurance, and registration, since those costs would generally not affect the potential user's decision to travel the additional mileage for recreation purposes.

(D) Two adjustments are required, however, before this cost can be used as the proxy for price. The first is an adjustment for round-trip mileage. The distance measure used in the per capita use curve or regional estimator is one-way mileage, while the recreation user must incur the variable costs while traveling to and from the project, so the cost per mile is doubled. Since more than one user may arrive in each vehicle, a second adjustment must be made to distribute the travel costs of the trip between the number of users traveling in each vehicle; this is readily accomplished by using the average number of users per vehicle determined from the survey of the existing sites used to develop the per capita use curve or regional estimator.

(E) The variable travel costs are the proxy for price associated with the simulated increase in distance used to derive the resource demand curve. Using the average variable cost for all three types of automobiles (6.8 cents per mile) and using a hypothetical average of 2.7 persons per vehicle, the proxy for price for a simulated increase in distance of 10 miles in the above example would be equal to

$0.50 (6.8 cents per mile times 2 for round-trip mileage, divided by 2.7 persons per vehicle, times 10-mile increment).

(ii) *An adjustment for the opportunity cost of time.* (A) The use of variable travel costs alone in the development of the demand schedules ignores the effects of time on recreation decisions. If time is ignored, the demand schedules are constructed under the hypothesis that increasing distance decreases use only because of higher money cost. However, the additional time required to travel the increased distance would seem to be a deterrent equal to or greater than the out-of-pocket money costs. The exclusion of the time factor introduces a bias into the derived demand schedule, shifting it to the left of the true demand schedule and resulting in an underestimation of the recreation benefits.

(B) The opportunity cost of time is the value of work or leisure activities foregone to travel to and recreate at the site. The opportunity cost for a person whose work time is variable is measured as income foregone during the recreation visit and associated travel. Most people, however, are constrained by a fixed work week and receive paid vacation days. Recreation occurring during periods where no working time is lost incurs only leisure time costs. This value may range between 0 (if the recreationist would not have engaged in any other leisure activity in the absence of the observed recreation) and the wage rate (if the alternative leisure activity was valuable enough to forego earnings, given that opportunity).

(C) Where direct survey data on time costs are not available, published statistics or studies of work-leisure choices and wage rates may be used to justify particular assumed values. One procedure that may be used to accommodate the disutility of time is to assume a known tradeoff between time and money, but no universally accepted formulation of this tradeoff has been established and empirically tested. In one proposed formulation, time is valued as one-third the average wage rate in the county of origin for adults and one-fourth of the adult value (one-twelfth of the wage rate) for children. Any method used to value time should be supported by documenting evidence. Both travel and onsite time costs should be included in the total willingness to pay for access to the site.

(iii) *Benefit computation.* (A) The final computational step in the travel cost approach is to measure the area under the demand curve. This area is equal to the amount users would be willing to pay but do not have to pay for the opportunity to participate in recreation at the resource being evaluated. Any user charges or entrance fees should be added to this value to determine the gross value of the resource associated with the specified management option.

(B) The travel cost approach can be used for evaluating either the with-project or without-project conditions as long as a use estimating model or a per capita use curve is available for estimating use under the specified condition. To evaluate the without-project condition, the estimate is of the value of the recreation that would be lost at a site if a water resource development project were developed. To evaluate a with-project alternative, the estimate is of the value of the new recreation opportunities that would be created. If a use estimator is not available for evaluating either the without-project conditions or one of the with-project conditions, the techniques described in other portions of this manual should be used.

(C) The procedure described above is applicable to any type of activity or groups of activities for which use can be described by a use estimating equation or per capita use curve. The separation of day use from overnight use or sightseeing from other day use activities, for example, is dependent upon the specificity of the survey data and the model formulation.

(c) *Data requirements.* (1) The development of use estimator models as described above requires that data from existing areas be systematically collected. The major requirement is that the data on use and users of a range of facility types and locations span the proposed types and locations for which estimates are to be made. A series of surveys at existing sites can provide such basic data, which would normally include total use, timing and patterns of use, characteristics or users, and users' areas of origin.

(2) Methods of data collection that have proved fairly satisfactory involve a short handout questionnaire or interviews of a small sample of randomly selected users of the different recreation areas. It is important that reliable total visit statistics be obtained for each existing area being investigated. This can usually be done satisfactorily with judicious use of traffic counters at most water-based recreation areas. If totals are collected throughout the season, samples for questionnaires or interviews need be drawn only a few days—on both weekends and weekdays, as patterns are likely to vary greatly between them.

(3) The number of questions asked may also be limited. The major concerns are the origin and purpose of the trip and limited information about the users. A representative range of areas, facilities, and locational proximities should be covered in such surveys. Fully adequate methods are available that are relatively inexpensive, entail a minimum of difficulty at the site and to the user, and yield meaningful results.

Appendix 2 to Subpart K—Contingent Valuation (Survey) Methods

Note.—This appendix is provided for background information only. Adherence to material presented in this appendix is not required, and shall not be considered binding.

(a) *Overview.* (1) Contingent valuation methods (CVMs) obtain estimates of changes in NED benefits by directly asking individuals about their willingness to pay (WTP) for changes in quantity of recreation at a particular site. Individual values may be aggregated by summing the WTPs for all users in the area.

(2) Contingent valuation methods consist of designing and using simulated markets to identify the value of recreation just as actual markets would, if they existed. Three basic steps are involved: (i) The analyst establishes a market to the respondent; (ii) he permits the respondent to "use" the market to make "trades" and establish prices or values that reflect the respondent's individual valuation of the recreation opportunities "bought" or "sold"; and (iii) the analyst treats the values reported by the respondent as individual values for the recreation, contingent upon the existence of the described market. The respondent's bids are used with the data contained in the market description (step i) to estimate the aggregate value of the recreation being studied.

(3) Contingent valuation methods are particularly appropriate for evaluating projects likely to be one of several destinations on a single trip, and projects that will result in a relatively small change in the quality of recreation at a site. Contingent value results may be adversely affected unless questions are carefully designed and pretested to avoid several possible kinds of response bias. Several techniques are available for obtaining the individual bids, which are the basic data for CVM.

(b) *Iterative bidding formats.* (1) Iterative bidding surveys ask the respondent to react to a series of values posed by the enumerator. Following establishment of the market and a complete description of the recreational good, service, or amenity to be valued, the respondent is asked to answer

"yes" or "no" to whether he is willing to pay the stated amount of money to obtain the stated increment in recreation. The enumerator iteratively varies the value posed, until he identifies the highest amount the respondent is willing to pay. This amount is the respondent's "bid" for the specified increment in recreation.

(2) Iterative bidding techniques are most effective in personal interviews. Mail survey formats have also been used in research studies. These typically ask the respondent to answer "yes" or "no" to a small number of specified values in iterative questions and, finally, ask an open-ended question: "Now, write down the maximum amount you will be willing to pay. $———." At the present time, mail survey applications of the iterative bidding technique have not been adequately tested and cannot be recommended.

(3) The recreation facilities to be evaluated will be described in quantity, quality, time, and location dimensions. These descriptions should be hypothetical in the sense that they do not precisely describe features of actual sites or proposed projects, but they should be precise enough to give the respondent adequate information on which to base a valuation. To permit estimation of regional models, quantity, quality, and location dimensions should be varied and the iterative bidding exercise repeated. Verbal descriptions should be precise, and, when practicable, pertinent aspects of the facilities should be displayed or depicted nonverbally (e.g., with photographs, drawings, motion pictures, scale models, etc.).

(4) In most cases, the good to be valued is "the right to use (the recreation facility) for one year." The responses obtained are thus *annual* measures of the individual's willingness to pay for a given increment or decrement in recreation opportunities. Bidding formats that define the good in some other terms (e.g., day of use, trip, etc.) can also be used in some applications as long as appropriate estimates of numbers of days of use and trips are available to permit calculation of annual values.

(5) The institutional rules pertaining to the hypothetical market will be described in sufficient detail so that the respondent knows his rights and the rights of all others in the market. These rules should be realistic and credible, they should place the respondent in a role and encourage market behavior with which he is familiar, and they should be of a kind generally viewed as just, fair, and ethically sound. They should be nonthreatening: In particular, formats that threaten the respondent with a welfare shock that he may view as unfair should be avoided.

(6) The method of payment (called payment vehicles) should be carefully pretested. At the pretest stage, always include a neutral vehicle, e.g., "The money collected will be placed in a trust fund and devoted entirely to providing (the good)."

(7) The respondent should be given price or value information and asked, "Would you buy?" with the clear understanding that "if no, you would go without." The wording "Would you be willing to pay * * *?" should be avoided because some respondents may interpret it as an appeal for voluntary contributions. The question must be worded to suggest the pragmatic "take it, or leave it" atmosphere of the marketplace.

(8) Depending on the "yes" or "no" answer, the price or value is varied iteratively and the question repeated until the respondent's point of indifference between the money and the good is identified. Early iterations may change the price widely until the enumerator senses that he is approaching the respondent's indifference point; then iterative price variations will become finer.

(9) The starting price quote (called "starting point") will vary across respondents. The particular starting point assigned to a given respondent will be chosen randomly.

(10) The payment vehicle should be specified. Payment vehicles that may generate an emotional reaction should be avoided because they might introduce a confusing element into the bid data. Vehicles based on increments in taxes, utility bills, and hunting or fishing license fees may generate such reactions.

(11) General formats for iterative bidding questions are presented below, followed by specific examples. The questions must be specific to the particular measure of value to be elicited from the respondent. WTP formats should always be used; they may be incremental (willingness to pay for an increment in a desired recreation opportunity) or decremental (willingness to pay to avoid a threatened decrement in a desired recreation opportunity). The incremental format has two major advantages: It is the theoretically correct measure and since it offers the respondent the (hypothetical) chance to pay for a desired good, it is unlikely to provoke an offended reaction. The decremental format, which asks the respondent how much he would pay to avoid a change he does not want, may seem unfair or morally offensive to some, and thus may elicit biased or otherwise unreliable value estimates. The incremental version is preferred wherever it is credible.

(12) The incremental version may not be credible if the real world experience is typically one of decrements rather than increments; for example, the question "if a new unspoiled natural recreation environment could be created and the right to use it would cost $———, would you buy?" may be rejected as fantasy by some respondents in a world in which "unspoiled natural recreation environments" are fast disappearing. In such circumstances, it may be necessary to resort to decremental formats. However, since reasonable doubts can be raised, *a priori*, about the efficiency of WTP decremental formats, the following precautions are essential: The format designed must be the most consistent and plausible and least offensive possible; and at least two different formats must be pretested to permit statistical testing for differences in their performance.

(13) General examples of the WTP formats are:

WTP incremental: "If you had the opportunity to obtain [describe an increment in recreation facilities, hypothetical market rules, and payment vehicle], would you pay [starting price]? Yes (pay) ———. Or would you refuse to pay, and do without [the increment]? No (pay) ———." Reiterate with new prices until the highest price eliciting a "yes" response is identified.

WTP decremental (example 1): "[Describe a decrement in recreation facilities] will occur unless [describe market rules and payment vehicle]. Would you pay [starting price] to avoid [the decrement]? Yes (pay) ———. Or would you refuse to pay, and thus permit [the decrement]? No (pay) ———."

WTP decremental (example 2): "[Describe a recreation facility currently available to respondent] is currently available [describe existing market rules, existing payment vehicle, and existing price]. Unless [the existing price] is increased, [describe a decrement] will occur. Would you pay [starting price, which is some increment over the existing price] in order to prevent [the decrement]? Yes (pay) ———. Or would you refuse to pay, and thus permit [the decrement]? No (pay) ———." Reiterate . . . .

(14) Since some respondents may bid only zero amounts to WTP questions, it is important to identify which zero bids represent true zero valuations and which, if any, represent a protest against the market rules or payment vehicles in the bidding format. Check questions should always be used to probe "zero" responses to WTP formats, e.g., "Did you bid zero because (check one):

a. You believe [the stated increment] would be worth nothing to you?

b. You believe [the payment vehicle] is already too high?

c. You believe [the stated increment] would be of value, but you do not think it is fair to expect (the respondent's class of citizen, e.g., hunting license holders, utility customers) to pay for it?

(15) Answers (b) and (c) above are "protest" responses, addressed not to the value of the good but to some element of the question format. Protest bids should be recorded but eliminated from calculations to estimate values. Formats that elicit more than 15 percent protest responses in pretests should be discarded, since a high incidence of protest bids may indicate that some nonzero bids are also distorted.

(c) *Noniterative bidding formats.* (1) Noniterative bidding formats are adaptable to implementation with mail surveys. There are two kinds of noniterative formats: close-ended, which ask respondents to answer "yes" or "no" to a single stated value; and open-ended, which ask the respondent to write down the maximum amount he would be willing to pay. A variant of the open-ended format asks the respondent to either select his maximum WTP from a list of stated discrete values or write down his maximum WTP. Noniterative bidding formats are unlikely to be as reliable as iterative formats.

(2) Noniterative mail survey formats may be used only for analysis of small projects. These formats must, to the extent practicable, have the basic attributes of the personal interview formats described above. Survey instruments should include color photographs and, if appropriate, other nonverbal stimuli.

(3) Open-ended bidding formats should be used with one half of the sample and close-ended formats with the other half. The bids obtained should be analyzed to determine if the format influences the results to a significant degree. Examples of these formats are presented below.

(4) *Open-ended.* "Due to pressures of population growth and economic development, 10 miles of trout stream such as that shown in the accompanying photograph are likely to be converted to other uses (e.g., a reservoir) and thus lost for trout fishing. Assume that the only way to preserve this 10-mile stretch for trout fishing is for trout fishermen to agree to buy an annual pass to fish in that stream segment. The money collected would pay for preservation of the stream section. If the stream segment was —— miles from your home, and you could expect to catch — trout in a typical day's fishing there, what is the *maximum amount* you would pay for the annual fishing pass? Answer: $——— per year.

(5) *Closed-ended.* The information presented in the open-ended format does not change, but the final question reads: "* * * and an annual fishing pass costs $——— (assign dollar amounts randomly to respondents), would you buy one? Answer: Yes —. No —."

(d) *Use estimation with CVMs.* (1) All of the contingent valuation procedures described above generate annual value estimates directly, instead of first generating values per user day and then estimates of expected user days. The "annual value estimation" procedure is superior because it is more reliable, it automatically corrects for the economic influence of existing recreation opportunities, and it is better adapted to estimating activity and existence values where both are important.

(2) Contingent valuation formats can also be designed to estimate values per user day but wording questions in terms of a day's activity. In the case of proposed increments, great care must be taken to determine the respondent's valuation of a day at the proposed site, given the continued availability of existing sites. Estimates of use may be made either by collecting such information as part of the survey or by other approved methods.

(3) To collect use information in the survey, proceed as follows:

(i) For decrements in recreation opportunities, ask (A): how many trips the household made (*1*) last year and (*2*) in a typical year, if last year was unusual for any reason; (B) how many days the trip lasted; and (C) how many household members participated in each trip.

(ii) For increments, ask (A): the same information as for decrements, but about existing recreation sites similar to the proposed increment. Then, if the proposed increment (described with verbal and nonverbal stimuli) were available, (B) how many trips, for how long, and with how many family members for the proposed increment; and (C) how many trips, for how long, and with how many family members in total for both the existing and proposed sites.

(e) *Using contingent valuation methods.* Contingent valuation methods can be used to develop value estimator models or to estimate recreation benefits for a specific proposed project. These two uses are discussed below.

(1) *Value estimator models.* (i) Value estimator models (VEMs) are statistical models of the relationships between the bid and selected characteristics of the site(s) and user populations. A typical model has the form:

$$V_{jk} = F(E_k, D_{jk}, C_k, A_k, S_{jk}, Q_j, I_j)$$

Where

V_{jk} is the value to household k of the specified change in recreation opportunity at site j.

E_k is a vector of social and demographic variables pertaining to household k, typically including income, ethnicity, and education.

D_{jk} is distance from the home of k to site j.

C_k is a measure of the capacity use of the existing stock of recreation facilities similar to those at site j in the market area centered at k's home.

A_k is distance from the home of k to the nearest existing alternative facility offering recreation opportunities similar to those at site j.

S_{jk} is an index of the availability of substitute recreation facilities (e.g., ocean beach for reservoir beach) in the market area centered at k's home.

Q_j is a vector of variables describing the quality of recreation at site j.

I_j is the increment or decrement in recreation at site j specified in the contingent valuation mechanism.

(ii) This method has several desirable characteristics: (A) The V_{jk} are current WTP estimates of value for increments and decrements in recreation opportunity; (B) the V_j are annual values of the existence of the recreation facilities at site j, and thus replace user days and unit day values; (C) the V_{jk} are not arbitrarily set at the same daily value for all users, as are unit day values; (D) the variables in vector Q_j provide a systematic statistical basis for estimating how V_j varies with site quality; (E) the variables C_k, S_{jk}, and A_k provide a systematic statistical basis for adjusting V_j to account for competing and substitute facilities.

(iii) Estimating a value estimator model requires the following steps:

(A) The final bids, after any calculations necessary to convert them to annual or daily household values, serve as the observations of the dependent variable.

(B) The observations of demographic variables serve as observations for the first set of independent variables.

(C) Existing recreation resource inventories and planning data provide the basis for specifying the second set of independent variables, i.e., those describing the existing stock of recreation opportunities. The location of each respondent's home is recorded on the completed survey instrument, and, together with the inventory and planning data for existing resources, permits calculation of individual observations of those variables that relate the existing stock of recreation opportunities to the location of the respondent's home. To complete the task of specifying these

variables, some indices of the availability and quality of the existing recreation stock must be developed. These include indices of facilities and conveniences, and of site quality, especially esthetic quality.

(D) Site-specific descriptors serve as the third and final set of independent observations. These are the data presented to the respondent and upon which he based each of his bids. The estimated esthetic score of each photograph used in the bidding process serves as one of these site-specific descriptors. Other descriptors are the information presented to the respondent on size, distance, etc.

(E) Using the best available econometric techniques, the equation is then estimated. The dependent variable is expressed in terms of annual value per household, eliminating the need for separate estimation of user-days and the mean value of a user-day.

(iv) Using an existing VEM to estimate the recreation benefits of a proposed project involves the following steps:

(A) Determine the market area for the recreation services affected by the project. If the market area is expected to exceed 120 miles, documentation of the reasons is required.

(B) Determine from census data the demographic characteristics of the market area population.

(C) Divide the market area into groups on the basis of demographic variables and distance from the proposed site. (One such group might be "households headed by a male of (ethnic group) with 10 to 12 years of education and household income between $12,001 and $15,000 annually, living 51 to 75 miles from the site.")

(D) Calculate separately for each market subarea the values of the variables describing existing recreation facilities obtained from inventory and planning data.

(E) Obtain from project planning data the values of the variables describing project-specific attributes.

(F) Estimate, by using the specified data and the fitted model, the household value for the proposed increment or decrement in recreation opportunities for a typical household in each group.

(G) Multiply this value by the number of households in the group, and sum the group values to get the aggregate benefit estimate.

(2) *Applying CVM to a specific proposed project.* In some circumstances, CVMs may be used to estimate the recreation benefits of a specific proposed project. Great care must be taken in the design of the survey instruments and editing of the data, however, because some respondents may try to influence the outcome of the analysis by their bidding responses. The survey design and sampling requirements of such a study are discussed under "Data requirements" below.

(3) *Data requirements*—(i) *Survey design.* For contingent valuation exercises, the survey instrument must contain two major sections: One for bidding formats and one for collecting appropriate demographic data; a brief final section should elicit respondent feedback. Since there is no reason to prohibit the use of additional sections, other data useful for recreation planning may be gathered during the interview. Additional sections may include recreation activities, attitudes, recreation preferences, and projected use of proposed new recreation facilities. To minimize inconvenience to respondents and avoid respondent fatigue and lapses of concentration, the complete interview should typically not require more than 30 minutes.

(ii) *Pretesting.* (A) The basic survey instrument, including bidding formats and questions to collect additional data (e.g., demographic data, respondent's history of use of recreation facilities, etc.), must be pretested, using a sample of at least 30 respondents in order to generate a data set permitting appropriate statistical tests. The pretest sample should not be drawn from the same population as the actual study sample. Sampling procedures for the pretest are not especially crucial, but an attempt should be made to obtain a demographic cross section of users. A variety of bidding formats, hypothetical market designs, and payment vehicles should be pretested.

(B) Nonresponses and protest responses should be tabulated for all bidding formats. Those formats eliciting large proportions (i.e., more than 15 percent) of such responses should be eliminated, or redesigned and retested. Statistical tests for information bias, vehicle bias, and starting point bias should be performed, and formats that generate any of these biases should be eliminated, or redesigned and retested.

(iii) *Sampling.* (A) Following pretesting and, if necessary, redesign, a sampling frame for the main survey should be drawn. The household is the basic sampling unit. For estimation of activity values, samples may be drawn from reliable lists of participants (e.g., fishing license holders), if available. For activity values where no such lists exist, and for existence values, the sample must be drawn from the regional population of households.

(b) Sampling procedures should have the performance characteristics of random sampling. To save travel time in a personal interview survey, randomized, cluster sampling is permissible, provided that no cluster is larger than one-thirtieth of the sample size. Sample size should be no less than 200 households. The respondent selected to answer on behalf of the household should preferably be the head-of-household or spouse of the head. In the absence of the head and spouse, another adult member of the household may be interviewed, provided he or she has assumed a responsible life-role (e.g., is a parent or is financially self-supporting).

(C) Random sampling methods are also used for mail surveys. At least two followup mailings are necessary to reduce nonresponse. In addition, a random telephone survey of 10 percent of the nonresponses after the second followup mailing is necessary. The results of the telephone survey must be analyzed separately in order to permit testing for nonresponse bias.

(iv) *Specific proposed project requirements.* (A) Procedures for valuing recreation benefits using project-specific iterative bidding formats are similar, in some respects, to the procedures described above. Aspects that are different are highlighted in the following:

(B) The population to be sampled is that of the market area(s) for the various categories of recreation opportunities that would be beneficially or adversely affected. Survey instruments follow the basic format described above, with the major exception that the bidding formats provide site-specific information on the proposed project itself. Photographs and other stimuli should be focused on the without-project condition for adverse effects, and on the with-project condition for beneficial effects. In the latter case, it may be necessary to use photographs of a completed similar project.

(C) Individual bid data must be used as observations to test carefully for biases, including vehicle bias, information bias, starting point bias, and strategic bias, using established statistical testing procedures. Evidence of bias should (*1*) lead to elimination of formats producing bias at the pretest stage, and (*2*) lead to reporting of any bias remaining after all instrument redesign possibilities have been exhausted. Final bids are aggregated across the sample and then projected to the market area population. These "population aggregate bids" are then used as estimates of the total value, positive or negative, of the effects, beneficial or adverse, of the proposed increments or decrements in recreation

opportunities. Net project recreation effects are calculated as in (e) (1) above.

Appendix 3 to Subpart K—Unit Day Value Method

Note.—This appendix is provided for background information only. Adherence to material presented in this appendix is not required, and shall not be considered binding.

The unit day value (UDV) method for estimating recreation benefits relies on expert or informed opinion and judgment to approximate the average willingness to pay of users of Federal or Federally assisted recreation resources. If an agency can demonstrate that more reliable TCM or CVM estimates are either not feasible or not justified for the particular project under study, as discussed under applicability criteria, the UDV method may be used; by applying a carefully thought-out and adjusted unit day value to estimated use, an approximation is obtained that may be used as an estimate of project recreation benefits.

(a) *Implementation.* (1) When the UDV method is used for economic evaluations, planners will select a specific value from the range of values provided in the most current published schedule. Application of the selected value to estimated annual use over the project life, in the context of the with- and without-project framework of analysis, provides the estimate of recreation benefits.

(2) Two categories of outdoor recreation days, general and specialized, may be differentiated for evaluation purposes. "General" refers to a recreation day involving primarily those activities that are attractive to the majority of outdoor users and that generally require the development and maintenance of convenient access and adequate facilities. "Specialized" refers to a recreation day involving those activities for which opportunities in general are limited, intensity of use is low, and a high degree of skill, knowledge, and appreciation of the activity by the user may often be involved.

(3) Estimates of total recreation days of use for both categories, where applicable, will be developed. The general category comprises the great majority of all recreation activities associated with water projects, including swimming, picnicking, boating, and most warm water fishing. Activities less often associated with water projects, such as big game hunting and salmon fishing, are included in the specialized category. A separate range of values is provided in a conversion table (Table 1) for each category and for fishing and hunting to facilitate adoption of a point system in determining the applicable unit values for each individual project under consideration.

Table K-3 1 - Conversion of Points to Dollar Values

ACTIVITY CATEGORIES	POINT VALUES										
	0	10	20	30	40	50	60	70	80	90	100
General Recreation (Points from Table K-3 2)	1.07	1.25	1.44	1.68	1.93	2.30	2.48	2.67	2.85	3.04	3.22
General Fishing and Hunting (Points from Table K-3 2)	1.57	1.74	1.90	2.07	2.28	2.51	2.73	2.94	3.06	3.17	3.20
Specialized Fishing and Hunting (Points from Table K-3 3)	7.50	7.69	7.88	8.08	8.27	9.03	9.80	10.57	11.34	12.10	12.87
Specialized Recreation Other than Fishing and Hunting (Points from Table K-3 3)	4.29	4.65	5.00	5.36	5.72	6.44	7.15	8.58	10.01	11.44	12.87

NOTE: Unit day recreation values may not exceed the values provided by this table.

(4) When employing this method to determine recreation benefits, departure from the range of values provided is not permitted. If evidence indicates a value outside the published range, the TCM or CVM method is required.

(5) In every case, planners are expected to explain the selection of any particular value. To assist in explaining a specific value, a point rating method may be used. The method illustrated here contains five specific criteria and associated measurement standards designed to reflect quality, relative scarcity, ease of access, and esthetic features. Since the list of criteria and weights assigned may vary with the situation, public involvement should occur in the value determination process. Planners in the various agencies are also expected to make appropriate use of studies of preferences, user satisfaction, and willingness to pay for different characteristics. In using these studies, particular efforts should be made to use estimates derived elsewhere from applications of the TCM and CVM techniques, to support the value selected.

(i) *General recreation (Table 2).* Activities in this category are those associated with relatively intensive development of access and facilities as compared to the specialized recreation category. Generally, progressively higher physical standards for each unit of carrying capacity is involved in selecting higher unit values, and these may be accompanied by larger related nonproject costs.

(ii) *Specialized recreation (Table 3).* (A) This category includes those activities whose values are generally lowered, if not actually excluded, by the type of development that enhances activities in the general recreation category. Thus, extensive or low density use and development constitutes the higher end of this range of values (e.g., big game hunting and wilderness pack trips). Also included in the upper end of the range are relatively unique experiences such as inland and marine fishing for salmon and steelhead, white water boating and canoeing, and long-range boat cruises in areas of outstanding scenic value. Examples of activities to which values at the lower end of the range would be assigned include upland bird hunting and specialized nature photography.

Table K-3 2 - Guidelines for Assigning Points for General Recreation

Criteria	Judgment Factors				
a) Recreation Experience	Two general activities 3/	Several general activities	Several general activities; one high quality value activity 4/	Several general activities; more than one high quality high activity	Numerous hig quality valu activities; some general activities
Total Points: 30					
Point Value:	0-4	5-10	11-16	17-23	24-30
b) Availability of Opportunity 7/	Several within 1 hr. travel time; a few within 30 min. travel time	Several within 1 hr. travel time; none within 30 min. travel time	One or two within 1 hr. travel time; none within 45 min. travel time	None within 1 hr. travel time	None within 2 hr. travel time
Total Points: 18					
Point Value:	0-3	4-6	7-10	11-14	15-18
c) Carrying Capacity 1/	Minimum facility development for public health and safety	Basic facilities to conduct activity(ies)	Adequate facilities to conduct without deterioration of the resource or activity experience	Optimum facilities to conduct activity at site potential	Ultimate facilities t achieve intent of selected alternative
Total Points: 14					
Point Value:	0-2	3-5	6-8	9-11	12-14
d) Accessibility	Limited access by any means to site or within site	Fair access poor quality roads to site; limited access within site	Fair access, fair road to site; fair access, good roads within site	Good access, good roads to site; fair access, good roads within site	Good access, high standarc road to site: good access within site
Total Points: 18					
Point Value:	0-3	4-6	7-10	11-14	15-18
e) Environmental Quality	Low esthetic factors 5/ exist that significantly lower quality 6/	Average esthetic quality; factors exist that lower quality to minor degree	Above average esthetic quality; any limiting factors can be reasonably rectified	High esthetic quality; no factors exist that lower quality	Outstanding esthetic quality; no factors exist that lower quality
Total Points: 20					
Point Value:	0-2	3-6	7-10	11-15	16-20

1/ Value should be adjusted for overuse.
2/ Value for water-oriented activities should be adjusted if significant seasonal water level changes occur.
3/ General activities include those that are common to the region and that are usually of normal quality. This includes picnicking, camping, hiking, riding, cycling, and fishing and hunting of normal quality.
4/ High quality value activities include those that are not common to the region and/or Nation and that are usually of high quality.
5/ Major esthetic qualities to be considered include geology and topography, water, and vegetation.
6/ Factors to be considered in lowering quality include air and water pollution, pests, poor climate, and unsightly adjacent areas.
7/ Likelihood of success at fishing and hunting.
8/ Intensity of use for activity.

Table K-3 3 - Guidelines for Assigning Points for Specialized Recreation

Criteria	Judgment Factors				
a) Recreation Experience 8/	Heavy use or frequent crowding or other interference with use	Moderate use, other users evident and likely to interfere with use	Moderate use, some evidence of other users and occasional interference with use due to crowding	Usually little evidence of other users, rarely if ever crowded	Very low evidence of other users, never crowded
Total Points: 30					
Point Value:	0-4	5-10	11-16	17-23	24-30
b) Availability of Opportunity 7/	Several within 1 hr. travel time; a few within 30 min. travel time	Several within 1 hr. travel time; none within 30 min. travel time	One or two within 1 hr. travel time; none within 45 min. travel time	None within 1 hr. travel time	None within 2 hr. travel time
Total Points: 18					
Point Value:	0-3	4-6	7-10	11-14	15-18
c) Carrying Capacity 1/	Minimum facility development for public health and safety	Basic facilities to conduct activity(ies)	Adequate facilities to conduct without deterioration of the resource or activity experience	Optimum facilities to conduct activity at site potential	Ultimate facilities to achieve intent of selected alternative
Total Points: 14					
Point Value:	0-2	3-5	6-8	9-11	12-14
d) Accessibility	Limited access by any means to site or within site	Fair access, poor quality roads to site; limited access within site	Fair access, fair road to site, fair access, good roads within site	Good access, good roads to site; fair access, good roads within site	Good access, high standard road to site; good access within site
Total Points: 18					
Point Value:	0-3	4-6	7-10	11-14	15-18
e) Environmental Quality	Low esthetic factors 5/ exist that significantly lower quality 6/	Average esthetic quality; factors exist that lower quality to minor degree	Above average esthetic quality; any limiting factors can be reasonably rectified	High esthetic quality; no factors exist that lower quality	Outstanding esthetic quality; no factors exist that lower quality
Total Points: 20					
Point Value:	0-2	3-6	7-10	11-15	16-20

1/ Value should be adjusted for overuse.
2/ Value for water-oriented activities should be adjusted if significant seasonal water level changes occur.
3/ General activities include those that are common to the region and that are usually of normal quality. This includes picnicking, camping, hiking, riding, cycling, and fishing and hunting of normal quality.
4/ High quality value activities include those that are not common to the region and/or Nation and that are usually of high quality.
5/ Major esthetic qualities to be considered include geology and topography, water, and vegetation.
6/ Factors to be considered in lowering quality include air and water pollution, pests, poor climate, and unsightly adjacent areas.
7/ Likelihood of success at fishing and hunting.
8/ Intensity of use for activity.

(B) The unit day values to be used for both the general and specialized recreation categories should be further adjusted to reflect additional quality considerations expected to prevail at various project sites in various regions of the Nation, and weighted according to their importance to users. For example, a reservoir that is expected to carry a relatively heavy load of suspended silt or is expected to be used beyond optimum capacity would be less desirable, and therefore of lower unit value, than one that will have clear water and be less crowded.

(C) Hunting and fishing may be treated either as general recreation (Table 2) or specialized recreation (Table 3) depending upon whether it is associated with developed areas or back country areas, respectively. In either case, the recreation experience (criterion "a" in the tables) will be given points according to the additional consideration of the chances of success; the midpoint of the value range is associated with the region's average catch or bag. Other criteria may be modified if appropriately based on available evidence about the preferences and willingness to pay of hunters and fishermen for different recreation quality factors.

(D) The degree to which alternative nonproject opportunities are available to users is also considered in the assignment of values. Higher values should be assigned if the population to be served does not have existing water-oriented recreation opportunities. If water-oriented recreation opportunities are relatively abundant, as compared to other outdoor recreation opportunities, lower unit values should be assigned, even if a large number of visitations are expected at the proposed development.

(E) The choice of a unit day value must account for transfers to avoid double counting of benefits. The net value of a transfer of use from one site to another is the difference in unit day values for recreation at the two sites. If recreation activities at the two sites are comparable, travel cost savings are the only NED benefits associated with the transfer. Use at the site must therefore be disaggregated according to the proportion of total estimated use that is activity that would not have occurred without the project and the proportion of total use that represents transfers from existing sites. The respective types of uses must then be assigned different daily values as indicated.

(iii) *Establishing specific values within each range.* Unit values selected are to be considered net of all associated costs of both the users and others in using or providing these resources and related services. Agencies will be encouraged, through review procedures, demonstration projects, and educational workshops, to adopt the TCM and CVM techniques for project evaluations that would otherwise have used UDVs. As agencies gradually adopt CVM and TCM and develop a more comprehensive set of regional models, reliance on the UDV can be expected to diminish.

(b) *Estimating use in the UDV method.* (1) Using the ranges of values requires first the study of estimates of annual use foregone and expected at recreation sites. Use can be estimated by a use estimating equation or per capita use curve as discussed above, but these means are available, the second step of the travel cost methods should generally be used instead of UDVs to derive the benefit.

(2) The capacity method is an alternative method of estimating use, but it has severe limitations. The capacity procedure involves the estimation of annual recreation use under without-project and with-project conditions through the determination of resource or facility capacities (taking into consideration instantaneous rates of use, turnover rates, and weekly and seasonal patterns of use). Seasonal use patterns are dependent on climate and culture and probably account for the greatest variation in use estimates derived through this method. In general, annual use of outdoor recreation areas, particularly in rural locations and in areas with pronounced seasonal variation, is usually about 50 times the design load, which is the number of visitors to a recreation area or site on an average summer Sunday. In very inaccessible areas and in those known for more restricted seasonal use, the multiplier would be less; in urban settings or in areas with less pronounced seasonal use patterns, the multiplier would be greater. In any case, the actual estimation of use involves an analytical procedure using instantaneous capacities, daily turnover rates, and weekly and seasonal use patterns as specific data inputs.

(3) Because the capacity method does not involve the estimation of site-specific demand, its use is valid only when it has been otherwise determined that sufficient demand exists in the market area of project alternatives to accommodate the calculated capacity. Its greatest potential is therefore in urban settings where sufficient demand obviously exists. Additionally, its use should be limited to small projects with (i) a facility orientation (as opposed to a resource attraction), and (ii) restricted market areas that would tend to make the use of alternative use estimating procedures less useful or efficient.

(c) *Calculating values.* The estimates of annual use are combined with the selected unit day values to get an estimate of annual recreation benefits. The value assigned to each activity or category of activities is multiplied by the number of recreation days estimated for that activity. The products are then summed to obtain the estimate of the total value of an alternative. Recreation days to be gained and lost or foregone as a result of a particular alternative are listed and valuated separately, not merely shown as net recreation days. Transfers of recreational users to or from existing sites in the region must be calculated, and the net regional gain or loss used in the final benefit estimated. Adequate information must appear in the discussion of the use estimation and valuation procedure or elsewhere in the report concerning the alternative being considered, so that the reader can derive a similar value for each activity.

Subpart L—NED Benefit Evaluation Procedures: Commercial Fishing and Trapping [Reserved]

Subpart M—NED Benefit Evaluation Procedures: Increases in Output Resulting From External Economies

§ 713.1101 Introduction.

This subpart provides a definition of external economies and procedural guidance for the evaluation of external economies directly attributable to water resources plans and projects. External economies are a category of a much broader and more pervasive class of effects termed external effects or externalities that impinge on the national economy and the environment. The external economies to be included in the NED benefit evaluation are the uncompensated, incidental, and unintended effects of a project that increase economic efficiency by increasing the output of intermediate final consumer goods over and above the direct outputs accounted for in the plan or project. In this sense, the pertinent external economies are "external" to the plan or project; they are additional to all other effects, which are "internal" to the scope, function, and area of the plan or project.

§ 713.1103 Conceptual basis.

(a) The external effects classified as external economies and diseconomies have wide application in the competitive market system, emanating as they do from the impacts that the production activities of firms and industries have on the

gains or costs of other firms and industries. These effects also operate between individuals and groups and between industries and individuals by affecting an individual's costs or satisfaction.

(b) External economies, termed technical or technological external economies because they reflect an improvement in a firm's ability to produce physical output from given inputs, must be distinguished from pecuniary external economies, which do not represent NED benefits.

(1) *Technological external economies* are project-caused improvements in efficiency resulting from uncompensated shifts in the technical production function of a firm or from the relaxation of constraints, which allows the firm to reduce its costs of production. These economies also apply to uncompensated shifts in the utility function of an individual. Technological external economies exist only when uncompensated gains accrue indirectly to firms and/or individuals as a result of the direct output of the project.

(2) *Pecuniary external economies,* on the other hand, do not impinge on national economic efficiency. These project-caused consequences do not affect the amount of output produced by a firm's physical inputs or, in the case of a consumer, the satisfaction obtained from a given resource. Consequences such as these emanate from shifts in prices for inputs and outputs as some firms and industries expand and others contract in response to the direct outputs of water resources plans and projects. And while these effects may appear as NED costs and NED benefits to firms, industries, persons, and communities, they are actually transfers between economic sectors and persons inherent in the process of redistributing national product. The distinguishing characteristic of these external, incidental effects on consumer satisfaction and business profit is that they are conveyed indirectly through prices. Pecuniary externalities result if implementation of the plan leads to decreases in the price of a product itself; increases in the price of a complementary good; decreases in the price of a substitute; decreases in the price of a joint product; or increases in the price of a resource used in production. All these effects are occasioned by shifts in prices and seldom represent changes in resource use efficiency; they are, rather, income transfers with distributional but not output-increasing impacts. Pecuniary external economies are not to be counted as NED benefits.

§ 713.1105 Planning setting.

Standard planning procedures consistent with the Principles and Standards shall be used. These procedures require comparison of the with-project condition to the without-project condition. In considering external economies, the agency directing the planning must define the boundary of influence on direct users of the project's or plan's output. Economic efficiency gains to firms in production and satisfaction gains to consumers other than those identified as the primary beneficiaries of direct project output shall be valued and measured as external economies benefits.

(a) *Without-project condition.* Future conditions expected to exist without implementation of the plan shall be forecast. Two principal projections of future conditions are required. The first is projection of the output and production levels likely to be achieved in the absence of a plan by those firms and industries designated direct users. The second is a separate forecast of the external economies likely to result from the future production activities of these firms and industries. Identification of possible future effects on the physical production possibilities of firms and industries not identified as direct users shall be guided by consideration of any major external economies currently existing for them. An assessment shall be made as to whether existing external economies will increase or decrease in intensity and number in the future.

(b) *With-project condition.* (1) Future conditions expected to exist when the plan is fully implemented shall be forecast. First, the boundary of influence of the plan or project shall be delineated; and shall be confined to the operations of direct beneficiaries.

(2) The second step is to ascertain whether the output of the direct users will be used as input to firms and industries that are outside of the direct users' immediate operating zone as delineated in the plan.

(3) The next task is to assess whether the output of the direct users will contribute to the production efficiency of the firms and industries previously identified as external to the plan's scope.

(4) The external economies identified as incidental consequences of the plan shall then be contrasted with the external economies that will exist in the absence of the plan. The differences between the two assessments represent the net external economies attributable to the plan.

§ 713.1107 Evaluation procedure: General.

(a) External economies exist for firms only if the related resources (1) are immobile and unemployed or underemployed, or (2) will utilize or benefit from project output to increase their productivity or output. If these unintended and uncompensated consequences can be priced in the market, their total values may be computed and added to the other NED benefits. Their values shall be added if they will affect production possibilities for a potential enterprise if and when the enterprise materializes. Technological external economies can therefore accrue to potential new firms and individuals.

(b) For the impacted firms, major technological external economies can be computed as a reduced average cost per unit of output or as an increase in value added. If these effects are minor and tenuous to trace, no evaluation should be made but these likely effects should be discussed in the report. In most cases, if a technological external economy resulting from project action can be identified, the effects should be measured. The principle of evaluation for calculating external technical economies is marginal benefits less the marginal costs of the affected firms.

(c) Improvement in production possibilities of the private market sector as well as the nonmarket sector recreation are technological external economies. The following are examples of technological external economies. A large water storage project is to be located upstream on a main tributary of a river system that enters the ocean by a delta through an estuary. The direct output of the project is flood control for communities residing on floodplains along upper valleys of the tributary. One effect of regulating flow—reducing winter high and summer low flows—is to increase the recreational potential of land and water in the lower reaches of the river system. A cooling of water temperatures and increased flow during summer increases fish and wildlife productivity; riparian habitats along lower water courses expand and increase in density; salt water marshland receives less saline water in summer. As a result, there is an increase in dove and pheasant hunting as these wildlife populations increase. Opportunities for sport-angling also increase as game fish productivity rises. Shrimp production benefits from the change to less saline water in the marshland, and commercial shrimp harvest increases, resulting in greater output at lower unit total cost to shrimp fishermen. An incidental effect is the improvement in water quality to downstream users; turbidity is reduced in winter and water hardness is reduced in summer. Treatment costs are lower

for firms and households. If the impoundment has the effect of causing the recharge of groundwater basins in the vicinity of the dam site or along the stream course, such an incidental, unintended effect is a technological external economy. Pumping costs could be reduced.

§ 713.1109 Evaluation procedure: Problems in application.

The major problems encountered in the estimation of NED external economy benefits are the identification of the firms, industries, and consumers who will be subject to these unintended effects caused by projects and plans; the distinction between technological external economies and pecuniary economies; and the measurement of the benefits resulting from technical external economies. It must be emphasized that it is not practical or economic to trace out all external technological effects.

(a) Determining the "context" or system within which the major impacts might be experienced is a useful first step in identifying likely technological economies worth measuring. The immediate watershed or the subsystem of a river system would constitute a relevant context. The delineation of geographical and economic market regions in which impacts are likely to be felt cannot usually encompass the whole regional economy in a highly industrialized area. Nevertheless, it is important to avoid delineating too small an area in which to search for possible effects.

(b) Another procedure for identifying likely impacts is tracing the hydrologic changes that will occur as a result of the project. For example, flows downstream and in other parts of a river system can be changed in quantities and qualities; the water's chemical and physical characteristics—oxygenation, turbidity, temperature, etc.—can undergo change that may impact on fish and wildlife resources and on the production functions of firms and the satisfaction of consumers.

(c) Technological external economies must be distinguished from pecuniary economies. Transfers between economic sectors occasioned by price changes for inputs and outputs are pecuniary in nature and, while they may lead to technological economies, usually do not contribute to efficiency and therefore are not counted in the NED benefit evaluation.

§ 713.1111 Evaluation procedure: Data sources.

An assessment of the current situation and the economic efficiency of potentially affected firms and individuals usually entails the collection from primary sources of data on cost, production function, and firm capacity. Studies of industrial structure and the interdependence of firms in the supply of various inputs and the use of outputs can provide valuable supplemental information.

§ 713.1113 Evaluation procedure: Risk and uncertainty.

Benefits from external economies are unique to each project design and its location, so the historical record of data is of limited usefulness. The risk and uncertainty attached to the hypothesized outcomes can be reduced by clearly revealing areas of ignorance. A physical description of externalities, together with assessment of their relative (major or minor) significance, is an integral part of such a procedure. Nevertheless, these estimates are high on risk and relative uncertainty, based as they are on the total mix of project outputs and the effect these mixes would have on stimulating increased productivity.

§ 713.1115 Report and display procedures.

External technical economies shall be identified by component and added onto the benefits of the benefit-cost analysis. The external economies shall be clearly identified, and the methodology used to value the benefits shall be presented in the report. The report shall provide a tabular breakdown of all external technical economies claimed for the project. The formats shown in Tables 713.1115–1 and 2 are suggested presentations.

Table 713.1115-1--ANNUAL EQUIVALENT VALUE

Component	Direct Benefits	External Technological Economies	Total Benefits
Municipal & Industrial Water Supply			
Agricultural Production			
Urban Flood Control			
Transportation (Inland Navigation)			
Power (Hydropower)			
Recreation			
TOTALS			

Table 713.1115-2--ANNUAL EQUIVALENT VALUE, NED ACCOUNT

Benefits	
Municipal & Industrial Water Supply	_____
Agricultural Production	_____
Urban Flood Control	_____
Transportation (Inland Navigation)	_____
Power (Hydropower)	_____
Recreation	_____
External Economies a/	_____
TOTAL NED BENEFITS	

a/ The total number of external economies for each plan shall be displayed in the NED account as a line entry, External Economies, under Benefits.

Subpart N—NED Benefit Evaluation Procedures: Unemployed or Underemployed Labor Resources

§ 713.1201 Introduction.

The Principles and Standards permit the economic effects of the direct use of otherwise unemployed or underemployed labor resources during project construction or installation to be included as a national economic development (NED) benefit. This subpart provides procedural guidance in the evaluation of NED benefits resulting from increased employment of these labor resources. The procedures described in § 713.1207 shall be used to calculate these benefits for all structural and nonstructural alternatives considered during the planning process.

§ 713.1203 Conceptual basis.

(a) The social cost of a project is less than the market contract cost in situations in which otherwise unemployed or underemployed labor resources are used in project construction. The opportunity cost of employing otherwise unemployed workers in project construction or installation is equal to the value of leisure time foregone by such workers. Because society does not give up any alternative production of goods and services and because it would be difficult to measure the value of leisure time foregone, a zero opportunity cost will be used in these procedures. The opportunity cost of employing otherwise underemployed workers equals their without-project earnings, which, by virtue of their underemployment, are less than their market cost. The most straightforward way to reflect the effects of employing unemployed or underemployed labor resources would be to reduce by the appropriate amount the project construction costs in the NED account, but this method would cause accounting difficulties in appropriations, cost allocation, and cost sharing. Therefore, these effects are treated as a project benefit in the NED account.

(b) Conceptually, any employment, anywhere in the Nation, of otherwise unemployed or underemployed resources that results from a project represents a valid NED benefit. However, primarily because of identification and measurement problems, and because unemployment is regarded as a temporary phenomenon, the Principles and Standards specifically permit only those labor resources employed onsite in the construction or installation of a project or a nonstructural measure. The Principles and Standards state that the WRC will designate planning regions that have unemployed or underemployed labor resources. Areas to be used in the analysis are those areas with "substantial and persistent unemployment," as designated by the Economic Development Administration (EDA), U.S. Department of Commerce, as eligible under Subsection 1 of Title IV of the Public Works and Economic Development Act of 1965 (Pub. L. 89-136, as amended)[1] and those Indian reservations that meet the criteria for "substantial and persistent unemployment" under Subsection 1. Only the portion of project construction activity located in a designated area is eligible for employment benefits as calculated in accord with the procedures specified below. Any benefit claimed must be clearly justifiable both in terms of availability of amounts of unemployed and/or underemployed labor and their skills and occupations.

[1] Economic Development Administration, U.S. Department of Commerce. *Qualified Area Under the Public Works and Economic Development Act of 1965, as Amended.* Periodic publication.

§ 713.1205 Planning setting.

(a) *Without-project condition.* The without-project condition is the most likely condition expected to exist in the future in the absence of a project, including known changes in law or public policy. The evaluation of NED benefits associated with the use of unemployed and underemployed labor resources is linked to the number by which these resources would be reduced over time without a project.

(b) *With-project condition.* The with-project condition is the most likely condition expected to exist in the future with a given project alternative. There is a different with-project condition and thus a different employment benefit for each alternative plan. Currently, the employment benefit cannot be estimated directly on the basis of a comparison of the size of the pools of unemployed and underemployed labor with and without a project. Instead, the benefit procedure implicitly projects the percentage of project labor hires estimated to come from the unemployed labor pool.

§ 713.1207 Evaluation procedure.

(a) *Step 1.* Calculation of employment benefits is permitted only for onsite project construction or installation activity in designated regions as defined in § 713.1203(b). The first step therefore is to determine whether a project is wholly or partially located in a designated area.

(b) *Step 2.* The number of skilled and unskilled unemployed construction workers in the labor area shall be estimated. Construction labor pool data are usually available from local offices of State employment security agencies.

(c) *Step 3.* The labor requirements for plan implementation shall be determined as follows:

(1) *Labor cost.* The manpower requirements of water resource projects differ widely. Construction cost estimate data will provide the percentage of labor cost to total construction contract cost. Design and administration costs, land cost, and other nonconstruction costs shall be deducted from total plan cost to arrive at construction costs.

(2) *Manpower requirements.* The plan's construction work force and schedule shall be analyzed to determine manpower requirements over the construction period for skilled and unskilled categories of workers. These data shall be converted to total construction wages in skilled and unskilled categories by year of construction. In addition, the yearly wage bill of other workers needed on the project shall be estimated. The occupational tables in Appendix 1 of this subpart shall be used to categorize different types of workers.

(d) *Step 4.* The annual manpower requirements of the project shall be compared to the size of the unemployed labor pool in eligible regions. If labor availability is significantly larger than labor requirements, proceed to the next step. If not, a reduction in the percentages in the next step shall be made based on one or both of the following: expert interviews; or a careful matchup of requirements and availability for specific types of jobs (e.g., carpenters).

(e) *Step 5. Calculate NED employment benefits*—(1) *Standard method.* The following percentages are derived from *An Evaluation of the Public Works Impact Program* (PWIP).[2] Although the projects studied in the PWIP report are not fully comparable to many typical water projects, the report does provide an empirical basis for relating public works expenditures to employment of unemployed workers in an EDA-designated area. Case 1, below, covers situations in which there is no "local hire" rule; it is taken directly from

[2] Economic Development Administration, U.S. Department of Commerce. *An Evaluation of the Public Works Impact Program (PWIP).* Springfield, VA. National Technical Information Service (PB-263 098). January 1975.

the PWIP report, as PWIP has no local hire rule. Case 2 covers situations in which there is a local hire rule; the reference data are modified to account for an 80-percent local hire by scaling up the actual local hires (for skilled and unskilled workers) to 80 percent, but retaining the EDA distribution of local hires previously employed to local hires previously unemployed.

(i) *Case 1, NED benefits, no local hire rule.* The total wages determined by categories of workers (skilled, unskilled, and other) will be multiplied by the following percentages to obtain NED benefits by year of construction:

Skilled—30
Unskilled—47
Other—35

(ii) *Case 2, NED benefits, local hire rule.* The following percentages will be applied in Case 2 situations:

Skilled—43
Unskilled—58
Other—35

Because the 80-percent local hire rule is a goal, not a requirement, use of these percentages must be supported by data that indicate the local hire goal is likely to be met. If this is unlikely, Case 2 percentages must be reduced to numbers between the standard Case 1 and Case 2 percentages.

(iii) *Annual NED benefits.* The NED benefits by year of construction will be converted to an annual equivalent basis using the current discount rate.

(2) *Alternative methods.* The percentages of unemployment hires may be changed from those used in the standard method if the change can be supported by an empirical study that shows different percentages of unemployed and underemployed workers on a similar project, or on a segment of the same project, for labor market conditions similar to those of the proposed project. In using this method, it may be necessary to vary the categorization of construction workers used in the standard method. The opinions of experts such as local State employment security agencies, local construction firms, associations of contractors, and labor unions may not be substituted for empirical data. Studies used to document alternative percentages for specific types or locations of projects should be cited if not included in the project report.

(3) The percentages are used in the standard method to measure wages paid directly to previously unemployed workers. Previously employed workers may vacate jobs that then become available to unemployed workers, but there are no empirical data to support a quantification of such indirect effects, and no estimates of these effects may be included in the NED account.

§ 713.1209 Report and display procedures.

The employment benefits of each alternative plan shall be included as a line item in the display of NED benefits in the system of accounts for any project or portion of a project located in an area that contains unemployed or underemployed resources, as designated in § 713.1203(b).

Appendix 1 to Subpart N—Occupational Tables[1]

Blue Collar Unskilled Occupations

Bricklayer Apprentice
Carpenter Apprentice
- Apprentice Carpenter
- Carpenter Helper

Chainman
Deck Hand
Electricial Apprentice
- Apprentice Electrician
- Apprentice Wireman
- Electrician Trainer

Iron Worker Apprentice
Laborer
- Asphalt Distributor
- Assistant Carpenter
- Bottom Laborer
- Brick Tender
- Carpenter Aid
- Carpenter Helper
- Chainsawman
- Common Laborer
- Concrete Braker
- Concrete Laborer
- Concrete Saw
- Construction Laborer
- Ditch Laborer
- Drill Helper
- Flag Person
- Hod Carrier
- Kettleman
- Laborer
- Laborer Apprentice 3rd
- Laborer Group I
- Laborer Group V
- Labor Shop Man
- Laborer Topman
- Laborer Utilityman
- Landscape Laborer
- Mason Helper
- Mason Laborer
- Mason Tender
- Mortarman
- Mortarmier
- Pipe Layer
- Pipe Helper
- Pipe Fitter
- Plasterer Tender
- Powderman
- Pusher
- Rakeman
- Reboundman
- Road Laborer
- Roof Helper
- Sand Blaster
- Set-up-man
- Sprinkler Apprentice
- Stake Setter
- Tender
- Termite Operator
- Tile Setter Operator
- Vibrator Operator
- Water Truckman

Lumberman and Nurseryman
- Tree Thinner
- Treeman
- Treeplanter

Operating Engineer Apprentice
- B. M. Apprentice
- EO Group III
- EO Group 222

Plumber Apprentice
- Plumber Apprentice
- Plumber Helper

Painter's Helper
Sheet Metal Apprentice
Vibrator Operator
Watchman
- Night Watchman

Blue Collar Skilled Occupations

Blaster

[1]Source: Economic Development Administration, U.S. Department of Commerce. *An Evaluation of the Public Works Impact Program (PWIP).* Springfield, VA, National Technical Information Service (PB-263 098), January 1975.

Boilermaker
Boilermaker Foreman
Bricklayer
Block Layer
Truckpointer
Brick Mechanic
Bricklayer Foreman
Carpenter
Form Setter
Journeyman Carpenter
Soft Floor Layer
Carpenter Foreman
Carpenter Superintendent
Cement Mason
Finisher
Journeyman Finisher
Cement Mason Foreman
Diver
Driller
Drill Rig Operator
Electrician
Journeyman Electrician
Mechanical Electrician
Wireman
Journeyman Wireman
Electrical Foreman
General Foreman
General Labor Foreman
Project Foreman
Glazier
Iron Worker
Reinforcing Ironworker
Structural Ironworker
Steel Worker
Steel Erector
Steel Setter
Reinforcing Steel Worker
Iron Worker Foreman
Labor Foreman
Construction Foreman
Foreman
Job Foreman
Lead Foreman
Lather
Lather Foreman
Master Mechanic
Mechanic
Mechanic Welder
Repairman
Repairman Leadman
Oiler
Oiler Equipment Operator
Oiler Operator Group II
Oiler Track Type
Operating Engineer
Asphalt Distributor Operator
Asphalt Heaterman
Backhoe Operator
Blade Operator
Bobcat Operator
Bulldozer Operator
Case Operator
Class A Operator
Class C Operator
Crane Operator
Digger Operator
Distributing Operator
Dragline Operator
Equipment Operator
Equipment Operator Group III
Front End Lift Fork Operator
Heavy Equipment Operator
Hi-Lift Operator
Lift Fork Operator
Light Equipment Operator
Loader Operator
Maintenance Loadman
Motor Grader Operator
Operator Group III
Pan Operator
Park Equipment Operator
Power Drive Moister Operator
Power Equipment Operator
Pneumatic Tire Roller Operator
Pneumatic Tractor Operator
Roller Operator
Scraper Operator
Shovel Operator
Tractor Operator
Traxcavator Operator
Trenching Machine Operator
Truck Loader Operator
Operating Engineer Foreman
Leader Operator
Painter
Brush Painter
Roller Painter
Spray Painter
Painter Foreman
Pile Driver
Pipe Fitter
Sp. Box Man
Pipe Fitter Foreman
Sprinkler Foreman
Plasterer
Plasterer Foreman
Plumber
Pipe Layer
Plumber Foreman
Plumber General Foreman
Plumber Superintendent
Rigger Foreman
Roofer
Sheet Metal Worker
Journeyman Sheet Metal
Sheet Metal Mechanic
Sheet Metal Operator
Sheet Metal Foreman
Steam Fitter
Tile Setter
Truck Driver
Worker
Axle Truck Driver
4 Axle Truck Driver
Dump Truck Driver
Road Truck Driver
Tandem Truck Driver
Truck Driver II
Truck Driver Highway
Waterproof Foreman

Subparts O-U [Reserved]

Subpart V—NED Cost Evaluation Procedures

§ 713.2001 Introduction.

This subpart provides procedures for the evaluation of NED costs of structural and nonstructural elements of water resource plans and projects.

§ 713.2003 Conceptual basis.

(a) Project measures, whether structural or nonstructural, require the use of various resources. NED costs are the opportunity costs of resource use. In evaluating NED costs, resource use must be broadly defined so as to fully recognize scarcity as a component of value. This requires consideration of the direct and indirect, private and public uses that producers and consumers are currently making of available resources or are expected to make of them in the future.

(b) The opportunity costs of resource use are usually reflected in the marketplace. When market prices adequately reflect total resource values, they are used to determine NED costs. When market prices do not reflect total resource values, surrogate values are used appropriately to adjust or replace market prices.

(c) Total NED cost is the market value of a resource plus other values not reflected in the market price of the resource; it therefore accounts for all private sector and public sector uses. Market price is used to reflect the private sector use of resources required for or displaced by a project, and surrogate value is used to reflect the public sector use.

(1) The market price approach relies on the interaction of supply and demand. Price is determined through transactions on the margin between knowledgeable and willing buyers and sellers, neither of whom are able to influence price by their individual decisions. Distortions in market price occur if one or more of the conditions of perfect competition is violated.

(2) The surrogate value approach involves the approximation of opportunity costs based on an equivalent use or condition. Surrogate values are frequently used in restricted markets and in nonmarket situations.

(d) Proper NED analysis requires that project NED costs and benefits be compared at a common point in time. Cost adjustments are made to reflect the time preference value of money.

§ 713.2005 Planning setting.

The basis for the evaluation rests in a thorough analysis of expected conditions in the future with a project and without a project. This requires identification of those resources that will be affected by a project; the current value of such uses is measured as the economic worth to the Nation of the services associated with those uses.

§ 713.2007 Evaluation procedure: General.

(a) Resources required or displaced to achieve project purposes by project installation and/or operation, maintenance, and replacement activities represent a NED cost and shall be evaluated as such. Resources required or displaced to minimize adverse impacts and/or mitigate fish and wildlife habitat losses shall also be evaluated as a NED cost. Costs incurred for features other than those required for project purposes, minimizing adverse impacts, and/or mitigating fish and wildlife habitat losses are not project costs and therefore not NED costs and are not evaluated.

(b) All NED costs shall be based on current costs adjusted by the project discount rate to the beginning of the period of analysis as defined in Subpart B, § 713.23(c). All costs shall be computed at a constant price level and at the same price level as used for the computation of benefits. Current costs shall be based on the price level at the time of the analysis. These costs will be updated in the year(s) the project is submitted for authorization and/or appropriations. Deferred costs shall be discounted to the beginning of the period of analysis using the applicable project discount rate. Costs incurred before the beginning of the period of analysis shall be increased by adding compound interest at the applicable project discount rate from the date the costs are incurred to the beginning of the period of analysis. All NED costs shall be converted to an annual equivalent value over the period of analysis.

(c) Project NED costs may be adjusted by an allowance for the salvage value of land, equipment, and facilities that would have value for nonproject uses at the end of the period of analysis. Significant salvage values of replaceable items (e.g., generators) will normally become adjustments to allowances for replacement costs.

§ 713.2009 Evaluation procedure: Project outlays.

The NED costs of project outlays include the costs incurred by the responsible Federal entity and, where appropriate, contributed by other Federal or non-Federal entities to construct a project in accordance with sound engineering and environmental principles and place it in operation. These costs include postauthorization investigation, survey, planning and design costs; construction costs; construction contingency costs; administrative services costs; fish and wildlife habitat mitigation costs; relocation costs; historical and archaeological salvage costs; land, water, and mineral rights costs; and operation, maintenance and replacement costs.

(a) *Postauthorization investigation, survey, planning and design costs.* The costs include the direct cost of engineers and other technicians for investigations, surveys, postauthorization planning, design, and preparation of specifications and construction drawings for structural and nonstructural project measures. In the evaluation procedure, these costs shall be based on the actual current costs incurred by the responsible Federal entity for carrying out these activities for similar projects and project measures. They may be computed as a percentage of construction costs when there is a documented basis for the rate used. Adjustments shall be made when appropriate to reflect circumstances special to the project under consideration.

(b) *Construction costs.* These costs include the direct cost of project measure installation goods and services. They shall be based on the market value of goods and services required to install project measures, including those measures required for minimizing adverse environmental impacts and public health and safety risks. They include the cost of purchased materials (including associated transportation costs); equipment rental or purchase; construction wages or salaries (including social security and fringe benefit costs); and contractors' management, supervision, overhead, and profit. Such costs shall be based on current contract bid items in the project area or on the current market value of purchased materials and services, etc.

(c) *Construction contingency costs.* These are project costs normally added to reflect the effects of unforeseen conditions on estimates of construction costs. They are not an allowance for inflation or for omissions of work items that are known to be required. They shall be included to cover unforeseen construction problems. These costs will vary with the intensity of the surveys and investigations performed, the variability of site conditions, and the type of project measures being installed. They may be computed as an appropriate percentage of estimated construction costs.

(d) *Administrative services costs.* These are the costs associated with the installation of project measures, including the cost of contract administration; permits needed to install the project measures; relocation assistance advisory services; administrative functions connected with relocation payments; review of engineering plans prepared by others; government representatives; and necessary inspection service during construction to ensure that project measures are installed in accordance with the plans and specifications. These costs shall be based on the actual current costs incurred by the responsible Federal entity for carrying out these activities for similar projects and project measures. These costs may be computed as a percentage of construction costs if there is a documented basis for the rate used. Adjustments shall be made when appropriate to reflect unusual circumstances special to the project under consideration.

(e) *Fish and wildlife habitat mitigation costs.* These are the costs of mitigating losses of fish and wildlife habitat caused by project construction, operation, maintenance, and replacement. The mitigation measures to be included in the project will be determined by the responsible Federal entity in coordination with Federal and State Fish and Wildlife Agencies as required by the rules implementing the Fish and Wildlife Coordination Act (Pub. L. 85–625). In accordance with current policy, these mitigation measures shall be concurrent with and proportionate to the installation of other project measures. Their costs shall include all project outlays associated with the installation of mitigation measures, including postauthorization investigation, survey, planning and design costs; construction costs; construction contingency costs; administrative services costs; relocation costs; land, water, and mineral rights costs; and operation, maintenance, and replacement costs. The costs shall be based on current market values and the actual current costs incurred by the Federal entity for carrying out these activities for similar mitigation measures.

(f) *Relocation costs.* (1) These are project costs associated with—

(i) the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91–646); and

(ii) the relocation of highways, railroads, and utility lines.

(2) Real property acquisition relocation payments are applicable to a displaced person, business, or farm operation. The costs include moving and related expenses for a displaced person, business, or farm operation; financial assistance for replacement housing for a displaced person who qualifies and whose dwelling is acquired because of the project; and termination payments for dislocated businesses whose owners choose to close out. The NED cost of replacement housing shall be based on replacement in kind. (Costs over and above replacement in kind are to be treated as financial costs for non-project purposes.) These costs shall be based on current market values.

(3) The relocation cost of railroads and utility lines shall be based on the costs of replacement in kind. In the case of highways, the relocation cost shall be based on replacement that reflects the current traffic count and current standards of the owner, which may result in a justified improvement over the configuration of the existing roadway. The additional relocation cost of highways that are upgraded to increase their carrying capacity for project purposes such as recreation shall also be included as a project cost. The relocation cost of highways, railroads, and utility lines shall include all project outlays associated with their relocation, including investigation, survey, planning and design costs; construction costs; construction contingency costs; administrative services costs; fish and wildlife habitat mitigation costs; land, water, and mineral rights costs; and historical and archaeological salvage costs. These costs shall be based on current market values and the actual current costs incurred by the Federal entity for carrying out similar relocations.

(g) *Historical and archaeological salvage operation costs.* These are project costs associated with salvaging artifacts that have historical or archaeological values as prescribed by the Preservation of Historic and Archaeological Data Act (Pub. L. 93–291). They shall be based on the current market price of salvage operations carried on during construction.

(h) *Land, water, and mineral rights costs.* (1) These costs include all costs of acquiring the land, water, and mineral rights required for installing, operating, maintaining, and replacing project measures. They include all expenditures incurred in acquiring land, water, and mineral rights, easements, leases, and rights-of-way. Such costs include the cost of the land, water, and mineral rights minus salvage value; the cost of surveys incident to a sale; legal fees and transfer costs; foregone real estate taxes; and severance payments. These costs shall be based on current market values and the actual current costs incurred by the Federal entity for carrying out similar land, water, and mineral rights acquisitions. The market value of easements shall be based on the difference in market value of land without the easement and with the easement.

(2) Some land, water, and mineral rights are owned by Federal, State, and local governments and have been irreversibly committed to specific uses. The NED cost of using such resources for project purposes consistent with their committed uses shall be based on the surrogate value of the public services provided by the resources. For example, if State-owned land committed to recreation use is to be used for project recreation development, its NED cost is not the market value of the land, but the value of the recreation services that would be provided by the land without the project. Public domain lands not irreversibly committed to specific uses should be valued at the market value of comparable private land or a surrogate use value, or a combination if there are complementary uses.

(i) *Operation, maintenance, and replacement costs.* These costs represent the current value of materials, equipment, services, and facilities needed to operate the project and make repairs and replacements necessary to maintain project measures in sound operating condition during the period of analysis. They include salaries of operating personnel; the cost of repairs, replacements, or additions; and an appropriate charge for inspection, engineering, supervision, custodial services, and general overhead. When operation, maintenance, or replacement will be performed by contract, the cost shall include an allowance for contingencies and the costs of survey, planning design, and administrative services. These costs shall be based on actual current costs incurred for carrying out these activities for similar projects and project measures. When the project is an addition to or extension of an existing project for which the costs and benefits are not included or otherwise involved in the project analysis, only the additional cost of operation, maintenance, or replacement necessitated by the addition or extension to the existing project shall be included. Adjustments will be made when appropriate to reflect circumstances special to the project under consideration.

§ 713.2011 Evaluation procedure: Associated costs.

Associated costs are the costs of measures needed over and above project measures to achieve the benefits claimed during the period of analysis. An example is the cost of irrigation water supply laterals and on-farm irrigation and drainage systems required to produce the increased outputs on which the benefit computations are based. Associated costs shall be based on the current market prices of goods and services required for the installation of measures needed over and above project measures.

§ 713.2013 Evaluation procedure: Other direct costs.

These are the costs of resources directly required for a project or plan, but for which no financial outlays are made. Consequently, they are included in the economic costs of a plan but not in the financial costs. These costs may be important for both structural and nonstructural plans. For example, a zoning plan to preserve floodplain values by restricting development would have as a cost the value of with-project development rights foregone. A plan that responds to demand growth by reallocating existing outputs from low value uses to high value uses through pricing mechanisms (i.e., raising the price of existing outputs) would

have as its major cost the value of the outputs to the users who forego its use as a result of its higher price. On the other hand, a structural project may displace recreation use at the project site. Whenever possible, the computation of these costs shall be made using the procedure set forth in this manual for computing benefits. If these costs are not quantified, they shall be otherwise identified.

§ 713.2015 Evaluation procedure: External diseconomies.

(a) These costs are uncompensated NED losses caused by the installation, operation, maintenance, or replacement of project or plan measures. All uncompensated net losses in economic outputs (not transfers) that can be quantified shall be considered project NED costs. The evaluation of such costs requires an analysis of project effects both within and outside the project area.

(b) Examples of external diseconomies include increased downstream flood damages caused by channel modifications, dikes, or the drainage of wetlands; increased water supply treatment costs caused by irrigation return flows; erosion of land along streambanks caused by dams that prevent the replenishment of bedload material; loss of land and water recreation values through channel modifications, reduced instream flow due to consumptive use of water by irrigated agriculture, or inundation by reservoirs; increased transportation costs caused by rerouting traffic around a reservoir; new or increased vector control costs caused by the creation of wetlands; and decreased output or increased cost per unit of output of private firms caused by project-induced decreases in raw materials. When applicable, the computation of such costs shall be made using the procedures for computing benefits contained in this manual. Some costs, such as increased water supply treatment costs, shall be computed on the basis of increased costs to resource users.

§ 713.2017 Evaluation procedure: Problems in application.

(a) Application of the procedures in this section requires care to ensure that all costs are included. The identification and determination of all associated costs and external diseconomies require full perception of the measures required to achieve the benefits being claimed and the impacts produced by the actions taken. It must be emphasized that it is not practical or economic to trace out all external technological effects.

(b) Application of the procedures in this section requires care to avoid double counting. A full understanding of the values reflected by market and surrogate values is necessary to prevent double counting. For example, the market value of land that includes a private recreation development reflects the recreation value. In this case, double counting would result if a surrogate recreation value (loss) were added as a cost. On the other hand, the market value of land that provides free public recreation does not reflect the recreation value and the surrogate recreation value (loss) must be added as a cost.

(c) Market prices are relatively easy to obtain. However, some prices are subject to large fluctuations in short periods of time, and care must be taken to determine reasonable current costs of such items for project evaluation purposes.

§ 713.2019 Evaluation procedure: Data sources.

Market price information is available from data on comparable sales, Government publications (e.g., bulletins of the U.S. Departments of Commerce, Agriculture, and Labor), and business reports. Data sources for those NED benefit evaluation procedures having application to cost analysis are covered in their respective subparts of this manual.

§ 713.2021 Report and display procedures.

NED costs identified through the procedures described above shall be displayed as line item entries in the adverse effects section of the NED account. The following display tables are suggested:

TABLE 713.2019-1- PROJECT INVESTMENT

	Alternate - 1			Alternate - 2			Alternate - X
	Unit Quantity	Price	Amount	Unit Quantity	Price	Amount	
1. Construction Cost							
2. Construction Contingency Costs							
3. Postauthorization Investigations, Survey, Planning, and Design Costs							
4. Administrative Services Costs							
5. Fish and Wildlife Habitat Mitigation Costs							
6. Historical and Archaeological Salvage Operation Costs							
7. Land, Water, and Mineral Rights Costs							
8. Relocation Costs							
9. Interest during Installation Period at rate of _____ %							
Total Investment							

Price Level: _____

Period of Analysis: _____

TABLE 713.2021-2- ANNUALIZED ADVERSE EFFECTS

(Price Level; Period of Analysis; Applicable Discount Rate)	ALTERNATIVES 1	2	N
Interest on Investment			
Amortization of Investment			
Average Operation and Maintenance			
Major Replacements			
Associated Costs a/			
External Diseconomies a/			
TOTAL ANNUALIZED ADVERSE EFFECTS			
Other Adverse Effects not Evaluated in Monetary Terms			

a/ Identified by type.

Approved: October 25, 1979.

Cecil D. Andrus,

Chairman.

[FR Doc. 79-38430 Filed 12-13-79; 8:45 am]

BILLING CODE 8410-01-M

federal register

Friday
December 14, 1979

Part X

Water Resources Council

Principles and Standards for Planning Water and Related Land Resources

WATER RESOURCES COUNCIL

Principles and Standards for Planning Water and Related Land Resources

1. Notice is hereby given by the Water Resources Council that the Principles and Standards for Planning Water and Related Land Resources have been revised pursuant to the President's memorandum to the Chairman and Members of Water Resources Council, subject: Improvements in the Planning and Evaluation of Federal Water Resources Programs and Projects, dated July 12, 1978.

2. In accordance with that memorandum, the Principles and Standards have been revised to accomplish the full integration of water conservation into project and program planning and review as a means of achieving both the national economic development (NED) and environmental quality (EQ) objectives, and to require the preparation and inclusion of a primarily nonstructural plan as one alternative whenever structural project or program alternatives are considered. Additional changes were made to the Standards to assure consistency with the procedures for national economic development benefit and cost evaluation.

3. Only those sections of the Principles and Standards that have been revised or modified are published as part of this notice. The revised sections or parts of sections are italicized in this publication and referenced to the September 10, 1973 (38 FR 24778) Principles and Standards. Where no changes have been made, the words "No change" appear in parentheses after the title of the section.

4. The Council published on May 24, 1979, "Proposed Revisions to the Principles and Standards for Planning Water and Related Land Resources" (48 FR 30247) and invited public comment on the proposal. Comments were received through oral statement at the public meetings held on the proposal and through written submittal to the Council during the 60-day comment period.

5. Indicated below are the areas, listed by subject, where changes were made in the proposed revisions to the Principles and Standards as published on May 24, 1979:

a. Consideration and comparison of alternatives: conservation contrasted with storage.

b. Plan selection: discussion of net benefits.

c. Hydropower: measurement of benefits where utilities practice long run marginal cost pricing.

d. Water supply: measurement of benefits where communities practice long run marginal cost pricing.

e. Formulation of alternative plans: examples of nonstructural alternatives.

6. The Water Resources Council prepared an environmental assessment of the revisions to the Principles and Standards. Copies of this assessment may be obtained from the Director, U.S. Water Resources Council, 2120 L Street, NW., Washington, DC 20037.

7. These revisions shall be used for the planning of water resources projects covered in Section I.B of the Standards. The revisions apply to all levels of planning if such projects or plans are subject to the Principles and Standards. They shall be applicable to: (a) Projects and plans which may be approved by agency administrators, (b) projects and plans requiring congressional authorization, and (c) authorized projects or separable project features of such projects not yet under construction for which agencies currently prepare post-authorization planning documents. For the purpose of implementing these revisions, a project shall be considered under construction when funds have been appropriated by the Congress or budgeted by the President for land acquisition or physical construction activity. Projects for which post-authorization planning documents are not required shall be considered under construction when authorized for construction.

8. In reference to Level C studies, the Secretary of each Department shall retain the discretion to review those projects not under construction and, where deemed reasonable, may exempt a project from complying with these revisions or may partially exempt a project and direct expedited additional planning to more fully meet specific revisions. This discretionary authority applies to those projects not yet authorized for which preauthorization planning is now complete or will be completed by the end of FY 1980 and those authorized projects requiring post-authorization planning if such planning is now complete or will be complete by the end of FY 1980. Preauthorization or post-authorization planning shall be considered complete when the appropriate planning documents have been approved by the responsible agency's field office. Such Secretarial review is to ensure that adequate and reasonable discretion exists to prevent undue loss of time or expediture of public funds in those cases where additional planning is not considered necessary. This discretionary authority shall not be exercised after July 31, 1981. Authorized projects exempted from complying with the Principles and Standards shall also be exempted from complying with the adopted revisions.

9. The Council is presently undertaking further review and revision of the Principles and Standards with the objective of publishing the Principles and Standards as a proposed rule. This effort will include: (a) Revision for clarity and conciseness, (b) revision to incorporate the requirements of Urban and Community Impact Analysis and (c) revisions to integrate the requirements of the National Environmental Policy Act.

10. Pursuant to Section 103 of the Water Resources Planning Act (Pub. L. 89-80) the President approved the Principles as they appear herein. Pursuant to E.O. 11747 (38 FR 30993, November 7, 1973), the Chairman of the Water Resources Council approved the Standards as they appear herein.

11. These revisions to the Principles and Standards are effective immediately.

Leo M. Eisel,
Director.

Revisions to the Principles for Planning Water and Related Land Resources

I. Purpose and Scope (No change)

II. Objectives (No change)

III. Other Beneficial and Adverse Effects (No change)

IV. General Evaluation Principles

A. General Setting (No change)

B. Measurement of Beneficial and Adverse Effects (No change)

C. Price Relationships (No change)

D. The Discount or Interest Rate (No change)

E. Consideration and Comparison of Alternatives

A range of possible alternatives capable of application by various levels of government and nongovernmental interests should be *systematically evaluated in terms of their contributions to the national economic development and environmental quality objectives.*

Water conservation shall be fully integrated into project and program planning and review as a means of achieving both the national economic development and environmental quality objectives. Water conservation consists of actions that will (a) reduce the demand for water; (b) improve efficiency in use and reduce losses and waste; and (c) improve land management practices to conserve water. A clear contrast is drawn between the above conservation

elements and storage facilities for new supplies.

In addition, at least one primarily nonstructural plan will be prepared and included as one alternative whenever structural project or program alternatives are considered. This alternative and other plans should incorporate a combination of nonstructural or demand-reducing measures which could feasibly (in light of the national economic development and environmental quality objectives) be employed or adopted to achieve the overall project purpose.

Alternative plans should not be limited to those the Federal Government could implement directly under present authorities. Therefore the cooperative role of local, State, regional, and Federal organizations in implementing alternatives will be stressed. Plans, or increments thereto, will not be recommended for Federal development that, although they have beneficial effects on the objectives, would physically or economically preclude alternative non-Federal plans which would likely be undertaken in the absence of the Federal plan and which would more effectively contribute to the objectives when comparably evaluated according to these principles.

F. Period of Analysis (No change)

G. Scheduling (No change)

H. Risk and Uncertainty (No change)

I. Sensitivity Analysis (No change)

J. Updating Plans (No change)

V. Plan Formulation

Plans will be directed to the improvement in the quality of life by *contributing to the* meeting *of* current and projected needs and problems as identified by the desires of people in such a manner that improved contributions are made to society's preferences for national economic development and environmental quality. These plans should be formulated to reflect national, regional, State, and local needs or problems consistent with the above two objectives.

Planning of water and land resources is a part of broader public and private planning to meet regional and local needs and to alleviate problems. Therefore, planning for water and land resources should be carefully related to other regional or local planning activities and should include active participation of all interests.

Plans for water and land resources will focus upon the specified components of the objectives desired for the designated region, river basin, State, or local planning setting. These are expressed in terms of projected needs and problems identified in each planning setting.

The planning process includes the following major steps:

(1) Specify components of the objectives relevant to the planning setting;

(2) Evaluate resource capabilities and expected conditions without any plan;

(3) Formulate alternative plans to achieve varying levels of contributions to the specified components of the objectives, *including preparation of at least one primarily nonstructural alternative;*

(4) Analyze the differences among alternative plans which reflect different emphasis among the specified components of the objectives;

(5) Review and reconsider, if necessary, the specified components for the planning setting and formulate additional alternative plans as appropriate; and

(6) Select a recommended plan from among the alternative plans based upon an evaluation of the trade offs between the objectives of national economic development and environmental quality and considering, where appropriate, the effects of the plans on regional development and social well-being.

A. Specification of Components of the Objectives

At the outset and throughout the planning process, the responsible planning organization will consult appropriate Federal, regional, State, and local groups to ascertain the components of the objectives that are significantly related to the use and management of the resources in the planning setting. These will be expressed in terms of needs and problems.

The components selected for use in formulating alternative plans should be of concern to the Nation, and the components should be those that can reasonably be expected to be substantially influenced through the management and development alternatives *which may be implemented by Federal, State, or local entities.* The components of objectives for which plans are formulated can be expected to change over time and between areas of the Nation as preferences and possibilities change and differ. These changes will be reflected in the Water Resources Council's Standards.

The objectives for which plans are formulated can also be expected to change over time as preferences and possibilities change. Changes in objectives will be accommodated only through revision of these principles.

The specified components will be defined so that meaningful alternative levels of achievement are identified. This will facilitate the formulation of alternative plans in cases where there may be technical, legislative, or administrative constraints to full achievement of objectives.

B. Evaluation of Conditions Without a Plan (No change)

C. Formulation of Alternative Plans

The planning process involves an evaluation of alternative means, including both structural and nonstructural measures, to achieve desired effects.

Based upon identified needs and problems, alternative plans will be prepared and evaluated in the context of their contributions to the objectives. This involves comparisons between objectives, and it will be necessary to formulate alternative plans that reflect different relative emphasis between the objectives for the planning setting.

The number of alternative plans to be developed for each planning effort will depend upon complementarities or conflicts among specified components of the objectives, resource capabilities, technical possibilities, and the extent to which the design of additional alternative plans can be expected to contribute significantly to the choice of a recommended plan. Because planning staffs are limited, emphasis should be placed on examination of those alternative waters and land-use plans which may have appreciable effects on objectives.

With respect to the number of alternative plans there will be a continuing dialog among the Water Resources Council, river basin commissions, and other planning groups, emphasizing on the one hand the need for national guidelines and overview of objectives for which alternative plans are formulated, and on the other the special insights into local planning situations that field level teams may develop.

Appropriate methods and techniques for estimating beneficial and adverse effects will be used to provide reliable estimates of the consequences and feasibility of each alternative plan.

One alternative plan will be formulated in which optimum contributions are made to the national economic development objective. Additionally, during the planning process at least one alternative plan will be formulated which emphasizes the contributions to the environmental quality objective. *In addition, a primarily nonstructural plan shall be*

prepared and included whenever structural project or program alternatives are considered. Other alternative plans reflecting significant physical, technological, legal or public policy constraints or reflecting significant trade-offs between the national economic development and environmental quality objectives may be formulated so as not to overlook a best overall plan. (The rest of this section remains unchanged.)

D. Analysis of Alternative Plans (No change)

E. Reconsideration of Specified Components of the Objectives (No change)

F. Plan Selection

From its analysis of alternative plans, the planning organization will select a recommended plan. The plan selected will reflect the relative importance attached to different objectives and the extent to which the two objectives can be achieved by carrying out the plan.

The recommended plan should be formulated so that beneficial and adverse effects toward objectives reflect, to the best of current understanding and knowledge, the priorities and preferences expressed by the public at all levels to be affected by the plan. A recommended plan *(when considered individually on the basis of with-project and without-project comparison) must be justified on the basis that combined beneficial NED and EQ effects outweigh combined adverse NED and EQ effects. Therefore, a plan lacking net NED benefits may be recommended when EQ benefits are sufficiently large, even though the latter are not stated in dollar terms.* A Departmental Secretary or head of an independent agency may make an exception to the net benefits rule if he/she determines that circumstances unique to the plan formulation process warrant such exception.

In addition to the recommended plan with supporting analysis, other significant alternative plans embodying different priorities between the objectives *and in consideration of water conservation and nonstructural planning requirements* will be presented in the planning report. Included with the presentation of alternative plans will be an analysis of trade offs among them. The trade offs will be set forth in explicit terms, including the basis for choosing the recommended plan from among the alternative plans.

VI. System of Accounts (No change)

VII. Cost Allocation, Reimbursement, and Cost Sharing (No change)

VIII. National Program for Federal and Federally Assisted Activities (No change)

IX. Implementation of Principles (No change)

X. Application and Effect

These Principles for Planning Water and Land Resources shall be implemented by the Water Resources Council and shall be applied by river basin commissions, other Federal-State organizations, and each of the Federal departments and agencies. The Office of Management and Budget, the Council on Environmental Quality, and other organizations in the Executive Office of the President will use these Principles in their review of proposed project, basin, or regional plans.

The Policies, Standards, and Procedures in the Formulation, Evaluation, and Review of Plans for Use and Development of Water and Related Land Resources, approved by the President, May 15, 1962, printed as Senate Document 97, 87th Congress, 2d Session, together with Supplement No. 1 thereto, June 6, 1964, "Evaluation Standards for Primary Outdoor Recreation Benefits," and the amendment of December 24, 1968, 18 CFR Sec. 704.39, "Discount Rate," are revoked. *(September 5, 1973).*

These revisions to the Principles shall take effect immediately upon their publication by the Chairman of the Water Resources Council in the Federal Register.

Approved:

Jimmy Carter.

November 27, 1979.

Revisions to the Standards for Planning Water and Related Land Resources

I. Purpose and Scope (No change)

II. Objectives

A. Introduction. (The following completely replaces the existing section.)

The Principles for Planning Water and Land Resources define the objectives of national economic development and environmental quality. These objectives provide the basis for the formulation of State, region, and river basin plans for the use of water and land resources to *contribute to meeting* forseeable short- and long-term needs and have been explicitly stated or implied in numerous congressional enactments and Executive actions. The most notable of these actions in water and related areas are summarized below.

In the Flood Control Act of 1936, the Congress declared that benefits to whomsoever they may accrue of Federal projects should exceed costs. Interpretation of this statute has resulted in development of various analytical procedures to evaluate the benefits and costs of proposed projects. These procedures have centered around a national economic efficiency analysis and were first published as "Proposed Practices for Economic Analysis of River Basin Projects" in May 1950 and revised in May 1958. Budget Bureau Circular No. A-47 was issued on December 31, 1952, informing the agencies of considerations which would guide the Bureau of the Budget in its evaluations of projects and requiring uniform data that would permit comparisons among projects.

On October 6, 1961, the President requested the Secretaries of Interior, Agriculture, Army, and Health, Education, and Welfare to review existing evaluation standards and to recommend improvements. Their report, "Policies, Standards, and Procedures in the Formulation, Evaluation, and Review of Plans for Use and Development of Water and Related Land Resources," was approved by the President on May 15, 1962, and published as Senate Document No. 97, 87th Congress, 2d Session. This document replaced Budget Bureau Circular No. A-47 and in turn has been superseded by the "Principles for Planning Water and Land Resources," upon their approval by the President, and by these "Standards for Planning Water and Land Resources."

On July 12, 1978, the President directed that the Principles and Standards for Planning Water and Related Land Resources, (P&S), (38 FR 24778, September 10, 1973), be scrupulously adhered to in the planning, review and implementation of Federal water resources projects. Moreover, the President directed that the September 10, 1973 P&S be modified to accomplish the full integration of water conservation into project and program planning and review as a component of both the economic development and environmental quality objectives and to require the preparation and inclusion of a primarily nonstructural plan as one alternative whenever structural projects or program alternatives are considered. The revisions to the "Principles for Planning Water and Land Resources" and these revisions to the "Standards for Planning Water and Land Resources" become effective immediately.

By enacting laws and taking actions enumerated below and others, the Congress and the President have broadened the objectives to be considered in water and land resources planning.

The two objectives as defined in the principles and set forth in more detail in these standards provide a flexible planning framework that is responsive to and can accommodate changing national needs and priorities.

The statement of the objectives and specification of their components in these standards is without implication concerning priorities to be given to them in the process of plan formulation and evaluation. These standards, nonetheless, do recognize and make provision for a systematic approach by which the general public and decisionmakers can assess the relative merits of achieving alternative levels of satisfaction to the two objectives where there may be conflict, competition, or complementarity between them. This will provide the type of information needed to improve the public decisionmaking process.

B. Major Congressional *and Presidential* Directives

Many laws that give new or more definitive directions to Federal participation in planning for water and land resources have been passed in recent years. Some major enactments are:

The Federal Water Project Recreation Act of 1965 (Pub. L. 89-72), provides for full consideration of opportunities for recreation and fish and wildlife enhancement in Federal projects under specified cost allocation and cost-sharing provisions.

The Water Resources Planning Act of 1965 (Pub. L. 89-80), establishes a comprehensive planning approach to the conservation, development and use of water and related land resources. The Act emphasizes joint Federal-State cooperation in planning and consideration of the views of all public and private interests. Section 103 of the Act provides that "The Council shall establish, after such consultation with other interested entities, both Federal and non-Federal, as the Council may find appropriate, and with the approval of the President, principles, standards, and procedures for Federal participants in the preparation of comprehensive regional or river basin plans and for the formulation and evaluation of Federal water and related land resources projects."

The Act further provides in section 102(b) that "the Council shall * * * maintain a continuing study of the relation of regional or river basin plans and programs to the requirements of larger regions of the Nation and of the adequacy of administrative and statutory means for the coordination of the water and related land resources policies and programs of the several Federal agencies; it shall appraise the adequacy of existing and proposed polices and programs to meet such requirements; and it shall make recommendations to the President with respect to Federal policies and programs."

The Act also provides in Section 301(b) that "The Council, with the approval of the President, shall prescribe such rules, establish such procedures, and make such arrangements and provisions relating to the performance of its functions under this title, and the use of funds available therefor, as may be necessary in order to assure (1) coordination of the program authorized by this title with related Federal planning assistance programs, including the program authorized under section 701 of the Housing Act of 1954 and (2) appropriate utilization of other Federal agencies administering programs which may contribute to achieving the purpose of this Act."

The Water Resources Planning Act, as amended, is attached as Appendix A.

The Public Works and Economic Development Act of 1965 (Pub. L. 89-136) establishes national policy to use Federal assistance in planning and constructing public works to create new employment opportunities in areas suffering substantial and persistent unemployment and underemployment. The Act provides for establishing Federal-State regional commissions for regions that have lagged behind the Nation in economic development.

The Water Quality Act of 1965 (Pub. L. 89-234) and subsequent amendments provides for establishing water quality standards for interstate waters. These water quality standards provide requirements and goals that must be incorporated into planning procedures.

In authorizing the Northeastern Water Supply Study in 1965 (Pub. L. 89-298), Congress recognized that assuring adequate supplies of water for the great metropolitan centers of the United States has become a problem of such magnitude that the welfare and prosperity of this country require the Federal Government to assist in solution of water supply problems.

The Clean Water Restoraton Act of 1966 (Pub. L. 89-753) provides assistance for developing comprehensive water quality control and abatement plans for river basins.

The Department of Transportation Act of 1966 (Pub. L. 89-670) provides standards for evaluating navigation projects and provides for the Secretary of Transportation to be a member of the Water Resources Council.

The Wild and Scenic Rivers Act of 1968 (Pub. L. 90-542) provides that in planning for the use and development of water and related land resources consideration shall be given to potential wild, scenic, and recreational river areas in river basin and project plan reports, and comparisons are to be made with development alternatives which would be precluded by preserving these areas.

The National Flood Insurance Act of 1968 (title XIII, Pub. L. 90-448, *as amended*) provides that States, to remain elegible for flood insurance, must adopt acceptable arrangements for land use regulation in flood-prone areas. This provision, together with *Executive Order 11988, Floodplain Management, and Executive Order 11990, Protection of Wetlands, both issued May 24, 1977,* places increased emphasis on land use regulations and administrative policies as a means of reducing flood damages *and protecting the natural and beneficial values of floodplains and wetlands.* Planning policies must include adequate provision for these *laws* and directives in an integrated program of floodplain management. (The rest of this section remains unchanged.)

C. Relationships of Program Measures to Objectives (No change)

D. Objectives

1. National economic development. The national economic development objective is enhanced by increasing the value of the Nation's output of goods and services and improving national economic efficiency.

National economic development reflects increases in the Nation's productive output, an output which is partly reflected in a national product and income accounting framework designed to measure the continuing flows of goods and services into direct consumption or investment.

In addition, national economic development is affected by beneficial and adverse externalities stemming from normal economic production and consumption, imperfect market conditions, and changes in productivity of resource inputs due to investment. National economic development is also affected by the availability of public goods which are not accounted for in the national product and income accounting framework. Thus, the concept of national economic development is

broader than that of national income and is used to measure the impact of governmental investment on the total national output. The gross national product and national income accounts do not give a complete accounting of the value of the output of final goods and services resulting from governmental investments because only government expenditures are included. This is especially true in those situations where governmental investment is required to overcome imperfections in the private market. Therefore, national economic development as defined in these standards is only partially reflected in the gross national product and national income accounting framework.

A similar situation prevails where a private investment results in the production of final public goods or externalities that are not exchanged in the market.

Components of the national economic development objective include:

a. The value of increased outputs of goods and services resulting from a plan. *Development and management* of water and land resources result in increased *or more efficient* production of goods and services which can be measured in terms of their value to the user. Increases in crop yields, expanding recreational use, and peaking capacity for power systems are examples of direct increases in the Nation's output which result from water and related land resources *development and management.* Moreover, such *development and management* often results in a change in the productivity of natural resources and the productivity of labor and capital used with these resources. Increased earnings from changes in land use, reduced disruption of economic activity due to droughts, floods and fluctuating water supplies, and removal of constraints on production through increased water supplies *or improved water management* are examples of direct increases in productivity from water and land development that contribute to national output. *Development and management* of water and land resources may result in increased production from the employment of otherwise unemployed or underemployed resources, as well as contributions to increased output due to cost savings resulting in the release of resources for employment elsewhere.

b. The value of output resulting from external economies. In addition to the value of goods and services derived by users of outputs of a plan, there may be external gains to other individuals or groups.

2. Environmental Quality (No change)

E. Effects on Objectives (No change)

F. Beneficial Effects on National Economic Development

Beneficial effects in the national economic development account are the increases of the value of the output of goods and services and improvements in national economic efficiency.

1. General measurement concepts. There are two basic sources of increased output of goods and services that contribute toward enhancing national economic development. First, additional resources may be employed using normal production techniques, as, for example, in the application of irrigation water and other associated resources to land for the production of agricultural commodities or in the use of electric power and other associated resources for the production of aluminum. Second, resource productivity changes may be induced by the plan, resulting in more efficient production techniques to be used to achieve a higher level of output from the same resources or the same level of a specific output with fewer resources or the employment of otherwise unemployed or underemployed resources than would be achieved without the plan. In the latter case, the release of productive resources which can be employed elsewhere in the economy for the production of other goods and services ultimately results in an increase in national output as a consequence of a plan. *For example, reduced consumptive use of water in irrigation through improved water management may make that saved water available to irrigate additional acreage, provide for municipal use, or satisfy in-stream flow needs for fish and wildlife without construction of additional supplies.* These two sources of increased output may apply to situations in which the plan results in the production of final consumer goods or intermediate producer goods utilized by direct users; and they may also apply in situations in which firms are indirectly affected through economic interdependence with firms which utilize the intermediate producer goods from the plan.

For convenience of measurement and analysis, beneficial effects on national economic development are classified as follows:

a. The Value of increased outputs of goods and services from a plan;

b. The value of output resulting from external economies caused by a plan.

In each case, with and without analysis must be applied to ascertain that with a plan there is a net increase in the production of goods and services, regardless of source, over those that would be obtained in the absence of the plan.

The general measurement standard for increases in the national output of goods and services will be the total value of the increase, where total value is defined as the willingness of users to pay for each increment of output from a plan. Such a value would be obtained if the "seller" of the output was able to apply a flexible unit price and charge each user (consumer) an individual price to capture the full value of the output to the user. This concept is illustrated in figure 1.

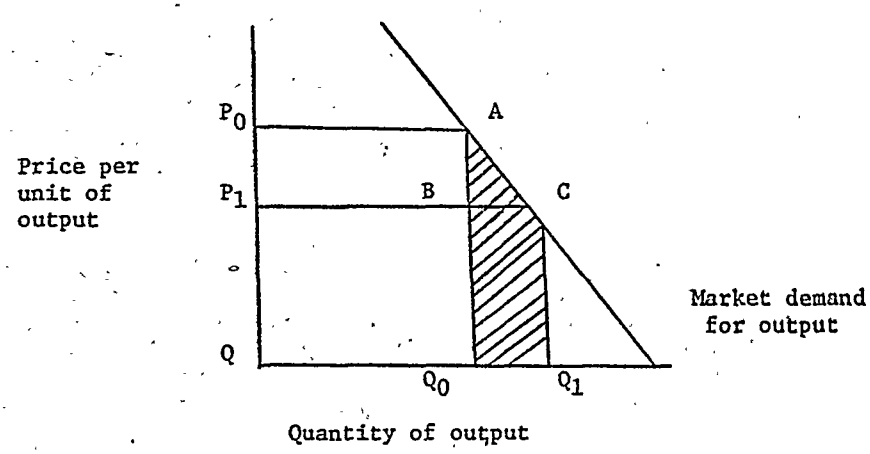


Figure 1. --Total value or willingness to pay for increased output.

Assuming the normal demand-output relationship, additional plan output will be taken by users as the unit price of output falls. If, as a result of the plan, output is increased by an amount $Q_1 - Q_0$, the total value of this additional output to the user is measured by the entire shaded area on the chart. This is a larger amount than would be reflected by the market value. It is the sum of market price times increased quantity (represented by the rectangle CBQ_0Q_1) plus the consumer surplus for that increase (represented by the triangle ABC).

Since, in most instances, it is not possible for the planner to measure the actual demand situation, three alternative techniques can be used to obtain an estimate of the total value of the output of the plan-willingness to pay *based upon market price or simulated market price,* change in net income, and the most likely alternative.

If the additional output from a plan is not expected to have a significant effect on price, actual or simulated market prices will closely approximate the total value of the output. This is true because there would be no consumer's surplus. If the additional output is expected to significantly influence market price (as in figure 1), a price midway between that expected with and without the plan may be used to estimate the total value. This would approximate the willingness to pay, including consumer surpluses, in most cases.

When outputs of a plan are intermediate goods or services, the net income of the (producer) user may be increased. Where changes in net income of each individual user can be estimated, a close approximation of the total value of the output of the plan (including consumer surpluses) will be obtained.

The cost of the most likely alternative means of obtaining the desired output can be used to approximate total value when the willingness to pay or change in net income methods cannot be used. The cost of the most likely alternative means will generally misstate the total value of the output of a plan. This is because it merely indicates what society must pay by the next most likely alternative to accure the output, rather than estimating the real value of the output of a plan to the users. This assumes, of course, that society would in fact undertake the alternative means. Because the planner may not be able to determine whether alternative means would be undertaken in the absence of the project, this procedure for benefit estimation must be used cautiously. *In determining the most likely alternative, the planner must give adequate consideration to nonstructural alternatives and conservation measures as well as structural alternatives.*

Application of these general measurement standards will necessarily vary, depending upon the source by which output is increased (that is, via direct increases in production or through subsequent employment of released resources), upon the type of good or service produced (whether the output is an intermediate or final good, and upon the type and nature of available alternatives. General measurement methods for each type of situation as well as an indication of the water and land resource plan outputs to which these standards are applicable are presented below.

a. Direct output increases. Direct outputs of water and land resource plans may be in the form of either final consumer goods or intermediate goods. An effective direct or derived demand must exist for the final and intermediate goods, respectively, to include the *value of* increased output as a contribution to national economic development.

Certain consumer goods and services may result directly from water projects and be used with no additional production resulting therefrom. Recreation, municipal water, and electric power for residential use are examples of this type of good or service. Most goods and services produced by using water are not directly consumed, however, but are intermediate products that serve as inputs for producers of final goods or producers of other intermediate goods. The development of irrigation water for use in producing food and fiber of supplying electric power and water for industry are examples.

The value of increased output resulting directly from plans that produce final consumer goods or services is properly measured as the willingness to pay by final users for such output. When a competitive market price is not directly available, and the increased output will not be large enought to affect prices, total value of output may be estimated by simulated market prices or the use of the cost of the most likely alternative means of producing such final output. Examples of types of outputs to which *these* methods may be applied include:

a. Community and residential water supply;

b. Electric power provided for community and residential use; and

c. Recreation enhancement.

(The rest of this section remains unchanged.)

2. Measurement of the Value to Users of Increased Outputs.

a. Water supply. Plans for water supply are generally designed to satisfy requirements for water as a final good to domestic and municipal users and as an intermediate good to agricultural and industrial users. *Plan elements which* satisfy requirements in these uses generally require, either separately or in combination, an increase in water quantity, and improvement in water quality, and an improvement in the reliability of both quantity and quality.

Where it is necessary to use alternative costs for approximation of total value for water supply, as provided herein, the alternative selected must be a likely and realistic alternative directly responsive to achievement of this particular category, namely the additional output or *more efficient use* of water as an input to industrial, agricultural, and muncipal uses or as a final good for community and individual uses. *Moreover, the alternative must be a viable one in terms of engineering.* It must be more than a hypothetical project. It must be a real alternative that could and would likely be undertaken in the absence of the proposed program, for instance, the reuse of recycling of existing water supplies or the use of available groundwater, including the inprovement of its quality, if necessary.

Although water supply can often be considered as a final good, there usually does not exist a market *that directly equates* users' valuation of water supply for community and individual use *with the full marginal cost of water supply. This is because water is seldom priced at its marginal cost. Where a water utility is practicing long run marginal cost pricing the users' willingness to pay*

for additional supplies is verified if the utility is willing to contract for additional water supplies at the cost of providing those supplies. In this case an appropriate estimate of the benefits can be derived from the marginal water rates charged. Industrial self supply is also an example of a situation in which the beneficicary may by paying the full marginal costs of water supply and where such costs can be the basis for estimating benefits. Estimates of willingness to pay may also be derived by econometric methods applied to appropriate water use and price data. Where direct estimates of willingness to pay are not available, the value of added water supplies shall be derived using the cost of the altnerative that would provide essentially a comparable water supply service, in both quantity and quality, that would in fact be utilized in the absence of the water supply provided by the plan.

The total value of water to the producers using increased supplies is reflected in the change in their net income with a plan for the provision of water supply compared with their net incomes without the plan. It is recognized that for many planning studies it is not possible to either specifically identify net income changes accruing to firms using water supply for productive purposes or always possible to determine what part of the municipal supply is used for productive pursuits or for general community or individual uses as set forth below. In these cases, total value to the users can be approximated by use of the cost of the alternative that would be employed to achieve the same production that would be utilized in the absence of the water supply provided by a plan.

(The rest of this section remains unchanged.)

b. Flood control, land stabilization, drainage, and related activities. A number of activities such as flood *damage reduction* floodplain management, drainage, *reduction* of sedimentation, land stabilization, and erosion control, contribute to the objectives through improving the productivity, use, and attractiveness of the Nation's land resources. From the viewpoint of their contribution to national economic development, the effect of these activities on the output of goods and services is manifested by increasing the productivity of land or by reducing the costs of using the land resources, thereby releasing resources for production of goods and services elsewhere. These activities affect land resources in the following manner:

(1) Prevention or reduction of inundation arising from stream overflow, overland waterflow, high lake stages, and high tides, *by protecting the natural streamflow of the floodway;*

(2) Prevention or reduction of soil erosion, including sheet erosion, gullying, floodplain scouring, streambank cutting, shore or beach erosion, and prevention of sedimentation;

(3) *Improvement of drainage and protection of wetlands; and*

(4) *Modification of limitations on land resources.*

There are essentially three types of effects on *land* use that may occur as a benefit from including these activities in a plan. The first is an increase in the productivity of land without a change in land use. The second is a shift of land resources to a more intensive use. The third is a shift of land resources to less intensive use. In each case, the general method of calculating benefits is applicable. The distinction is made only to facilitate the application of the general method in different settings and as a means of providing criteria for the use of alternative techniques for estimating net income changes for the three classes of land utilization under the with and without analysis.

The general method to be applied in measuring effects for these and any other activities that result in a change in net productivity or a reduction in the cost of using land resources involves the measurement of the difference in net income accruing to users of land resources benefiting from such activities compared with what these users would earn in the absence of such a plan. This generally defines and establishes the limit of the willingness of users to pay for a plan that results in a change in productivity or reduction in the cost of using land resources.

Willingness to pay of the users, which is the basis for approximating the value of output from these activities, whether it be in the form of increased production of intermediate or final goods or release of resources, may be obtained by the following approaches.

(a) Productivity increase. In this situation, analysis with and without the plan indicates that the current and future enterprises employing given land resources are essentially the same with the plan as they would be without the plan. Further, it is more profitable for the given enterprise to continue to use the given land resource even without the beneficial effect of the plan than to locate at the next most efficient location. Net income change can then be measured as the difference in net income accruing to the enterprise on the specified land resource without the plan compared with what that enterprise would receive as net income with the plan on the same land resource.

(b) Changes in land use. Two situations are covered by changes in land use. These are:

(i) The situation in which the landowner benefiting from the change in land use would only utilize the land resource affected by such activity once the plan has become operative. In other words, it would not be as profitable for the benefiting landowner to utilize the affected land resource unless improved through one of the activities in this category as compared with the next most efficient location. Without such a plan the improved enterprise would occur at an alternative location. Net income change to the landowner will be measured as the difference in net income from the enterprise at an alternative location that would be utilized without the plan compared with the net income received from the enterprise at a new location which is improved or enhanced as a result of the plan.

(ii) The situation in which enterprises that would otherwise employ a given land resource would be precluded from using the given land resources with implementation of the plan. Other enterprises less prone to incur flood damages or other adverse consequences would be allowed to use the given land resources.

Beneficial effects to the enterprises from activities in this category would be evaluated by measuring the net income change for the enterprise precluded from using the given land resources with the plan as compared with the without situation, plus the net income change for the enterprise that would be allowed to use the given land resource with the plan as compared with the without situation.

(c) Estimates of damage prevention and other measures. In the above cases, where it is not possible to directly employ net income changes to derive benefits, the estimate of actual or prospective damages to the physical properties of the enterprises involved can be employed as an approximation of net income change.

(The last two paragraphs of this section are deleted.)

c. Power. With respect to the computation of beneficial and adverse effects of increases in output *or more efficient use* of electric power it is emphasized that where appropriate, these should be viewed and evaluated as increments to planned or existing systems. Power supplied for general community and residential use can be considered as a final consumer good. Its value as a final good is generally

reflected by the satisfaction of individual residents or in terms of improved community services and facilities. Electric power provided to industrial, commercial, and agricultural uses is viewed as an energy input to the production of goods and services from these activities resulting in an increase in the output, reduction in the cost of production, or a combination thereof. The total value of electric power to the producers using such power is reflected in their *marginal* willingness to pay. *However, there usually does not exist a market that directly equates users' valuation of electric power with the full marginal cost of its supply. This is because electric power is seldom priced at its marginal cost. Where an electric utility is practicing long run marginal cost pricing, the users' willingness to pay for additional supplies is verified if the utility is willing to contract for additional water supplies at the cost of providing those supplies. In this case an appropriate estimate of the benefits can be derived from the marginal rates charged.*

Industrial self supply is also an example of a situation in which the beneficiary may be paying the full marginal costs of supply of electric power and where such costs can be the basis for estimating benefits. Estimates of willingness to pay may also be derived by econometric methods applied to appropriate data concerning the use of electric power and its price. Where direct estimates of willingness to pay are not available, the value of additional electric power will be measured instead by taking account of the resource cost of the most likely alternative. The alternative selected must be a viable one in terms of engineering.

The costs should include any required provisions for protection of the environment. However, since the addition of a hydroelectric project to an electric system in lieu of an alternative power source usually will either increase or decrease the unit cost of producing power by existing generating facilities of the system, this cost differential must be taken into account in determining the power value of the hydroelectric project.

Normally, electric power is evaluated in terms of two components—capacity and energy. The capacity value is derived from a determination of the fixed costs of the selected alternative source of supply. The energy value is determined from those costs of the alternative which relate to and vary with the energy output of the alternative plan. These capacity and energy components of power value are usually expressed in terms of dollars per kilowatt per year of dependable capacity and mills per kilowatt-hour of average annual energy.

d. Transportation (Navigation) (No change).

e. Recreation.

(The following completely replaces the existing section.)

Outdoor recreational activities include water-dependent activities such as swimming, boating, water-skiing, and fishing and water-enhanced activities such as camping, hiking, picnicking, hunting, birdwatching, wildlife photography, sightseeing, and other activities. A portion of the public recreational demands are accommodated by the existence and development of Federal lands, waters, and multi-purpose water projects which include specific provisions for enhancing recreation activities consistent with the requirements of the Federal Water Project Recreation Act of 1965 (Pub. L. 89–72). This act provides that full consideration shall be given to the opportunities which multi-purpose and other Federal water projects afford for outdoor recreation and for fish and wildlife enhancement.

For the most part, outdoor recreation is produced publicly and distributed in the absence of a viable market mechanism. While the private provision of recreation opportunities has been increasing in recent years, analysis of recreation needs is conducted in the absence of any substantial amount of feedback from effectively functioning markets to guide the evaluation of publicly produced recreation goods and services. Under these conditions—and based on a with and without analysis—the increase in recreation provided by a plan, since it represents a direct consumption good, may be measured or valued on the basis of simulated willingness to pay. In computing the projected recreation demand, however, the analysis should take explicit account of competition from recreation opportunities within the area of influence of the proposed plan.

There are in existence a number of methods, or approaches, to approximating demand and what people are willing to pay for outdoor recreation. *Among these are the travel cost approach, the willingness to pay or contingent valuation survey approach, and the unit day value approach. These methods are summarized below.*

(1) *Travel cost method. Using marginal travel costs (i.e. variable costs of automobile operation and opportunity cost of leisure time spent in travel and on the site) taken as a measure of what people are willing to pay for water-oriented recreation and how price affects use, the relationship between price and per capita attendance can be established for recreation sites and market areas. This relationship, the conventional demand curve having a negative slope, sums up the response of users' demand to alternative prices of the recreational product (or experience). The area under this demand curve to the left of the capacity constraint plus any user fees measures total willingness to pay for recreation opportunities at the site.*

(2) *Contingent valuation method. Annual willingness to pay can be obtained directly from potential visitors by a survey which establishes a simulated market. Users are allowed to bid on the annual use of the site until the maximum willingness to pay is established. This method may be applied where lack of data, insufficient variability in travel costs, or unique characteristics of the site make use of the travel cost method inappropriate.*

(3) *Unit day value method. Where use of a demand estimating technique such as travel cost or contingent valuation methods is not cost effective because of the small size of the project, a single value per recreation day may be chosen from a range of values. These ranges will reflect availability of general or specialized recreation opportunities, location of the site relative to alternative opportunities, and characteristics of the user population. Specialized recreation involves activities for which opportunities are limited, intensity of use is low, and often may involve a large personal expense by the user. General recreation embraces the majority of recreation activities associated with water projects, including swimming, picnicking, boating, and most warm water fishing.*

f. Commercial fishing and trapping (No change).

g. Other program outputs (No change).

3. Measurement of increases in output resulting from external economies.

Technological external economies are the beneficial effects on individuals, groups, or industries that may or may not benefit from the direct output of the project. They result from a plan if an increase in the output of final consumer goods or intermediate goods takes place beyond that which would be obtained in the absence of the plan and over and above direct outputs of the plan. This increased output may result from firms which are *subject to the incidental, unintended, and uncompensated effects* of the plan taking advantage of more efficient production techniques and

thereby releasing resources for use in producing other goods and services.

The change in net income of the economically related firms will be used as an indicator of the value of this type of national economic development effect. Changes in the total value of consumer goods due to externalities because of a plan can be accounted for by using measurement techniques like those described above. (The rest of this section is deleted.)

4. Special beneficial effects from use of unemployed or underemployed labor resources (No change).

G. Adverse Effects on National Economic Development

Achievement of beneficial effects on national economic development, and/or environmental quality, requires resources to be diverted from alternative uses. The adverse effects on national economic development are the economic value that these resources would have in their alternative uses. Generally, market prices provide a valid measure of the values of goods and services foregone in alternative uses. *Where market prices are not available, surrogate values may be used as set forth in the Manual of Procedures for Evaluating Benefits and Costs of Federal Water Resources Projects published by the Water Resources Council.* Both public and private costs associated with the plan will be measured to indicate the total adverse effect on national economic development incurred to realize the desired objectives.

1. *Sources of adverse effects.* Water and land resource plans result in adverse effects to national economic development in two ways.

a. Resources required or displaced to produce final or intermediate goods and services. In situations where a physical structure is necessary to obtain the desired objective, the adverse effects on national economic development include all explicit cash expenditures for goods and services necessary to construct and operate a project throughout a given period of analysis *plus any uncompensated economic losses to the public sector based on applicable surrogate values. The cash expenditures* consist of actual expenditures for construction; transfers from other projects, such as costs for reservoir storage; development costs; and interest during construction. If the output of the plan is an intermediate good or service, the associated costs incurred by the intermediate product user in converting it into a marketable form will be measured. These associated costs are borne by the user of the plan output but nevertheless, represent resource requirements necessary to convert the project output into a product demand by society. Examples are production costs incurred by users of plan outputs, and costs to other producers or to processors that arise in conjunction with the physical flow of the output of the plan. Associated costs should be deducted from the value of gross outputs to obtain net beneficial effects to be compared with the national economic development adverse effects of a plan. These adverse effects occur as a result of certain resources being released and subsequently unemployed as a result of the implementation of the plan.

In situations where nonstructural measures are used to obtain the desired objective, the adverse effects on national economic development will include *the uncompensated economic losses to the public sector plus* payments *for such things as the purchase of easements* or rights-of-way and costs incurred for management arrangements or to implement and enforce necessary zoning. In some cases, actual cash expenditures will not be involved as when local communities are required to furnish lands, easements, and rights-of-way.

b. Decreases in output resulting from external diseconomies (No change).

c. Cost adjustments (No change).

2. Measurement of adverse effects.

a. Resources required for or displaced by the plan.

Resource requirements of the plan are the sum of (*1*) the market values of *private sector* goods and services used for installations; interest during construction; operation, maintenance, and replacement; and induced costs as *well as (2) the surrogate value of uncompensated economic losses to the public sector.*

Installation costs are the market values of goods and services necessary to implement a plan and place it in operation, including management and organizational arrangements, technical services, land, easements, rights-of-way, and water rights; initial and deferred cosntruction; capital outlays to relocate facilities or to prevent or mitigate damages; transfers of installation costs from other projects; and all other expenditures for investigating, surveying, planning, designing, and installing a plan after its authorization.

Operation, maintenance, and replacement costs are the market values of goods and services needed to operate an installed plan and to make repairs and replacements necessary to maintain the physical features in sound operating condition during their economic life.

b. Decreases in output resulting from external diseconomies (No change).

H. Beneficial and Adverse Effects on Environmental Quality (No change.)

III. Other Beneficial and Adverse Effects (No change)

IV. General Evaluation Standards

Introduction (No change)

A. General Setting (No change)

B. Measurement of Beneficial and Adverse Effects (No change).

C. Price Relationships (No change)

D. The Discount Rate (No change)

E. Consideration and Comparison of Alternatives (The following completely replaces the current section.)

A range of possible alternatives capable of application by various levels of government and nongovernmental interests should be systematically evaluated in terms of their contributions to national economic development and environmental quality objectives. A comprehensive range of alternatives should be evaluated toward balancing water availability over time against competing purposes.

Water conservation shall be fully integrated into project and program planning and review as a means of achieving both the national economic development and environmental quality objectives. Water conservation consists of actions that will (a) reduce the demand for water; (b) improve efficiency in use and reduce losses and waste; and (c) improve land management practices to conserve water. A clear contrast is drawn between the above conservation elements and storage facilities for new supplies.

In addition, a primarily nonstructural plan will be prepared and included as one alternative whenever structural project or program alternatives are considered. This alternative plan should incorporate a combination of nonstructural or demand-reducing measures which would feasibly (in light of the national economic development and environmental quality objectives) be employed or adopted to achieve the overall project purpose.

Nonstructural measures are complete or partial alternatives to the traditional structural measures in addressing water resources problems and needs. The ideal nonstructural alternative is the least cost, implementable modification in public policy, management practice alteration, regulatory change or pricing policy modification which would bring marginal benefits and marginal costs for each project output into equality. The two objectives of national economic

development and environmental quality are to serve as the basis for the measurement of costs and benefits.

The assessment of nonstructural measures as alternatives to traditional structural measures should be considered for all water resources planning purposes including water supply, flood control, power, transportation, recreation, fish and wildlife, and other purposes. Nonstructural measures may require less capital investment and may produce less adverse impacts than traditional structural measures.

A nonstructural measure (or measures) may in some cases offer a complete alternative to a traditional structural measure (or measures). In other cases, a nonstructural measure (or measures) may be combined with fewer and/or smaller traditional structural measures to produce a complete alternative. It may at times be necessary to combine structural and nonstructural measures to formulate alternative plans for attainment of the planning objectives.

A "primarily nonstructural plan" is an alternative plan which makes maximum feasible use of nonstructural measures as a means of addressing water resources problems and needs. The determination of maximum feasible use will be based upon the maximum possible use of nonstructural measures which contribute to the National Economic Development objective and/or the Environmental Quality objective and which meet the tests of acceptability, effectiveness, efficiency and completeness.

Alternatives should not be limited to those the Federal Government could implement directly under present authorities. Therefore the cooperative role of local, State, regional, and Federal organizations in implementing alternatives will be stressed. Plans, or increments thereto, will not be recommended for Federal development that, although they have beneficial effects on the objectives, would physically or economically preclude alternative non-Federal plans which would likely be undertaken in the absence of the Federal plan and which would more effectively contribute to the objectives when comparably evaluated according to these principles.

The alternative non-Federal plan that would likely be physically displaced or economically precluded with development of the Federal plan, or increments thereto, will be evaluated for purposes of this determination on a comparable basis with the proposed Federal plan with respect to their beneficial and adverse effects on the objectives, including the treatment of national economic development effects and the discount rate used in the evaluation. Taxes foregone on the proposed Federal plan and taxes paid on the non-Federal alternative will be excluded in such comparisons for the evaluation of the national economic development objective.

F. Period of Analysis (No change)

G. Scheduling

Plans should be scheduled for implementation in relation to needs so that desired beneficial effects are achieved effectively. Beneficial and adverse effects occurring according to different patterns in time are affected differently by the discount process when plans are scheduled for implementation at alternative future times. Therefore, plan formulation should analyze the alternative schedules of implementation to identify the schedule that would result in the most desirable mix of contributions to the objectives when the beneficial and adverse effects of a plan are appropriately discounted.

While beneficial and adverse effects toward the objectives will accrue over different time frames for the alternative implementation schedules, the *discounted* equivalent of such beneficial and adverse effects to be considered in the comparison of the alternative implementation schedules should represent the present value of the beneficial and adverse effects toward the objectives for each alternative implementation schedule at a common point in time.

H. Risk and Uncertainty (No change)

I. Sensitivity Analysis (No change)

J. Updating Plans (No change)

V. Plan Formulation

A. Introduction

As set forth in principles, plans will *contribute to* meeting current and projected needs and problems as identified by the desires of people in such a manner that improved contributions are made to society's preferences for national economic development and environmental quality.

1. Major steps in plan formulation. Plan formulation is a series of steps starting with the identification of needs and problems and culminating in a recommended plan of action. The process involves an orderly and systematic approach to making determinations and decisions at each step so that the interested public and decisionmakers in the planning organization can be fully aware of the basic assumptions employed, the data and information analyzed, the reasons and rationales used, and the full range of implications of each alternative plan of action. This process should be described in enough detail in the report of the study so that it may be replicated by others. The plan formulation process consists of the following major steps:

1. Specify components of the objectives relevant to the planning setting; *The specific level of future needs will give consideration to firm and household response to existing laws and policies including conservation measures;*

2. Evaluate resource capabilities and expected conditions without any plan;

3. Formulate alternative plans to achieve varying levels of contributions to the specified components of the objectives, *including preparation of one primarily nonstructural alternative;*

4. Analyze the differences among alternative plans to show tradeoffs among the specified components of the objectives'

5. Review and reconsider, if necessary the specified components for the planning setting and formulate additional alternative plans as appropriate' and

6. Select a recommended plan from among the alternatives based upon an evaluation of the tradeoffs between the objectives of national economic development and environmental quality. (The rest of this section remains unchanged.)

2. Levels of Planning (No change)

B. Specification of components Introduction (No change)

1. National economic development. For the national economic development objective, the components will usually be expressed at two levels.

a. The first level directly relates to the objective in the sense of the specification of the actual outputs of goods and services desired. Hence, the first level of specified components of this objective will generally be depicted in terms of increased outputs of goods and services or their more efficient production such as the following:

Increased or more efficient output of food and fiber;

2. Increased or more efficient output or recreational services, *and efficient use of facilities;*

(3) Increased or more efficient production *and use* of energy;

(4) Increased or more efficient production *and use* of transportation services;

(5) Increased productivity of land for residential, agricultural, commercial, and industrial activities;

(6) Increased or more efficient *production and use* of necessary public services such as municipal and domestic water supply; and

(7) Increased or more efficient industrial output.

b. The second level of specification of the components of the national economic development objective follows from the translation of the first level specification of needs for goods and services into specific needs for water and land resources. In the context of the above, the second level specification of components would be established in terms such as the following:

(1) Water and land for *use in* irrigation;

(2) *Expanded opportunities for diversified* water and land related recreation *activities;*

(3) *Balancing energy use with production capacity;*

(4) Inland navigation or deep draft harbor *facilities in the context of total transportation needs;*

(5) *Reduction of flood hazard;*

(6) *Balancing water use with supply for domestic, industrial and municipal purposes; and*

(7) *Instream flow needs.*

(The rest of the section remains unchanged.)

2. Environmental quality. (No change)

3. Participation. (No change)

4. Projected conditions. (No change)

5. Sensitivity tests. (No Change)

6. Preferences. The specification of the components of the objectives must reflect the specific effects that are desired by groups and individuals of the planning area as well as the specific components declared to be in the national interest by the Congress or by the executive branch through the Water Resources Council. In this way the components of objectives will reflect local, State, and national preferences and priorities as well as the extent of complementarity and conflict among components.

In this regard, the identification and detailing of the components of the objectives should be viewed as the process of making explicit the range of preferences and desires of those affected by resource development in terms of reference that can form the basis for the formulation of plans. Rather than a single level of achievement being set forth for any specified component, a range of possible levels should be set forth so that the relevant preferences can be seen for a given component. It should be anticipated that the initial specification of components will be modified (expanded or reduced) during subsequent steps in plan formulation to reflect the capability of alternative plans to *contribute to satisfaction of* component needs and to reflect technical, legislative, or administrative constraints.

C. Evaluation of Resource Capabilities

In very broad terms, the first step of specification of the components of objectives can be viewed as establishing the boundaries of demand (needs or problems) in the context of each objective. In the next step, evaluation of resource capabilities, the initial evaluation is made of the supply (availability) of the resources that can be employed to satisfy the current and future levels of demand. *Also considered are conservation measures that can alter future demand.*

Resources of the planning area shall be evaluated in terms of their ability to meet the current and projected demands identified for each component under two sets of conditions:

(1) Capability of resources without any planned action; and

(2) Capability of water and land productivity enhanced through management plans. An analysis of the capability of resources to meet the projected demands without any planned action will reveal the extent and magnitude of unsatisfied component needs and indicate the requirement for some specific plan of action to contribute to their satisfaction. To the extent that the water and land resources without any planned action are unable to meet current and projected needs or to the extent that resource management enables the needs to be met more efficiently, there is an evident justification for formulating alternative plans *to balance water available and water demanded for alternative uses.*

In this formulation step, the first task is to undertake a selective inventory of the quantity and characteristics of water and land resources of the planning area and an appraisal of opportunities for further use of these resources. Problems limiting the use of resources should also be identified.

The resources inventory should include data on all physical factors appropriate to the investigation. Examples of the type of information needed include:

1. Hydrologic data such as rainfall and runoff characteristics, frequencies of high and low flows, *the conjunctive relationship* of ground water *with surface water including,* natural lakes, marshes, and estuaries. (The rest of this section remains unchanged.)

D. Formulation of Alternative Plans

In the first two steps in the plan formulation process, the components of the objectives were specified in terms of needs and problems, the resource capability within the planning areas were evaluated, and the broad outlines of management, development, and other actions were identified. The next step is to undertake the actual design and scaling of alternative plans.

Ideally, in the presence of a situation where there are few or no constraints on planning and where the components of the objectives are essentially complementary (the satisfaction of one component need does not preclude the satisfaction of the other component needs), the formulation of a single plan would be sufficient. The only test required would be that the plan was the most efficient plan to satisfy the specified level of component needs. Although in only a few instances will this situation occur, the case does help to establish the guidelines and criteria to judge the range of alternative plans that could be formulated and the tests to be applied in formulating any given plan.

The requirement for the formulation of alternative plans derives from the basic characteristics of the approach when more than one objective is involved. First, instead of the component needs of the two objectives being complementary, it is more likely they will be in conflict—the satisfaction of one will reduce the satisfaction of others. Second, given uncertainty with respect to future economic and demographic changes and the general uncertainty with respect to future preferences for the environmental quality objective, a single specified level of achievement or need satisfaction for any given component is not likely to be acceptable through time. Other factors contributing to the necessity for formulation of alternative plans include limited resources, technical planning constraints, and legal and administrative constraints.

In formulating plans to meet the components of the two objectives, both structural and nonstructural measures shall be considered. A nonstructural measure (or measures) may in some cases offer a complete alternative to a traditional structural measure (or measures). In other cases, a nonstructural measure (or measures) may be combined with structural measures to formulate alternative plans that attain the planning objectives.

Suggestions as to the determination of the general nature and types of alternative plans which should be formulated and the number of

alternatives which should be developed with each general type are given below.

A first requirement is to determine the general types of alternatives to be developed under alternative assumptions concerning the level and magnitude of component needs in the future. Given alternative assumptions concerning future economic and demographic trends for the planning setting and the total range of component needs related thereto, a set of alternative plans should be prepared for each major assumption concerning the future. In those planning situations where there does not exist a strong linkage between water and land development and major shifts in economic and demographic trends, the Council's baseline projections will generally be used as a single set of assumptions about the future level of component needs required. Where the linkage is sufficiently strong so that water and land development may materially alter future economic or demographic trends, this relation should be reflected in alternative assumptions. Where the planning area may be unusually susceptible to other factors that could easily change in the future, it will be appropriate to establish a basis for a different set of alternative plans based on alternative assumptions concerning future change. In this instance, a sensitivity check should be made to ascertain the extent to which component needs will vary significantly given different assumptions concerning the future. If no significant variation is found, only one set of alternative plans will have to be developed.

Within a given set of assumptions concerning future change and the component needs associated thereto, the number and types of alternative plans to be developed will be determined by applying the following:

1. On a first approximation basis array component needs that are essentially complementary—that is, the satisfaction of one of these component needs does not preclude satisfaction of the other component needs or does not result in materially adding to the cost of satisfying the other component needs in the array; and

2. From the above approximation, it should be possible to group component needs and the elements of a plan to satisfy those needs that are essentially in harmony, each set representing the nucleus for an alternative plan.

At this step, relevant alternative means of meeting each of the component needs to be included in an alternative plan should be identified. All relevant means should be considered. An analysis should be made for each alternative means, including an identification of the beneficial and adverse consequences to other component needs. The assembly of information on alternative means of contributing to meeting the component needs will provide a basis for selecting the most effective means, or combination of means of *contributing to satisfaction of* all component needs.

The significance of this step is threefold: (1) It provides information on the effectiveness of alternative means of *contributing to satisfaction of* a component need; (2) it provides information on the extent of complementarity or conflict among component needs in relation to a particular means; and (3) it provides a basis for selecting alternative means for *contributing to satisfaction of* a component need in the formulation of an alternative plan.

At this point, it should be possible to formulate alternative plans built upon the set of complementary component needs and plan elements. These essentially are the building blocks for the formulation of alternative plans. In formulating a given alternative plan, initial consideration will be given to its orientation toward *contributing to* the component needs for one of the objectives. Further additions should be made for the component needs of the other objective, provided that their addition to a given plan does not significantly diminish the contributions of the overall plan to that objective toward which the plan is oriented. An analysis of the alternative plan, in terms of beneficial and adverse effects, will reveal the extent of any shortfalls against the other objective. The process is then repeated until sufficient numbers of alternative plans have been formulated so that there is at least one plan that generally satisfies each specified component need of the objectives. This does not mean that there must be a plan for each objective that excludes plan elements that significantly contribute to the component needs of the other objective nor does it mean that a given alternative plan cannot appropriately satisfy the component needs of both objectives. Additional alternative plans may be required where there are possible conflicts among the component needs within a given objective.

A precise number of alternative plans cannot be specified in advance but will be governed by the relevancy of the objectives to a given planning setting, the extent of component needs and their complementarity, the available alternative means, and the overall resource capabilities of the area under study.

A comprehensive range of alternative projects, programs and policies which, over time, can balance water demanded for alternative purposes with water availability should be evaluated. An evaluation of alternatives should be considered in water resources planning to serve needs including: Water supply for municipal, industrial, and agricultural uses; recreation; hydroelectric power; navigation; flood hazard reduction; fish and wildlife; and others. Both nonstructural and structural alternatives should be considered. Structural alternatives may serve a single need or multiple needs and include dams, reservoirs, levees, channels, dikes (and drainage).

Nonstructural alternatives for municipal and industrial water supply include, but are not limited to:

(a) *Reducing the level and/or altering the time pattern of demand by metering, leak detection and repair rate structure changes, regulations on use such as plumbing codes, education programs, drought contingency planning;*

(b) *Modifying management of existing water development and supplies by recycling, reuse, pressure reduction; and*

(c) *Increasing upstream watershed management and conjunctive use of ground and surface waters.*

Nonstructural alternatives for irrigation water supply include, but are not limited to:

(a) *Reducing the level and/or altering the time pattern of use through irrigation scheduling, modified water rate structures, leak detection and repair, recycling, and reuse;*

(b) *Modifying management of existing water development and supplies by tailway recovery and phreatophyte control.*

Nonstructural alternatives for recreation and fish and wildlife include, but are not limited to, enhanced management of existing sites, and capacity management to distribute users of existing sites.

Nonstructural alternatives for hydroelectric power include, but are not limited to:

Reducing the level and/or time pattern of demand by time of day pricing, utility sponsored loans for insulation, appliance efficiency standards, educational programs, inter-regional power transfers, and increased transmission efficiency.

Nonstructural alternatives for navigation include, but are not limited to, lockage charges to reduce congestion, improved scheduling of lock arrivals, use of switch boats for locking through tows.

Nonstructural alternatives for flood hazard reduction include, but are not limited to:

(a) *Reducing susceptibility to flood damage by land use regulations, redevelopment and relocation policies, disaster preparedness, flood proofing, flood forecasting and warning systems, floodplain information, floodplain acquisition, floodplain easements;*

(b) *Reducing the adverse burden of flooding by flood insurance and flood emergency relief programs,*

(c) *On site detention of flood waters by protection of natural storage areas such as wetlands and in man-made areas such as building roofs and parking lots.*

To facilitate comparisons and tradeoffs among alternative plans and comparisons of beneficial and adverse effects measured in nonmonetary terms with beneficial and adverse effects measured in monetary terms, one alternative plan should be formulated in which optimum contributions are made to the component needs of the national economic development objective. Additionally, during the planning process at least one alternative plan will be formulated which emphasizes the contributions to the environmental quality objective. *In addition, a primarily nonstructural plan shall be prepared and included whenever structural project or program alternatives are considered.* Other alternative plans reflecting significant tradeoffs between the national economic development and environmental quality objectives may be formulated so as not to overlook a best overall plan. (The rest of this section remains unchanged.)

E. Analysis of Alternative Plans (No change)

F. Reconsideration of Components and Alternative Plans (No change)

G. Plan Selection

The culmination of the plan formulation process is the selection of a recommended plan from among the alternative plans. Based upon the analysis of alternative plans and the results of reiterations of the plan formulation process, a set of alternative plans should be developed—each one of which, given the relevant mix of contributions to components of the objectives, could be selected on its own merits as a recommended plan or recommended course of action. It is from among these alternatives that a recommended plan will be selected.

The previous formulation steps should effectively screen the number and types of alternatives that are to be considered as candidates for a recommended plan. In general, these alternatives should possess the following characteristics:

1. For the given set of component needs, each alternative plan should be the most efficient means to achieve those needs.

2. The plans should be significantly differentiated from each other, primarily in terms of emphasis on objectives; that is, each alternative plan makes a unique contribution to one or both objectives not provided for by any of the other alternatives under consideration. Using the analysis of alternatives, those alternatives that may have been formulated with essentially similar characteristics in terms of component needs with only minor differences should be screened to select the alternative that provides the best mix of contributions to the specific set of component needs.

3. Without regard to assigning priorities or weights to the component needs of a particular alternative to differentiate such alternative in terms of the other alternatives, each alternative must be "justified" in the sense that in the judgment of the planning organization the total beneficial effects (monetary and nonmonetary) to the objectives relevant to the alternative are equal to or exceed the total adverse effects (monetary and nonmonetary) to those objectives.

Given the above screening process, the choice of a recommended plan from among the remaining alternatives is essentially a choice governed by a reasonable and rational perception of priorities and preferences about the mix of objectives. It is not a choice predicated upon an analysis of the most justified plan, since each alternative to be considered at this step of the overall formulation process can be justified on its own merits in terms of its contributions to the given mix of component needs relevant to each alternative.

If explicit priorities or weights were assigned to the beneficial and adverse effects to each component need of the objectives, it would be possible to select a best plan to be recommended with a minimum of judgment. In most cases, however, such priorities or weights will not be available and, as set forth in Principles, selection of a recommended plan will be based upon an appraisal so that the beneficial and adverse effects to the mix of objectives, to the best of current understanding and knowledge, reflect the priorities and preferences expressed by the public at all levels to be affected by the plan.

The basis of selection will be fully reported upon indicating all considerations made in the selection process. A recommended plan (*when considered individually on the basis of with-project and without-project comparison*) *must be justified on the basis that combined beneficial NED and EQ effects outweigh combined adverse NED and EQ effects. Therefore, a plan lacking net NED benefits may be recommended when EQ benefits are sufficiently large, even though the latter are not stated in dollar terms.* A Departmental Secretary or head of an independent agency may make an exception to the net benefits rule if he determines that circumstances unique to the plan formulation process warrant such exception.

An explicit presentation will be shown of the comparisons and resulting tradeoffs of the recommended plan to other alternative plans considered for recommendation. This will be shown in accordance with the system of accounts in section VI.

VI. Systems of Accounts (No change)

VII. Cost Allocation, Reimbursement, and Cost Sharing (No change)

VIII. National Program for Federal and Federally Assisted Activities (No change)

IX. Coordination and Review of Planning Studies (No change)

Approved: October 25, 1979.

Cecil D. Andrus,

Chairman.

[FR Doc. 79-38431 Filed 12-13-79; 8:45 am]

BILLING CODE 8410-01-M

Friday
December 14, 1979

Part XI

Office of Management and Budget

Budget Rescissions and Deferrals; Cumulative Report

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals, December 1, 1979

This report is submitted in fulfillment of the requirements of section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93-344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of December 1, 1979 of one rescission proposal and 37 deferrals contained in the first two special messages of FY 1980. These messages were transmitted to the Congress on October 1 and November 15, 1979.

Rescission (Attachment A)

As of December 1, 1979, no rescission proposals were pending before the Congress.

Deferrals (Table A and Attachment B)

As of December 1, 1979, $1,114.2 million in 1980 budget authority was being deferred from obligation and another $44 thousand in 1980 obligations was being deferred from expenditure. Table A summarizes the status of deferrals reported by the President, and Attachment B shows the history and status of each deferral reported during FY 1980.

Information From Special Messages

The special messages containing information of the rescission and the deferrals covered by the cumulative report are printed in the Federal Registers of: Friday, October 5, 1979 (Vol. 44, No. 195, Part IX) Tuesday, November 20, 1979 (Vol. 44, No. 225, Part III)

James T. McIntyre, Jr.,
Director.

BILLING CODE 3110-01-M

Table A

STATUS OF 1980 DEFERRALS

	Amount (In millions of dollars)*
Deferrals proposed by the President	$1,529.2
Routine Executive releases (-$27.4 million) and adjustments (-$387.5 million) through December 1, 1979	-414.9
Overturned by the Congress	-0-
Currently before the Congress	1,114.2 a

a. This amount includes $44 thousand in outlays for a Department of the Treasury deferral (D80-23).

* Detail does not add due to rounding.

Attachments

PAGE 1 ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1980 AS OF 12/03/79 13:18

AS OF DEC 1, 1979 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
OTHER INDEPENDENT AGENCIES							
International Communication Agency							
Special international exhibitions BA	R80- 1	114		10 1 79		114	11 15 79

END OF REPORT

PAGE 1 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1980 AS OF 12/03/79 16 03

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 12-01-79
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Economic support fund	BA	D80- 1	100,000		10 1 79				100,000
DEPARTMENT OF AGRICULTURE									
Forest Service									
Timber salvage sales	BA	D80- 2	9,298		10 1 79				9,298
Expenses, brush disposal	BA	D80- 3	32,060		10 1 79				32,060
Restoration of forest lands	BA	D80- 4	38		10 1 79				38
DEPARTMENT OF AGRICULTURE TOTAL	BA		41,396						41,396
DEPARTMENT OF COMMERCE									
National Oceanic and Atmospheric Administration									
Construction	BA	D80- 5	7,000		10 1 79				7,000
Coastal zone management	BA	D80- 6	20,000		10 1 79				
	BA	D80- 6A		a	11 15 79				20,000
Promote and develop fishery products and research	BA	D80- 7	2,400		10 1 79	-2,400			
Fisheries loan fund	BA	D80- 8	5,300		10 1 79				5,300

PAGE 2 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1980 AS OF 12/03/79 16:03

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 12-01-79
DEPARTMENT OF COMMERCE								
TOTAL BA		34,700			-2,400			32,300
DEPARTMENT OF DEFENSE-MILITARY								
Military Construction								
Military construction, all services	BA D80- 9	31,386		10 1 79	-13,378			18,008
DEPARTMENT OF DEFENSE-CIVIL								
Wildlife Conservation, Military Reservations								
Wildlife conservation, all services	BA D80-10	595		10 1 79				595
DEPARTMENT OF ENERGY								
Energy Programs								
Fossil energy construction	BA D80-11	50,000		10 1 79				50,000
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE								
Alcohol, Drug Abuse & Mental Health Administration								
Construction & renovation, St. Elizabeths Hospital	BA D80-12	23,314		10 1 79				23,314
Human Development Services								
White House Conferences on Aging and Families	BA D80-13	4,649		10 1 79				4,649
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE TOTAL BA		27,963						27,963

PAGE 3 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1980 AS OF 12/03/79 16 03

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 12-01-79
DEPARTMENT OF THE INTERIOR								
Heritage Conservation and Recreation Service								
Land and water conservation fund								
BA	D80-14	30,000		10 1 79				30,000
Geological Survey								
Payments from proceeds, sale of water								
BA	D80-15	39		10 1 79				39
Bureau of Mines								
Drainage of anthracite mines								
BA	D80-16	1,137		10 1 79				1,137
DEPARTMENT OF THE INTERIOR TOTAL BA		31,176						31,176
DEPARTMENT OF JUSTICE								
Federal Prison System								
Buildings and facilities								
BA	D80-17	22,853		10 1 79				
BA	D80-17A		14,888	11 15 79				37,741
DEPARTMENT OF STATE								
International Organizations and Conferences								
Contributions to intl peacekeeping activities								
BA	D80-32	10,000		11 15 79				10,000
Other								
Emergency refugee and migration assistance fund								
BA	D80-18	5,650		10 1 79	-8,000		5,582	3,232
DEPARTMENT OF STATE TOTAL BA		15,650			-8,000		5,582	13,232

AMOUNTS IN THOUSANDS OF DOLLARS

AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 12-01-79
DEPARTMENT OF TRANSPORTATION								
Federal Aviation Administration								
Civil supersonic aircraft development termination								
BA	D80-19	5,004		10 1 79				5,004
Facilities & equip. (Airport & airway trust fund)								
BA	D80-20	138,211		10 1 79				138,211
Federal Highway Administration								
Federal aid highways								
BA	D80-33	495,789		11 15 79				495,789
Urban Mass Transportation Administration								
Urban mass transportation fund								
BA	D80-21	393,076		10 1 79			-393,076b	
DEPARTMENT OF TRANSPORTATION TOTAL BA		1,032,080					-393,076	639,004
DEPARTMENT OF THE TREASURY								
Office of Revenue Sharing								
State and local government fiscal assistance fund								
BA	D80-22	79,548		10 1 79	-5			79,543
O	D80-23	2,735		10 1 79	-2,691			44
Bureau of the Mint								
Construction of mint facilities								
BA	D80-24	3,230		10 1 79				3,230
DEPARTMENT OF THE TREASURY TOTAL BA		82,778			-5			82,773
DEPARTMENT OF THE TREASURY TOTAL O		2,735			-2,691			44
OTHER INDEPENDENT AGENCIES								

PAGE 5 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1980 AS OF 12/03/79 16:03

AMOUNTS IN THOUSANDS OF DOLLARS

AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 12-01-79
Federal Emergency Management Agency									
Emergency planning, preparedness, and mobilization	BA	D80-25	80		10 1 79				80
Foreign Claims Settlement Commission									
Payment of Vietnam prisoner of war claims	BA	D80-26	1,800		10 1 79	-940			860
International Communication Agency									
Salaries & expenses	BA	D80-34	2,000		11 15 79				2,000
Special foreign currency program	BA	D80-35	1,600		11 15 79				1,600
Acquisition & construction of radio facilities	BA	D80-27	10,973		10 1 79				10,973
Railroad Retirement Board									
Regional rail transportation protective account	BA	D80-36	1,000		11 15 79				1,000
National Alcohol Fuels Commission									
Salaries and expenses	BA	D80-28	250		10 1 79				250
National Commission on Social Security									
Salaries and expenses	BA	D80-29	250		10 1 79				250
Navajo & Hopi Indian Relocation Commission									
Salaries and expenses	BA	D80-30	5,300		10 1 79				5,300
President's Commission on Pension Policy									
Salaries and expenses	BA	D80-37	700		11 15 79				700
Tennessee Valley Authority									

PAGE 6 ATTACHMENT B STATUS OF DEFERRALS - FISCAL YEAR 1980 AS OF 12/04/79 14 25

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 12-01-79
Tennessee Valley Authority fund BA	D80-31	17,000		10 1 79				17,000
OTHER INDEPENDENT AGENCIES TOTAL BA		40,953			-940			40,013
TOTAL BA		1,511,530	14,888		-24,723		-387,494	1,114,201
TOTAL O		2,735			-2,691			44

FOOTNOTES

a. This supplemental report was transmitted solely to expand the application of this deferral to include funds appropriated in FY 1980 as well as balances carried forward from previous years.

b. Congressional action on the 1980 Transportation and Related Agencies Appropriation Bill (P.L.96-131) rescinded these funds.

END OF REPORT

[FR Doc. 79-38450 Filed 12-13-79; 8:45 am]
BILLING CODE 3110-01-C

Reader Aids

Federal Register
Vol. 44, No. 242
Friday, December 14, 1979

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

202-783-3238	Subscription orders (GPO)
202-275-3054	Subscription problems (GPO)
	"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
202-523-5022	Washington, D.C.
312-663-0884	Chicago, Ill.
213-688-6694	Los Angeles, Calif.
202-523-3187	Scheduling of documents for publication
523-5240	Photo copies of documents appearing in the Federal Register
523-5237	Corrections
523-5215	Public Inspection Desk
523-5227	Index and Finding Aids
523-5235	Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

523-3419	
523-3517	
523-5227	Index and Finding Aids

Presidential Documents:

523-5233	Executive Orders and Proclamations
523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523-5266 -5282	Public Law Numbers and Dates, Slip Laws, U.S. Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

Other Publications and Services:

523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects
523-3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, DECEMBER

69271-69608 3
69609-69916 4
69917-70114 5
70115-70448 6
70449-70700 7
70701-71398 10
71399-71804 11
71805-72068 12
72069-72568 13
72569-73000 14

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:

Memorandums:
December 11, 1979 71809

Executive Orders:
11223 (Amended by EO 12178) 71807
11888 (Amended by EO 12180, 12181) 72077, 72083
12103 (Amended by EO 12176) 70705
12173 69271
12174 69609
12175 70703
12176 70705
12177 71805
12178 71807
12179 71811
12180 72077
12181 72083

Proclamations:
4705 70701
4706 71399
4707 72348
4708 72069

Reorganization Plans:
No. 3 of 1979 69273

4 CFR
6 70115

5 CFR
213 ..... 69611, 70449, 72569
315 72569
737 72570
871 70449

Proposed Rules:
Ch. I 69651
213 70483

6 CFR
702 70086
703 70086
704 70086
705 72085
706 72085
707 72085

7 CFR
Subtitle A 70450
16 70707
227 70451
230 71401
273 72570
402 71813
408 71813
409 71814
415 71815
416 72089
417 72089
418 72090
419 72093
423 70115
424 70115
430 72094
432 70115
729 70452
905 ..... 69917, 69918, 72095
907 ..... 70116, 72571
910 ..... 69918, 70454, 72572
912 69918
913 69918
928 71401
982 70116
987 69919
989 70117
1049 71402
1260 71404
1280 ..... 72866, 72884, 72888
1435 69611
1464 ..... 69277, 69278
1701 71405
2852 ..... 69613, 72572

Proposed Rules:
273 70684
723 71424
726 69655
906 69303
928 70176
944 69303
1004 70483
1260 72838
1421 ..... 69656, 71838
1426 ..... 69656, 69657
1438 71839
1446 71838
1802 69937
1930 69937
1960 71839
1980 70741
2851 72599

9 CFR
78 72574
92 72574
112 ..... 71406, 71407
113 71407
201 69279
202 72575

Proposed Rules:
113 71425
201 71802
203 71802
307 69659
319 71427
381 69659

10 CFR
205 72096
210 70118
211 ..... 70118, 72575
212 ..... 69594, 70118, 70121, 72566

271 ... 69594
515 ... 69919

Proposed Rules:
2 ... 70408
19 ... 70408
20 ... 70408
21 ... 70408
30 ... 70408
40 ... 70408
51 ... 70408
60 ... 70408
70 ... 70408
211 ... 69664, 69962
212 ... 69599, 69602, 69664
376 ... 70390
390 ... 70390
430 ... 72276
570 ... 70799, 71842
576 ... 70692

12 CFR
11 ... 69614
211 ... 70708
545 ... 72578
563 ... 72578

Proposed Rules:
211 ... 72181
225 ... 69629
226 ... 69630
265 ... 70708
545 ... 72602
563 ... 72602
613 ... 69631
614 ... 69631
616 ... 69631
708 ... 71816
720 ... 70709

13 CFR
108 ... 72102
118 ... 72102
120 ... 70455
121 ... 72582
122 ... 70455, 72102

Proposed Rules:
111 ... 72604

14 CFR
39 ... 69279-69281, 70123, 70124, 70712, 70713, 72102, 72103
71 ... 69282-69284, 70124, 70714, 72104, 72105
73 ... 70714, 72106
75 ... 70715
109 ... 72344
191 ... 72344
207 ... 69640
208 ... 69640
211 ... 69640
212 ... 69641
215 ... 69641
296 ... 69641
297 ... 69633
385 ... 69642
399 ... 69915
1209 ... 69935
1216 ... 69920

Proposed Rules:
Ch. I ... 70177
39 ... 72181
71 ... 70181, 70742, 72182, 72183
73 ... 72183
91 ... 70743
241 ... 69968
380 ... 69912

15 CFR

Proposed Rules:
369 ... 69665
377 ... 69968
935 ... 69970
2303 ... 70743

16 CFR
5 ... 69284
13 ... 70125, 70126, 70716, 71408
306 ... 69920
438 ... 70456
600 ... 70457
1205 ... 70127, 70380
1500 ... 71411

Proposed Rules:
13 ... 70484
457 ... 70485

17 CFR
1 ... 71817
140 ... 72107
155 ... 71820
200 ... 70457
230 ... 70326
231 ... 70130
239 ... 70131
240 ... 70132, 70326, 71821, 72583
249 ... 70132

Proposed Rules:
Ch. I ... 69304
230 ... 70349
231 ... 72604
240 ... 70349, 70360, 72606
241 ... 70189, 72604

18 CFR
1 ... 69284
2 ... 69935, 71821
271 ... 69642, 69935
274 ... 69642
701 ... 72583
707 ... 69921
713 ... 72892

Proposed Rules:
Ch. I ... 70752
35 ... 70752
46 ... 71428
271 ... 70189
292 ... 69978

19 CFR
4 ... 70458
159 ... 70138
171 ... 70459

20 CFR
676 ... 72584

Proposed Rules:
Ch. III ... 72728

21 CFR
Ch. I ... 72585
10 ... 70459
12 ... 70459
13 ... 70459
14 ... 70459
15 ... 70459
16 ... 70459
178 ... 69649
510 ... 71412
520 ... 71412, 72586
522 ... 71412
526 ... 71412
529 ... 72587
548 ... 69650
558 ... 71412
1000 ... 71728
1308 ... 71822

Proposed Rules:
Ch. I ... 71428, 72728
25 ... 71742
58 ... 69666
131 ... 69668, 69669, 72613
320 ... 69669
333 ... 71428
438 ... 69768
452 ... 69670
868 ... 69673, 70486

22 CFR
42 ... 72108

23 CFR
650 ... 72109

Proposed Rules:
630 ... 70191
656 ... 70753
657 ... 69586
1251 ... 70192

24 CFR
201 ... 70716
207 ... 70716
300 ... 71412
570 ... 70717
600 ... 72036
886 ... 70362

Proposed Rules:
115 ... 72185
203 ... 72186
204 ... 72186
234 ... 70194
390 ... 69977
570 ... 69673
571 ... 69304
803 ... 70194
888 ... 70194
3282 ... 70195

25 CFR
31a ... 70139
31b ... 70139
31g ... 70139
31h ... 70139
112a ... 70139

26 CFR
48 ... 69924
601 ... 72113

Proposed Rules:
1 ... 71429, 71430
7 ... 71429
20 ... 71436
31 ... 71430
36 ... 71430
46 ... 71430
48 ... 71430
49 ... 71430
154 ... 71430
301 ... 71430
601 ... 71430

27 CFR
5 ... 71613
13 ... 71613
19 ... 71613
170 ... 71613
173 ... 71613
186 ... 71613
194 ... 71613
195 ... 71613
196 ... 71613
197 ... 71613
200 ... 71613
201 ... 71613
211 ... 71613
212 ... 71613
213 ... 71613
231 ... 71613
240 ... 71613
250 ... 71613
251 ... 71613
252 ... 71613

Proposed Rules:
5 ... 69674, 70797, 71612
13 ... 69674, 70797, 71612
19 ... 69674, 70797, 71612
170 ... 69674, 70797, 71612
173 ... 69674, 70797, 71612
186 ... 69674, 70797, 71612
194 ... 69674, 70797, 71612
195 ... 69674, 70797, 71612
196 ... 69674, 70797, 71612
197 ... 69674, 70797, 71612
200 ... 69674, 70797, 71612
201 ... 69674, 70797, 71612
211 ... 69674, 70797, 71612
212 ... 69674, 70797, 71612
213 ... 69674, 70797, 71612
231 ... 69674, 70797, 71612
240 ... 69674, 70797, 71612
250 ... 69674, 70797, 71612
251 ... 69674, 70797, 71612
252 ... 69674, 70797, 71612

28 CFR
0 ... 69926

29 CFR
40 ... 72587
2200 ... 70106

Proposed Rules:
1999 ... 69675
2200 ... 70195

30 CFR
601 ... 69927

Proposed Rules:
250 ... 70196

31 CFR
316 ... 69286
321 ... 69286
332 ... 69286
342 ... 69286
351 ... 72826
352 ... 72838
535 ... 69286, 69650

Proposed Rules:
350 ... 72187

32 CFR
230 ... 70460
812 ... 71825
813 ... 71827
860 ... 69286

Proposed Rules:
2002 71842

32 A CFR

Proposed Rules:
166 71845

33 CFR

3 70719
82 69297
161 70719
204 69298
207 69650
Proposed Rules:
117 72188
150 69305
158 72188
160 69306

37 CFR

Proposed Rules:
202 69977

39 CFR

111 70720
601 71412
Proposed Rules:
927 69682

40 CFR

51 72589
52 ..... 69928, 70140, 70141, 71780, 72116, 72118, 72589
53 72589
55 72593
58 72589
60 ..... 69298, 70465
81 ..... 70143, 70466
86 69416
180 70143
Proposed Rules:
Ch. I 69978
52 ..... 69683–69685, 70486, 70754, 70776, 71847, 72199, 72614, 72615
61 70196
65 ..... 69685, 71436
81 ..... 69685, 70486
136 69464
180 70777
230 72615
410 69687
425 69688

41 CFR

Ch. 44 70424
Proposed Rules:
Ch. 51 69308
24–1 71438
101–20 72200

42 CFR

36 69933
122 71754
123 71754
Proposed Rules:
Ch. I 72728
Ch. II 72728
Ch. III 72728
Ch. IV 72728
85 69689
85a 69689

43 CFR

Ch. I 71828
Ch. II 72014
Proposed Rules:
2090 69868
2300 69868
2310 69868
2320 69868
2340 69868
2350 69868
Public Land Orders:
5688 70467

44 CFR

64 ..... 71830, 71831, 72594, 72595
65 71835
67 ..... 70468, 72164
205 ..... 71790, 71793, 71794
Proposed Rules:
10 70197
67 ..... 70497, 70498, 70778–70791
70 72178–72180

45 CFR

1010 70145
86 71413
1060 69299
Proposed Rules:
Subtitle A 72728
Subtitle B 72728
174 70652
175 70652
176 70652
1328 70064

46 CFR

12 70154
14 70154
15 70154
16 70154
151 69299
153 69299
187 72130
310 69301
503 70721
Proposed Rules:
4 69308
26 69308
33 69311
35 69308
42 70791
78 69308
93 70791
94 69311
97 69308
109 69308
167 69308
185 69308
192 69311
196 69308
508 72616
510 70795

47 CFR

0 70471
1 69301
18 70472
73 ..... 69933, 70474
90 70158
94 69301
95 70158
Proposed Rules:
73 70201
90 ..... 69689, 70498
97 70499

49 CFR

1 70163
171 70721
172 ..... 70721, 72131
173 70721
174 ..... 70721, 72131
175 70721
176 70721
177 70721
178 70721
195 70164
399 70721
571 72131
1033 ..... 69302, 70475–70477, 70733, 71828–71830, 72159, 72597, 72598
1043 70167
1045B 70167
1046 70167
1204 72160
1249 70478
1252 70479
Proposed Rules:
192 72201
571 70204
1036 71848
1041 71438
1060 71849
1082 71849
1100 69693
1127 71851

50 CFR

17 70677
26 72161
603 70480
Proposed Rules:
17 ..... 70680, 70796
32 70210
33 70210
611 72204
651 ..... 69312, 71440
652 70503

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

***NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.**

REMINDERS

The items in this list were editorially compiled as an aid to **Federal Register** users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

ENERGY DEPARTMENT

Federal Energy Reglatory Commission—

66789 11-21-79 / Intrastate pipelines; sales and transportation; order on rehearing

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner—

65586 11-14-79 / Multifamily housing; permit to increase mortgage limits due to installation of solar energy systems

INTERSTATE COMMERCE COMMISSION

65588 11-14-79 / Specified air terminal zones

NATIONAL CREDIT UNION ADMINISTRATION

65731 11-15-79 / Procedures for handling national security information

Rules Going Into Effect Saturday, December 15, 1979

ENVIRONMENTAL PROTECTION AGENCY

64174 11-6-79 / National Environmental Policy Act; inplementation of procedures

Rules Going Into Effect Sunday, December 16, 1979

POSTAL SERVICE

65986 11-16-79 / Articles mailed abroad by or on behalf of senders in the United States; adoption of language conforming to article 20 of the Universal Postal Convention

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 December 12, 1979.